

COLONY AND PROTECTORATE OF KENYA



NATIONAL ASSEMBLY LIBRARY

ACCESSION No.

LOCATION No.

LEGISLATIVE COUNCIL
DEBATES, 1931

VOLUME I

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List of Members of Legislative Council, 2nd June, 1931

President :

HIS EXCELLENCY SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.
(GOVERNOR).

Ex officio Members :

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

Nominated Official Members :

HON. T. FITZGERALD, O.B.E. (Postmaster-General).
HON. T. D. H. BRUCE (Solicitor-General).
LT.-COL. THE HON. O. F. WATKINS, C.B.E., D.S.O. (Provincial Commissioner, Nzoia).
MAJOR THE HON. H. H. BRASSEY-EDWARDS (Chief Veterinary Officer).
MAJOR THE HON. J. R. GUILD, D.S.O. [1] (Acting Officer Commanding Northern Brigade, King's African Rifles).
HON. T. D. BUTLER [2] (Acting Provincial Commissioner, Masai).
HON. C. O. GILBERT [3] (Surveyor-General).
HON. L. A. FEILD-JONES [4] (Acting Provincial Commissioner, Coast).
HON. H. R. E. E. WELBY [5] (Acting Provincial Commissioner, Rift Valley).

European Elected Members :

RT. HON. LORD DELAMERE, K.C.M.G. (Rift Valley).
HON. CONWAY HARVEY (Lake).
HON. T. J. O'SHEA (Plateau South).
MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE, D.S.O. (Coast).
LT.-COL. THE HON. J. G. KIRKWOOD, C.M.G., D.S.O. (Plateau North).
LT.-COL. THE HON. C. G. DURHAM, D.S.O., J.P. (Kikuyu).
CAPT. THE HON. H. F. WARD (Nairobi North).
HON. F. A. BEMISTER (Mombasa).
CAPT. THE HON. J. L. COTTER, M.C. (Kenya).
HON. W. C. MITCHELL (Acting) [6] (Nairobi South).
HON. F. O'B. WILSON, D.S.O. (Acting) [7] (Ukamba).

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- [1] Temporary Member, in place of Col. R. Wilkinson, D.S.O.
[2] " " " Mr. E. B. Horne, O.B.E.
[3] " " " Mr. S. F. Deck.
[4] Provisional Member representing the interests of the Arab Community.
[5] Temporary Member, in place of Mr. H. R. Montgomery.
[6] " " " Capt. H. E. Schwartz.
[7] " " " Lt.-Col. Lord Francis Scott, D.S.O.

LIST OF MEMBERS OF LEGISLATIVE COUNCIL—*Continued*

Indian Elected Members :

HON. HAKIM SINGH.
HON. DHANWANT SINGH.
HON. ABDUL WAHID.
HON. R. D. DOSHI.
HON. DR. A. U. SHETH.

Arab Elected Member :

HON. SHERIFF ABDULLA BIN SALIM.

Nominated Member Representing the interests of the African Community :

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

Acting Clerk of the Legislative Council :

MR. G. BERESFORD STOOKE.

ABSENTEES FROM LEGISLATIVE COUNCIL MEETINGS

2nd June, 1931.

HON. T. FITZGERALD, O.B.E.
LT.-COL. THE HON. O. F. WATKINS, C.B.E., D.S.O.
HON. T. D. BUTLER.
HON. LL. A. FEILD-JONES.
HON. F. O'B. WILSON, D.S.O.
HON. HAKIM SINGH.
HON. DHANWANT SINGH.
HON. ABDUL WAHID.
HON. R. D. DOSHI.
HON. DR. A. U. SHETH.

4th June, 1931.

LT.-COL. THE HON. O. F. WATKINS, C.B.E., D.S.O.
HON. LL. A. FEILD-JONES.
HON. F. O'B. WILSON, D.S.O.
HON. HAKIM SINGH.
HON. DHANWANT SINGH.
HON. ABDUL WAHID.
HON. R. D. DOSHI.
HON. DR. A. U. SHETH.

5th June, 1931.

LT.-COL. THE HON. O. F. WATKINS, C.B.E., D.S.O.
HON. HAKIM SINGH.
HON. DHANWANT SINGH.
HON. ABDUL WAHID.
HON. R. D. DOSHI.
HON. DR. A. U. SHETH.

8th June, 1931.

HON. ACTING CHIEF NATIVE COMMISSIONER.
HON. DIRECTOR OF EDUCATION.
HON. COMMISSIONER OF CUSTOMS.
HON. H. R. E. E. WELBY.
HON. HAKIM SINGH.
HON. DHANWANT SINGH.
HON. ABDUL WAHID.
HON. R. D. DOSHI.
HON. DR. A. U. SHETH.

9th June, 1931.

HON. ACTING CHIEF NATIVE COMMISSIONER.
HON. DIRECTOR OF EDUCATION.
HON. COMMISSIONER OF CUSTOMS.
HON. H. R. E. E. WELBY.
HON. HAKIM SINGH.
HON. DHANWANT SINGH.
HON. ABDUL WAHID.
HON. R. D. DOSHI.
HON. DR. A. U. SHETH.

16th June, 1931.

MAJOR THE HON. J. R. GUILD, D.S.O.
HON. LL. A. FEILD-JONES.
HON. CONWAY HARVEY.
HON. HAKIM SINGH.
HON. DHANWANT SINGH.
HON. ABDUL WAHID.
HON. R. D. DOSHI.
HON. DR. A. U. SHETH.

ABSENTEES FROM LEGISLATIVE COUNCIL
MEETINGS—*Continued*

17th June, 1931.

MAJOR THE HON. J. R. GUILD, D.S.O.
HON. LL. A. FEILD-JONES,
HON. CONWAY HARVEY.
HON. HAKIM SINGH.
HON. DHANWANT SINGH.
HON. ABDUL WAHID.
HON. R. D. DOSHI.
HON. DR. A. U. SHETH.

18th June, 1931.

MAJOR THE HON. J. R. GUILD, D.S.O.
HON. LL. A. FEILD-JONES.
HON. CONWAY HARVEY.
HON. HAKIM SINGH.
HON. DHANWANT SINGH.
HON. ABDUL WAHID.
HON. R. D. DOSHI.
HON. DR. A. U. SHETH.

19th June, 1931.

HON. COMMISSIONER OF CUSTOMS.
MAJOR THE HON. J. R. GUILD, D.S.O.
HON. LL. A. FEILD-JONES.
HON. H. R. E. E. WELBY.
HON. CONWAY HARVEY.
HON. HAKIM SINGH.
HON. DHANWANT SINGH.
HON. ABDUL WAHID.
HON. R. D. DOSHI.
HON. DR. A. U. SHETH.



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES
1931

FIRST SESSION

TUESDAY, 2nd JUNE, 1931

The Council assembled at 11 a.m. at the Memorial Hall, Nairobi, on Tuesday, the 2nd June, 1931, HIS EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.) presiding.

HIS EXCELLENCY opened the Council with prayer.

The Proclamation summoning the Council was read.

ADMINISTRATION OF THE OATH.

The Oath of Allegiance was administered to :—

EX-OFFICIO MEMBERS.

ARNIGEL DE VINS WADE, Acting Chief Native Commissioner.

HENRY WOLFE, Acting Director of Agriculture.

NOMINATED OFFICIAL MEMBERS.

THOMAS DUNDAS HOPE BRUCE, Solicitor General.

HAMNETT HOLLAND BRASSEY-EDWARDS, Chief Veterinary Officer.

TEMPORARY NOMINATED OFFICIAL MEMBERS.

JOHN ROYES GUILD, Acting Officer Commanding Northern Brigade.

CYRIL OWEN GILBERT, Surveyor General.

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

EUROPEAN ELECTED MEMBERS.

HUGH CHOLMONDELEY, LORD DELAMERE, Member for Rift Valley.

CONWAY HARVEY, Member for the Lake.

THOMAS JOSEPH O'SHEA, Member for Plateau South.

ROBERT WILLIAM BARRINGTON ROBERTSON-EUSTACE, Member for the Coast.

JAMES GEORGE KIRKWOOD, Member for Plateau North.

CORNEY GEORGE DURHAM, Member for Kikuyu.

HAMILTON FREDERICK WARD, Member for Nairobi North.

FREDERICK ARTHUR BENISTER, Member for Mombasa.

JOHN LUIS COTTER, Member for Kenya.

WILLIAM CHARLES MITCHELL, Acting Member for Nairobi South.

ARAB ELECTED MEMBER.

SHERRIF ABDULLA BIN SALIM.

NOMINATED UNOFFICIAL MEMBER REPRESENTING THE INTERESTS OF THE AFRICAN COMMUNITY.

GEORGE BURNS.

COMMUNICATION FROM THE CHAIR. ✓

HONOURABLE MEMBERS OF COUNCIL.

It gives me great pleasure to-day to welcome you all as Members of this new Council; especially do I extend this welcome to those of you who now take your seats for the first time.

Honourable Members will, I am sure, share my regret at the absence of Sir Ali bin Salim, who ceases to be an official member owing to his retirement from the post of Liwali of the Coast. The memory of his father, the late Liwali Salim bin Halfan, and his brother, Liwali Seif bin Salim, both of whom did so much for the advancement of the Arabs and the inauguration of British rule in East Africa, is fresh in our minds. Sir Ali followed the family tradition, and has won the respect and affection of all with whom he has come into contact. As a temporary measure, the Provincial Commissioner of the Coast Province will replace Sir Ali, but I hope that it will soon be possible to select an Arab official to represent his people on this Council.

Honourable Members, we are holding this our first sitting in a time of difficulty and anxiety, and we must all do our utmost to find satisfactory solutions of the many problems which this world-wide depression has thrust upon us. Before I touch on these problems, it is, I think, desirable that I should outline briefly the changes in our financial position which have taken place between the passing of the Estimates and the present time.

The Budget for 1931, as passed towards the end of last year, provided for an estimated expenditure, in round figures, of £3,443,000, against an estimated revenue of £3,516,000, with an estimated surplus of £73,000 on the year's working, which, on the basis of the revised estimate of revenue and expenditure for 1930 as then calculated, would have left the Colony's surplus balances at the end of 1931 at approximately £635,000. I regret to state that the last three months of 1930 were most disappointing from the point of view of revenue, the more so as the Customs returns for September, which were the latest available when the Budget was under consideration, were definitely more favourable than those for the preceding months. The accounts for 1930 which have now been closed reveal that the revenue for 1930 fell short by £160,000 of the revised estimate of revenue as shown in the volume of the Estimates for 1931. On the other hand, material savings amounting to £110,000 accrued on the revised estimates of expenditure, with the net result that the Colony's surplus balances at the end of 1930 stood at a figure some £50,000 lower than had been anticipated when the Estimates for 1931 were passed. It had been anticipated that they would total £560,000; they actually amounted to £510,000.

It was not till early in the present year that it became apparent that the 1930 revenue would fall so far short of the Estimates, and that the temporary recovery of Customs revenue in September was not likely to be progressively maintained in the absence of any general improvement in market conditions. Immediate steps were therefore taken by Government to curtail expenditure during the current year. It was thought, on the information then available, that if the year's expenditure could be reduced by about £150,000, the anticipated short-fall in revenue would be comfortably met. Specific reductions in estimated expenditure were accordingly authorised to rather more than this total, and in regard to these economies—particulars of which will be laid on the table—I desire to emphasise again what has already been stated in a communiqué to the Press, that it has not been the Government's policy to make wholesale retrenchments of staff.

It is still too early in the year to arrive at any conclusion as to what revenue may be expected to accrue during 1931. Hon. Members will appreciate the difficulties of forecasting

revenue figures with any accuracy in present circumstances, but, now that the actual revenue returns for 1930 are known and have been examined, we consider that it would be prudent to assume for the present that the Colony's revenue for 1931 is not likely to exceed that for 1930. Our revenue depends so much on agricultural conditions, and the situation is so influenced by factors entirely outside local control, that no forecast based on facts at present known to us can be of much value. It has, however, been considered wise, in the light of 1930 figures, to reduce this year's revenue estimate by £231,000 as compared with the sum approved in the Estimates for the year; the revised revenue estimate therefore stands at £3,285,000. The reductions in estimated expenditure already referred to, combined with anticipated savings of a general character, should bring down expenditure to a similar figure. There will, of course, be certain unforeseen expenditure to provide for as the year advances, but it is expected that it will be possible to meet any such essential expenditure by general savings or by further economies.

Present information indicates that the considerable surplus on the working of 1931 for which we budgeted to swell our surplus balances is not now likely to be realised; the rapid change in the revenue prospects has so altered circumstances that I am sure hon. Members will agree that the policy of adding to our surplus balances should be regarded as a secondary objective at a time when the resources of the country are fully occupied in conserving its position. I need hardly add that revenue returns are being most carefully watched and that the utmost economy is being exercised in the administration of votes. There is, however, an uncertain and menacing factor, namely the locust invasion, which may upset our calculations and necessitate further adjustments.

In assenting to the 1931 Estimates of revenue, I believe Elected Members did so on the understanding that Government would take all possible steps to ensure the maintenance and extension of agriculture. In view of the necessity that has arisen of revising those estimates of revenue, I should like to emphasise that that understanding has been implemented to the full extent of the Government's available resources, and to recapitulate the assistance that has been given to the agricultural industry during the last twelve months:—

Freight rate reductions to the cereal industry during 1930	...	...	...	...	£33,330
Waiving of conditioning charges	...	...	...	...	15,071
Subsidy to maize industry	...	...	...	...	81,000
Advances under the Agricultural Ordinance	...	...	...	...	100,000
					£229,401
				Total	£229,401

In addition to the above, the Railways and Harbours Administration contributed by way of reduction in freight rates and storage and conditioning charges as follows :—

Kenya and Uganda Railways	...	...	...	£33,330
Harbours	...	...	...	23,434
			Total	£56,764
Making a Grand Total of				£286,165

It is true that with the exception of the conditioning charges and the Railway and Harbours contributions, the other sums do not represent final expenditure, but advances to be recovered as financial circumstances make it possible, but, none the less, having regard to the present resources of the Colony and of the Railway—which I shall touch on later—I trust that hon. Members will agree that we have done all that was possible in the circumstances. I only wish more funds were available, but the Secretary of State has with reluctance now decided that he would not be justified in agreeing to the release of further sums for agricultural advances. He considers that to do so would be financially imprudent, and therefore not in the best interests of the Colony as a whole.

Moreover, if this unfortunate plague of locusts does not abate, and if, notwithstanding the splendid efforts made by the farmers and native authorities to destroy hoppers, we are invaded by flying locusts from the vast areas bordering on Kenya, then I anticipate that we shall require the bulk of our available resources to cope with the damage inflicted. I do most sincerely hope that we may be spared this additional misfortune.

The alternative of transferring to Loan the advances that have been made to agriculture from our surplus balances has also been explored, and the Secretary of State and his financial advisers are definitely of the opinion that not only would the flotation of such a Loan be impracticable, but also that it might reflect adversely on the Colony's credit at the present time. I therefore regret that I can see no prospect of being able to give additional assistance to agriculture from such a source.

I turn now to the position of the Railway. Here again, as in the case of the Colony, the general economic depression has had a most serious effect on the financial position. Hon. Members will remember that when the Estimates for 1931 for the Railway and Harbours were laid before Council in November last, a total Railway revenue of £2,589,396 was

budgeted for, which allowed a sum of £743,672 being carried to the net revenue account to meet interest charges, loan redemption charges, etc. These estimates, as hon. Members know, were prepared about August, and at that time the full extent of the short-fall in earnings for 1930 was not apparent. As soon as the final figures of the results of working for 1930 were available early this year, showing a net reduction below the approved Railway Estimate for 1930 of £296,388, it became necessary to review the financial position with a view to seeing what changes were required in the 1931 Estimates to meet the situation covered by the big falling off of takings in the past year and the continuing depression.

At the end of February, the whole position was carefully considered by the Railway Council, and, as a result, the revenue estimate for 1931 was reduced to £2,400,000 and an extensive reduction in services and maintenance, both on open lines and in the workshops, was introduced, which is calculated to effect a saving of £234,733 on the expenditure estimates for this year passed last November.

Working on these new figures of revenue and expenditure which were introduced in March, the Railway services show for the first four months of the year a situation which is slightly better than that budgeted for, and at the beginning of May, on a *pro rata* calculation, there is an excess of £16,760 above estimate. During May, the results have not been so good, but as the stocks in the country are low, and as the exports from Kenya last year were higher than they have ever been before, and as the exports of cotton from Uganda this year are much higher than in 1930, it is hoped that before the end of this year a more satisfactory flow of imports over the railway system will result. It is needless for me to remind hon. Members that it is mainly on the profits from import freights that the Administration lives.

I do not propose this morning to enter into details regarding the Railway position; these have been fully dealt with in the General Manager's report for 1930, which has just been published. In addition, he will doubtless give some review of the existing position when he introduces the Supplementary Estimates.

I also invite the attention of hon. Members to the report of the Committee on Motor Competition which will be circulated to Council. I hope that the Bill dealing with this problem will be introduced during the present session.

The picture which I have attempted to draw of the financial position both of the Colony and of the Railway must necessarily give all those interested in the welfare of Kenya

cause for anxious thought, and I know, both from representations made to me personally since my arrival, and from previous representations made to the Acting Governor, that there are many who advocate, as a measure of precaution, the desirability of examining our economic structure with a view to ascertaining whether any fundamental alterations or adjustments are required to meet the possibility of the present level of agricultural prices remaining more or less permanent. Such an examination would necessarily range over a wide field and would have to pass under review not only our existing Government machinery but, in addition, our Railway and fiscal policy.

The more I have considered this difficult question, the more I feel that we would be ill-advised to entrust this inquiry to a purely local committee. Its magnitude, its technicality, and the fact that other colonies are involved, irresistibly leads me to the belief that the only satisfactory solution is to obtain the help of a highly competent and impartial authority with qualifications that would command general respect. I have accordingly, after consulting the Executive Council, approached the Secretary of State, and I have reason to believe that a special Commissioner, with the qualifications I have described, will shortly be invited to undertake this investigation.

It will no doubt be urged that a basic inquiry covering such a wide field will not result in definite recommendations for some considerable time, whereas the existing situation requires prompt action. I have already informed you of the steps which the Government has taken to meet such immediate needs, and unless the revenue position becomes still worse in the next two or three months, I trust that these steps will prove adequate.

The 1932 Estimates are now being prepared, and the instructions I have given are to the effect that they are to be framed on the most conservative lines and on the assumption that there will be no improvement in the financial and trade position.

It is possible that before these Estimates are passed we may receive, and be able to give effect to, interim or final recommendations made as a result of the examination into our economic structure: should such recommendations not be available in time there should be no great difficulty in subsequently making any adjustments that may be considered desirable.

Now, there is another inquiry which, although very relevant, should, I suggest, be kept apart from the main inquiry just referred to. It is the inquiry into the conditions governing the terms under which the officials of this Colony

are serving. Personally, I believe that for several reasons this inquiry is necessary, and indeed the last Council was definitely promised that the Secretary of State should be approached with a view to sending out an experienced Colonial Office official to preside. The promise has been kept, but the matter has become complicated by the fact that there is at present sitting in London a Commission dealing with the terms and conditions of the Colonial Service generally, and the Secretary of State does not therefore desire to hold under Colonial Office auspices a local inquiry, at least until this Commission has reported, which it will not be able to do before next September. This delay is unfortunate, as apart from the broad issues, with which the Commission now sitting at home will no doubt deal, we have special local problems of our own, including the possibility of setting up a local Civil Service, which are susceptible to individual examination. If Council so desires, I shall be prepared to appoint at once a local Committee to undertake this work.

Honourable Members, I would most earnestly ask for your support in connexion with proposals which, as soon as the details are ready, will be laid before you for your consideration. They will relate to the provision of proper and sanitary prison accommodation, for the present Nairobi jail is a disgrace to the Colony, and to the provision of at least adequate hospital accommodation for Europeans, Asiatics and Africans in Nairobi, and possibly later in Mombasa, where the situation is not quite so urgent.

The present state of affairs as regards main hospitals, available for the treatment of serious cases from out-districts, is, I consider, deplorable, and in this respect we are far behind any other Colony I have ever visited or served in. It is no time for luxuries, but the above are sheer necessities, and in my judgment action should be taken without further delay. The difficulty is finance, for the required funds could only be found from advances made in anticipation of a further loan. Now, I am aware that the Secretary of State is determined to adopt a cautious attitude, and to discourage any further loans until the surplus balance position becomes more favourable. The total amount involved, however, will not be unduly large; probably, including a few smaller commitments which the Government is bound to honour, it should not exceed £200,000. Of this figure, £134,000 odd is in respect of hospital and prison requirements, £44,000 is for the purpose of transferring from surplus balances the cost of administering the sanctioned building schemes, and the balance of £22,000 is in respect of the more urgent demands for roads and Government commitments to local bodies. If I receive the Council's

approval, I will approach the Secretary of State pleading urgent necessity, and possibly he may be inclined to look favourably on my request.

I now turn to a matter which the present difficulties have brought much to the fore, viz., the institution of measures designed to afford credit facilities on sound and economic lines to the agricultural community, including natives. These may be subdivided under two headings: firstly, the Land Bank, and secondly, co-operative credits. The Royal assent to the Land Bank Bill was received shortly after my arrival and I have since done everything possible to hasten the establishment of the Bank. In order to assist me in deciding on the preliminary arrangements I appointed a Provisional Board which will shortly be dissolved and the permanent board envisaged by the Ordinance nominated. I should like here to express my gratitude to the members of the Provisional Board for all they have done: they realized, as I do, that the bank must be started on right lines and, to ensure this, that it would be necessary to obtain, for at least a time, the services of a man experienced in the methods adopted elsewhere. We have had the greatest difficulty in finding such a man but we have at last succeeded in obtaining from Southern Rhodesia the loan of Mr. Thornton, who holds the post of accountant of the Land Bank in that Colony. He will remain with us for a few months and during that time I hope that the permanent Board will be able to find someone who will be capable of acting as permanent Secretary to the Bank.

As regards co-operative credits. You are no doubt aware that a memorandum has been prepared by the Agricultural Board and published in the Press so that those interested may have an opportunity of studying its terms. Our future actions must depend on the views expressed by this Council but possibly an examination by a Committee which should include knowledgeable persons connected with agricultural, commercial and banking interests may be the most satisfactory procedure. Whatever course be adopted it will, I am sure, be realised that if the scheme recommended involves any risk to or use of public funds it must be passed as economically sound by an independent authority competent to advise on such a highly technical matter. I suggest, however, that the foundation of any credit scheme is the existence of small or large co-operative societies among agriculturalists. The sooner a general movement in this direction is started the better, and we are accordingly laying before you during this sitting a Bill which should assist in this direction.

In view of the general need for economy I have carefully considered the possibility of postponing the construction of any of the public buildings for which provision has been made in the funded loan. I entirely agree with my predecessor that

in a time such as this the more loan building work that can properly be undertaken the better, both because building costs are at the moment low and also because such a programme provides a fruitful source of employment and makes for the general circulation of money at a time when private enterprise has necessarily to restrict its activities.

At the same time I am of opinion that the work should be confined as far as possible to buildings which are urgently required. The tenders for the Supreme Court have already been called for and, quite apart from the urgent necessity for a new Supreme Court, I consider it impracticable either to postpone its construction or to modify the design at the present time.

In the case of the Central Offices and the new Legislative Council Chamber—which was designed for the accommodation of a much larger number of members than exist at present—I find that it is quite possible to postpone the building of the latter till a future date, the vacant space being kept available by being turned into an ornamental courtyard which will not mar the general architectural effect: the actual saving is estimated at £25,000.

Before I leave the question of loan expenditure I should say a word on the subject of the Colonial Development Fund. In December last, in accordance with the request made by elected members that they should be consulted on any applications which the Government had in view, a comprehensive memorandum was circulated for information. Owing to the pressure of other more urgent business the question was not considered during the last Budget Session and, as I have had considerable experience in connexion with the Fund, I have taken the opportunity of going through these proposals again. Many of them, in my opinion, are not likely to meet with approval, and in any case I consider our chances of success will be greater if we confine our applications to a reasonably small number of items of major importance. I have therefore given instructions for more detailed schemes to be worked out which, as soon as they are ready, will be laid before you for your information and advice.

Honourable Members, in conclusion and in opening this Session of Council I most earnestly trust that with the help of Almighty God its deliberations may tend to the further peace, prosperity and welfare of the Colony of Kenya.

PAPERS LAID ON THE TABLE

The following Papers were laid on the Table :—

BY THE HON. THE COLONIAL SECRETARY (MR. H. M.-M. MOORE) :—

Estimate of 1931 Budget Prospects as at 31st May, 1931.

Statement under the Electric Power Ordinance for the year ended 31st December, 1930.

BY THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MACGREGOR, K.C.) :—

Rules of Court (Legal Practitioners Amendment) No. 1 of 1931.

Judicial Department Annual Report, 1930.

BY THE HON. THE ACTING CHIEF NATIVE COMMISSIONER (MR. A. DE V. WADE) :—

Report of Committee on Native Land Tenure in the North Kavirondo Native Reserve.

Native Affairs Department Annual Report, 1929.

BY THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. H. T. MARTIN) :—

Return of Land Grants, etc., 1st October to 31st December, 1930.

BY THE HON. THE DIRECTOR OF MEDICAL AND SANITARY SERVICES (DR. J. L. GILKS) :—

Medical Department Annual Report, 1929.

BY THE HON. THE ACTING DIRECTOR OF AGRICULTURE (MR. H. WOLFE) :—

Statement with regard to contravention of the Diseases of Animals Ordinance.

Report on work undertaken at the Plant Breeding Station, Njoro, 1930.

Report of Proceedings of the Agricultural Research Conference held at the Amani Research Station, February, 1931.

BY THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS (BRIG.-GEN. G. D. RHODES) :—

Annual Report of the General Manager on the Administration of the Railways and Harbours, 1930—Parts I and II.

General Manager's Bulletins :—No. I—February, 1931; No. II—May, 1931.

BY THE HON. THE COMMISSIONER OF CUSTOMS (MR. G. WALSH) :—

Annual Trade Report of Kenya and Uganda, 1930.

THE RT. HON. LORD DELAMERE : Your Excellency, before proceeding with the business to-day, I should like to ask whether it would be convenient for Your Excellency to see Members on this side of the House or to fix, if Your Excellency prefers, at this moment a day when a debate can take place on these Revised Estimates that have been laid before Council to-day. I think, Sir, the best way would be if Your Excellency would allow Members to see you before any motions are put forward affecting the expenditure of the country or of the Railway in any way.

HIS EXCELLENCY : I can arrange that after the meeting.

THE RT. HON. LORD DELAMERE : I do not want to talk just after Your Excellency has made his statement, but the point is that there appears to be no other time when it is possible to raise this question.

HIS EXCELLENCY : There is no motion before the Council now.

THE RT. HON. LORD DELAMERE : As leader of the Elected Members in the House temporarily I thought, Sir, that it was better to raise this question now as to when this matter would be debated.

THE HON. THE COLONIAL SECRETARY : I would suggest that if the Noble Lord put a notice of motion on the Order Paper we could then no doubt decide the day on which such a debate could take place. But no such notice is before the House at the moment.

BILLS.

FIRST READINGS.

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

The Defence Force (Amendment) Bill.

The Post Office (Amendment) Bill.

The European Officers' Pensions (Amendment) Bill.

The German Missions (Repeal) Bill.

The Widows' and Orphans' Pensions (Amendment) Bill.

The Native Lands Trust Ordinance (Application to Communal Reserves) Bill.

The Asiatic Widows' and Orphans' Pension (Amendment) Bill.

The Mazrui Lands Trust Bill.

The Corporations (Probate and Administration) Bill.

The Bowring Pension Bill.

The Courts Bill.

The Maize Subsidy Repayment Bill.

The Town Planning and Development Bill.

The Registrar of Supreme Court (Oaths) Bill.

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

*The Council adjourned till 10 a.m. on
Thursday, the 4th June, 1931.*

THURSDAY, 4th JUNE, 1931.

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Thursday, the 4th June, 1931, His Excellency the Governor (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

ADMINISTRATION OF THE OATH.

The Oath of Allegiance was administered to:—

Nominated Official Member :

Thomas Fitzgerald, Postmaster General.

Temporary Nominated Official Member :

Thomas Dacres Butler, Acting Provincial Commissioner,
Masai.

MINUTES.

The minutes of the meeting of 2nd June, 1931, were confirmed.

PAPERS LAID ON THE TABLE.

The following papers were laid on the table:—

BY THE HON. THE COLONIAL SECRETARY (MR. H. M.-M. MOORE) :

Registrar General's Annual Report, 1930.

Report of His Majesty's Eastern African Dependencies Section on the International, Colonial and Maritime Exhibition at Antwerp, May to November, 1930.

Memorandum on England-South Africa Civil Air Transport Service.

NOTICE OF MOTION.

THE RT. HON. LORD DELAMERE: Your Excellency, in agreement with the hon. the Colonial Secretary, I beg to give notice of the following motion:—

“ That the ‘ Estimates of 1931 Budget Prospects as at 31st May, 1931,’ be referred to the Select Committee on the Estimates, for examination and report.”

ORAL ANSWERS TO QUESTIONS.

PUBLICITY.

CAPT. THE HON. H. F. WARD asked :—

“ Will the hon. the Colonial Secretary please state what steps have been taken by Government in respect of recommendations made by the Select Committee on the 1931 Estimates in regard to publicity? ”

THE HON. THE COLONIAL SECRETARY : This Government has accepted a suggestion made by the London Advisory Committee that in the first instance opportunity should be taken of the presence in London of the Kenya Delegation to the Joint Parliamentary Committee on Closer Union of the East African Dependencies for an interchange of views between them and the Advisory Committee on this subject.

THE RT. HON. LORD DELAMERE : Arising out of that question, Your Excellency, that does, of course, mean that that will be referred to this Government out here : no actual settlement will be made?

THE HON. THE COLONIAL SECRETARY : Yes, Sir, I can give the Noble Lord the fullest assurance on that point.

LOCAL GOVERNMENT CONTRIBUTIONS TO LOCAL
AUTHORITIES.

LT.-COL. THE HON. J. G. KIRKWOOD asked :—

“ What action has Government taken, or proposes taking, reference paragraph XIV of the Select Committee's Report on Draft Estimates, 1930 (Local Government Contribution to Local Authorities)? ”

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. H. T. MARTIN) : The passage to which the question calls attention referred to the basis adopted for the distribution amongst District Councils of the sum provided in the Colony's Estimates for 1931 for “ additional ” grants. This question was referred to the Central Roads Board which, on consideration of the various factors, viz. tonnage, climatic, geographical and soil conditions which would have to be taken into account in order to arrive at a strictly equitable basis of distribution, came to the conclusion that it was impracticable to make any change in respect of the present year. The matter is receiving further attention with a view to action in 1932.

LT.-COL. THE HON. J. G. KIRKWOOD: Arising out of that answer, Your Excellency, can I have it more definitely whether Government proposes to take action in the near future or not?

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: I fear the hon. Member cannot have heard the last sentence of my reply. Perhaps I was indistinct. It reads as follows:—

“ The matter is receiving further attention with a view to action in 1932.”

REGISTRATION OF DOMESTIC SERVANTS ORDINANCE.

LT.-COL. THE HON. J. G. KIRKWOOD asked:—

“ Will Government apply the Domestic Servants Ordinance to Plateau North? ”

THE HON. THE COLONIAL SECRETARY: The present conditions of financial stringency render it difficult to consider any extension of the application of the Registration of Domestic Servants Ordinance. Further, it is desired to gain a more extended experience of the measure in Nairobi before applying its provisions to other centres. The suggestion will be borne in mind.

ECONOMIC SURVEY OF ROADS AND BRIDGES.

LT.-COL. THE HON. J. G. KIRKWOOD asked:—

“ Will Government undertake an economic survey of district roads and bridges, with special reference to rainfall and geographical conditions and the present basis of grants to District Councils? ”

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: The hon. Member's attention is directed to the reply to his question No. 37 (Local Government Contributions to Local Authorities).

Government is not in a position to provide funds for a comprehensive survey on a large scale, but Government would welcome any action which could be taken by District Councils in the matter.

GEOLOGICAL SURVEY.

LT.-COL. THE HON. J. G. KIRKWOOD asked:—

“ Will Government consider the advisability of engaging a geologist to advise on the possibilities of a geological survey of Kenya? ”

THE HON. THE COLONIAL SECRETARY : The advisability of engaging a geologist has received Government's careful consideration, and an application has recently been made for assistance from the Colonial Development Fund for the purpose of a Geological Survey of Kenya in accordance with the intention recorded in the Report of the Select Committee on the Second Supplementary Estimates, 1930.

SOLDIER SETTLEMENT FARMS AT KAIMOSI.

THE HON. CONWAY HARVEY asked :—

“ 1. Under what circumstances is rent for Soldier Settlement Farms at Kaimosi, formerly paid to the Land Office, now being demanded by the Nandi Local Native Council?

“ 2. Does this involve any change in the status of the farms concerned? ”

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT : The Kaimosi farms are situated in the Nandi Native Reserve as gazetted in 1926, and the rents therefrom are credited to the Local Native Council Fund.

No change whatsoever in the status of the farms is involved in this arrangement.

THE HON. CONWAY HARVEY : Arising out of that, Your Excellency, have the amounts collected been so credited since 1926?

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT : Speaking without the book, Sir, I believe that is the case; but if the hon. Member would like verification, I will arrange it for him.

STATUS OF ARABS.

THE HON. SHERIFF ABDULLA BIN SALIM asked :—

“ Is the Government aware that Arabs are one of the two known Semitic races, and inhabit not only Arabia, but also Syria, Mesopotamia, Northern and Eastern Persia, and the European and Asiatic Russia and Egypt, and came here as conquerors, traders, settlers, and civilisers of the country? If so, why they are in some respects treated as natives? ”

THE HON. THE ACTING CHIEF NATIVE COMMISSIONER (MR. A. DE V. WADE) : The status of Arabs is now under consideration by Government, and a Bill to define that status is in course of preparation.

THE HON. SHERIFF ABDULLA BIN SALIM : Arising out of that answer, may I ask whether that Bill will be introduced in the next session of Legislative Council?

THE HON. THE ACTING CHIEF NATIVE COMMISSIONER : To the best of my belief, Your Excellency, the Bill will be ready for introduction at the next session, but not at this session. Perhaps the hon. the Attorney General can confirm that.

THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MACGREGOR, K.C.) : The drafting of the Bill is complete, Sir. It is now receiving the consideration of Government.

THE RT. HON. LORD DELAMERE : Arising out of that question, may I ask who the Committee were? Did you not say a Committee had sat or were sitting? I did not hear.

THE HON. THE ACTING CHIEF NATIVE COMMISSIONER : I am very sorry ; perhaps I was indistinct. The Bill is under consideration by Government.

THE RT. HON. LORD DELAMERE : I beg your pardon.

LAND PURCHASE FROM MR. ABDUL WAHID.

LT.-COL. THE HON. C. G. DURHAM asked :—

“ 1. Will Government state what has been done with the land purchased from Mr. Abdul Wahid by the Kenya and Uganda Railways and Harbours Administration some years ago?

“ 2. What is Government's intention with regard to the utilisation of it?

“ 3. If it is now found that the land is useless for Railway purposes, will Government dispose of it in such manner that the country will benefit? ”

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT : No land was purchased by the Kenya and Uganda Railways and Harbours Administration from Mr. Abdul Wahid, but the land purchased from him by Government, lying to the east of Swamp Road and adjoining the Nairobi Swamp, was acquired for town planning purposes, and in due course the area not required for roads will be available for alienation in the usual way.

MOTION.

REALLOCATION OF LOAN FUNDS.

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS (BRIG.-GEN. G. D. RHODES) : Your Excellency, the motion standing in my name on the Order Paper to-day is one of a more or less formal nature. It concerns the reallocation of certain comparatively small sums of money from Heads in the Schedule of the original Loan Bill, where they are no longer required, to another Head of the same Schedule where they can be made full use of. I may say, Sir, for the information of the House, that this reallocation has received the approval of the Secretary of State. I therefore recommend it to this House without further words on my part.

I beg to move the motion standing in my name.

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

HIS EXCELLENCY : The question is :—

“ Be it resolved that this Council hereby approves the expenditure of a sum of £46,173 upon the purpose specified in the Schedule hereto, and further approves the provisions being made from unexpended moneys provided in the 1928 £3,500,000 Loan under Items (1) Construction of Nyeri, Kitale and Solai Branch Railways, (3) Purchase of Site for new Railway Station, Mombasa, and (6) Interest out of Capital during Construction period of works.

*Schedule.**Railway and Harbour Development.*

General Improvement on Main Line and			
Additional Equipment	...	...	£46,173.”

THE HON. CONWAY HARVEY : Your Excellency, I see no very serious objection in principle to the reallocation in the manner suggested, but we should like an assurance, Your Excellency, that this matter has been carefully examined in detail by the Inter-Colonial Railway Council, on which, to some extent, the taxpayers of the Colony—who do, after all, put up the bulk of this money—are represented.

Another point, Your Excellency : £46,000 is a fairly large sum of money, and I do think that we are entitled to some more detail as to the precise manner in which it is to be expended. It is within the memory of all of us, Your Excellency, that colossal sums of money in recent years,

which were stated to be dedicated to Renewals and Betterments, were spent on the erection of magnificent, unnecessary, unreasonably elaborate buildings for the housing of the Railway staff, and we should like an assurance, Your Excellency, that the iniquities of the past will not be perpetuated in these times of peculiar economic stress, when every sovereign of public money must be made to do its utmost.

THE HON. T. J. O'SHEA: Your Excellency, it is, of course, reassuring to learn that the Secretary of State for the Colonies has given his approval to this reallocation, but I am sorry to think that the hon. mover of the motion should think it sufficient for the information of this House to provide that very sketchy outline as to the desirability or otherwise of this reallocation. In view of the fact, Sir, that very large sums of money have been spent in the course of the last four or five years under the heading of General Improvement of the Main Line, in ways that the ordinary layman finds very hard to reconcile with the requirements of the main line, I think it is very necessary now for the hon. mover to give, as my colleague has just asked, more detailed information as to how this £46,000 is going to be expended.

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

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS: Your Excellency, I would point out that this is merely a question of reallocation. It is not a question of asking authority for the expenditure of any money at all. I may explain that the Estimates for the expenditure of sums of money under this Head will follow the normal financial control that is laid down for such Estimates; they will go before the Railway Council and will be fully considered and debated in every way before such expenditure is passed. I think, Sir, with that explanation the position should be quite clear.

HIS EXCELLENCY: The question is:—

Be it resolved that this Council hereby approves the expenditure of a sum of £46,173 upon the purpose specified in the Schedule hereto, and further approves the provisions being made from unexpended moneys provided in the 1928 £3,500,000 Loan under items (1) Construction of Nyeri, Kitale and Solai Branch Railways, (3) Purchase of Site for new Railway Station, Mombasa, and (6) Interest out of Capital during Construction period of works.

*Schedule.**Railway and Harbour Development.*

General Improvement on Main Line and Additional Equipment	£46,173."
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The question was put and carried.

BILLS.**SECOND READINGS.****THE POST OFFICE (AMENDMENT) BILL.**

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

The activities of the Post Office in the Colony are, as hon. Members are no doubt aware, regulated by the provisions of the Indian Post Office Act of 1898, which has been applied to this Colony, but in addition to that basic statute there is, in Chapter 117 of the Revised Edition of the Laws, a Post Office (Amendment) Ordinance. One of the effects of these two measures is that it is competent for the Governor in Council by rule to fix rates of postage, subject always to one important qualification: that those rates cannot be more favourable than the rates laid down in the Schedule to Chapter 117. In 1929, Sir, there was held in London an International Postal Convention, and one of the recommendations of that Convention, a recommendation which naturally every civilised country which adheres to the Convention is anxious to give effect to, was that literature for the blind should be charged at the basic rate of 5 cents per unit of 2½ lb., and that it should be permissible to import such literature in packages up to a weight of 11 lb. The Postmaster General therefore, Sir, submitted draft rules to Your Excellency in Council, but it was impossible to give effect to that recommendation for the reason that the Schedule to the Principal Ordinance provided a maximum weight for literature for the blind of 6½ lb., and therefore, Sir, the Bill in its printed form was prepared.

Since that Bill was prepared, approved for publication and actually published, further representations have been made. Those representations, Sir, very shortly are these: As the Convention of 1929 has recommended the increase in the maximum permissible weight of literature for the blind from 6½ lb. to 11 lb., it may well be that another Convention very shortly will say, "Why is the maximum permissible weight for a parcel, the weight of 22 lb., not equally permissible for literature for the blind?", and if that happens, Sir, a further amending Ordinance would be necessary.

Therefore, Sir, I would draw the attention of hon. Members to the amendment, of which I have given notice in the Order Paper for to-day. The effect of that amendment is to provide for the unit weight which the 1929 Convention recommended, that is, 2½ lb. for a postage rate of 5 cents, but to abolish all reference to a maximum weight completely. In Committee stage, Sir, it is my intention, with your leave, to move that amendment to the second clause of the Bill.

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

THE HON. T. FITZGERALD (POSTMASTER GENERAL) : Your Excellency, I beg to second.

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

THE RT. HON. LORD DELAMERE : I think, as long as these international bodies confine themselves to such admirable matters as this, they will find the support, I am sure, of this House.

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

The question was put and carried.

THE EUROPEAN OFFICERS' PENSION (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL : Your Excellency, I beg to move that a Bill to Amend the European Officers' Pension Ordinance, 1927, be read a second time.

That Ordinance, Sir, which very closely follows the pension legislation which is in force, certainly in the other African Dependencies, contains *inter alia* a provision in section 12 for the abatement of pension on re-employment, whether under the Government paying the pension or under any other Government. The question of the equity of that provision has recently been raised, Sir, at the Colonial Office Conference held in 1930. It is, I think, difficult, Sir—I am sure hon. Members will share my view—it is, I think, difficult to find any sound justification for any such rule. An officer's pension, whatever the strictly statutory point of view about it may be, is a sum of money which has been earned by service, and which is dependent for its payment on certification by the Government in which the officer has served that it has been so earned by a loyal and faithful service. If an officer who has got a pension takes employment elsewhere than with a Government, then the Government paying the pension does not take

into consideration in any way the fact of that further employment and of the remuneration which that further employment carries, but as the law now stands, if that further employment is either with the pension-paying Government or under any other Government, the pension is subject to abatement—is reduced to such an amount that, with the remuneration of the second office, the pension cannot exceed the highest pensionable emoluments which the officer was drawing in the Colony which pays the pension. The suggestion now, Sir, is to do away with that system of abatement altogether so far as service under another Government is concerned. That, I submit, is no more the concern of the pension-paying Government than private employment. But the question does arise, Sir, if the subsequent employment is under the Government which is paying the pension, what is the position? It is with that point, because it is the only point with which we, as a pension-paying Government, are concerned, Sir, that the suggested new section specifically deals. If a Government re-employs one of its own pensioners it can, I submit, deal with the situation in either or both of two ways. Firstly, having knowledge of the fact that the officer to be re-employed is a pensioner, it can fix the remuneration for the second employment at a figure which has due regard to the fact that a pension is being paid, and it can cancel the pension, and award, on the officer's ultimate retirement, a pension calculated as if the two periods of service were continuous. That is the suggestion embodied in this Bill, Sir.

In fact, the only change which it makes, so far as employment in this Colony is concerned, is that though there may be a break in the pensionable service of an officer who, having retired, is granted a pension and afterwards is appointed to another office, the periods of service will be treated as if they were continuous, and on his ultimate retirement a pension will be calculated and awarded on his pensionable emoluments on his final retirement, but if they are less than the pensionable emoluments on which his previous pension was based the calculation of pension will be based on the larger. If, however, on his previous retirement he was paid a gratuity and reduced pension the gratuity to be paid to him on his ultimate retirement will be reduced by the amount of the gratuity already paid. It is, I repeat, a measure of ordinary equity.

The present system does not debar pensioned officials from seeking any employment other than Government employment. It may have the effect of depriving the Government of the services of an officer who is eminently fitted for further employment. An officer may have all the qualifications and knowledge necessary for the office which is vacant, but will not accept it because it means no financial gain whatsoever.

The effect of the change will be, Sir, that the Government will have at its disposal the services of the best available officers, whether they are pensioners from the Government or not. It will mean no financial commitment of any sort to this Government at the moment. There are no pensioners under the Principal Ordinance of 1927 who have been re-employed and whose pensions are affected. A certain number of officers who were given pensions under the Superannuation Acts have been re-employed, but this Ordinance affects only pensions granted under the Ordinance of 1927.

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

THE HON. THE TREASURER (MR. H. H. RUSHTON) : Your Excellency, I beg to second.

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

THE RT. HON. LORD DELAMERE : Your Excellency, the Attorney General has said that this Bill means no expense to this Government at the present time. I would stress that, because there was a resolution of this Council that on every Bill which menaced increased expenditure to the Colony the fact that that did mean such increased expenditure should be added to the explanation of the Bill itself. It came into force at a time very like this when the country was very hard up, and at a time when it was necessary that both sides of the House should know definitely that a Bill would not mean increased expenditure on the part of the Colony.

I am not satisfied, Sir, that this does not mean increased expenditure. I am very sorry that my noble friend, Lord Francis Scott, is away, because he has had very wide experience in these things, and I should like to have asked his advice. I should like to get a further undertaking from Government that this Bill does not mean any expenditure to the Colony for at least a year or two while this country is still in difficulties. I would say further, Sir, I have a letter from the hon. the Colonial Secretary—it is quite an official letter, Sir—I was informed this morning that before the debate comes up to-morrow on the savings of Government that nothing which means further expenditure would be introduced in the meantime. I suggest generally, Sir, that this Bill is probably quite a fair thing, but at a time like this it does seem to me, if there is no immediate necessity for this Bill, it does seem rather like a tuning up of Nero's violin for the burning of Rome. I am not suggesting that this country is in a position like Rome was in Nero's days, but I do think, Sir, that if these things are not necessary and not vital at

the moment, the time of Government would be better taken up by not going into affairs which at the moment are not vital to its future.

I do not quite know, Sir, where this Bill comes from. I would like to ask the hon. mover when he replies whether this is one of the Bills which came out from home, or whether this is one of those which have been thought out in the last month or two by the Government here. I do think that the time of this Government would be better taken up in thinking over more immediate things.

THE HON. T. J. O'SHEA : Your Excellency, I oppose this Bill for two entirely different reasons. In the first place, Sir, I, in common with the majority of the Members on this side of the House, strongly object to Bills being introduced making partial changes in the conditions of service when Government's promises to review the terms of service generally have not yet been fulfilled. The changes that have taken place, Sir, have been so great that one has to feel that it is deliberately that we have been denied a general review of these terms. The delay taking place is costing this country large sums of money, and it is for that reason that I oppose this Bill, to prevent that delay being carried any further, and to prevent those large sums of money being wasted for any further period. To think that at the first session of this Parliament, when the country is faced with the greatest crisis, we should be presented with no less than four Bills which have to do with the terms of service of public servants! I think it is highly undesirable.

In connexion with the Bill now before us, the hon. mover has been frank enough to confess that there is no immediate necessity for it, and yet at this first session Government's time is taken up with such matters. Therefore, Sir, on general principles, I strongly object to the introduction of this Bill, and shall be compelled to vote against it.

Even apart from that consideration, Sir, even after listening to what sounded like a very logical reasoning on the part of the hon. mover, I maintain that this is not the time for the introduction of such Bills. The hon. mover has argued that it is no matter of concern to this country when it is decided to give an officer a pension whether he seeks employment elsewhere or not. That point of view is based upon a complete misunderstanding of the pensions idea. I was under the impression, Sir, that the idea of granting a servant a pension was to provide for a time when it was no longer possible for him to earn his living, in fact, a provision for his old age, for a time when his physical and mental powers are such that he is no longer able to earn his living. But, Sir,

in this country the considerations under which pensions are granted are so altogether different that we have lost all understanding of the idea of pensions. We have servants going out on pension at 38 years of age. It is common at 40, 41 and 42. Is it Government's idea, when a pension of about £300 a year is granted to a servant, to bring him back after a while and give him a post so that he can get something more? This country is merely a milch cow.

I should like some explanation, Sir, as to how it comes that this Bill would not apply to people who are not affected by the 1927 Ordinance. I am not quite sure what that means. People who have been employed since 1927? Or am I right in believing that the 1927 Ordinance controls the pensions of the large majority of those in the service?

I shall have the greatest possible pleasure, Sir, in voting against this Bill.

THE HON. CONWAY HARVEY: Your Excellency, for the reasons so plainly given by the last two speakers, the Right Hon. Lord Delamere and the hon. Member for Plateau South, with which I entirely agree, I shall oppose this Bill, and may I draw Your Excellency's attention to the report of the Pensions Committee which was laid before Government a year or two ago, which pointed out in the plainest possible manner that the pensions burden was hanging heavily over this country, like the sword of Damocles, getting heavier and heavier. In the course of about twenty years we have a burden approaching a quarter of a million. I suggest, Sir, that that is a burden which this country cannot possibly bear.

I should like to know, Sir, when the hon. and learned mover replies, what are Government's intentions regarding the introduction of a contributory pensions scheme, which, to my mind, is the only possible scheme in matters of this sort.

Another clause to which I object, Sir, is No. 3 of the proviso. I am afraid I find myself utterly unable to appreciate the propriety of allowing the Secretary of State for the Colonies arbitrarily to state what is the salary, the pensionable salary, of the Governor or High Commissioner. Surely, Sir, the public, who are footing the bill, should be told.

THE HON. THE ATTORNEY GENERAL: On a point of explanation, Sir, the proviso to which the hon. Member is drawing attention is part of the section which is to be repealed. (Laughter.)

THE HON. CONWAY HARVEY: I withdraw that section of my remarks, Your Excellency, but at the same time I intend

to vote against the Bill for the reasons which I have given. I do not think that small slip really makes very much difference to what has been said.

CAPT. THE HON. H. F. WARD : Your Excellency, I am afraid I am not in agreement with the last speaker, and I intend to support this Bill, principally for the reasons advanced by the hon. mover. I do feel, having listened to the arguments, that to refuse support to the Bill would be both illogical and unreasonable. We have been told, Sir, perfectly definitely by the hon. mover that the effect of the Bill is in no way retrospective, and that being the case, it is perfectly feasible for Government, when considering the re-employment of an officer drawing a pension, to weigh up his total cost against the value of the services that it proposes to employ. It therefore resolves itself purely into a business question of fact.

There has been a certain confusion of thought, I think, in dealing with this Committee that has been promised by Your Excellency, if we ask for it, on conditions of service. The hon. mover of that resolution originally, last autumn, in this House made it definitely clear that the considerations of that Committee would be confined strictly to the future employment of civil servants, and therefore it does not in any way, directly or indirectly, affect the measure we are now discussing.

I should like to take this opportunity of asking the hon. the Colonial Secretary to clear up one point on a matter just mentioned, and that is the point of the Pensions Committee. Is there a Committee of Government appointed to consider applications for pensionable status, and, if so, how often does that Committee meet, and are these applications regularly attended to?

THE HON. THE ATTORNEY GENERAL : Your Excellency, a number of points have been made on this Bill, and I will endeavour, Sir, to deal with those of them which appear to me either to have in themselves any importance or to have any bearing, even though somewhat indirect, on the provisions of this very short measure which is now before us. I put it that way, Sir, because it appeared to me that a good deal of the criticism directed to Government on this measure has no relation whatsoever to the provisions of this Bill, but was rather an attack on the pensions system generally and on the terms of service generally. I would remind hon. Members who chose to make that attack that whatever their views may be they would, I know, be the last to suggest that the contractual relations which already subsist between Government

and the officers in Government's employment should not remain unimpaired, that any changes that may be made can be made effective for the future only, and can in no sense interfere with the relations of employer and employee which already exist under the Statute Law of the Colony as it now stands.

The Noble Lord the Member for the Rift Valley asked what the genesis of this Bill was. I am afraid I did not make it sufficiently clear in my speech on the second reading, Sir, that it was the outcome of a recommendation of the Colonial Office Conference of 1930. That is a more important fact than at first sight might appear, because one thing that is manifestly and obviously of considerable importance for this, as for any other colony, is that in matters such as the actual details of pension administration there should be as great a degree of conformity and uniformity as possible. Anything that interferes with the normal interchange of officers, the flow of officers with experience elsewhere to the Colony and the flow from the Colony of officers who could be of advantage to other parts of the Empire, is manifestly a thing to be encouraged. That, I think, goes some way, Sir, towards answering the suggestion that there is no immediate necessity for this legislation. Incidentally, Sir, the statement was imputed to me by the hon. Member for Plateau South that I had said that there was no immediate necessity. I do not think I said anything of the sort, Sir. I do regard it as a matter for legislation now. No one is affected at the moment; someone may be affected at any moment. Therefore, Sir, there is, in my submission, the necessity for doing what hon. Members on the other side have admitted is only an ordinary measure of equity and justice in passing this legislation now.

It may well be, Sir, that our time could better be occupied in dealing with the more important affairs of this Colony, but, Sir, from what has been happening for the last thirty minutes it would hardly appear as if that statement was completely justified. In any case, Sir, the drafting and preparation of this Bill did not occupy much of my time; I am quite impenitent as the author of it.

The relation of this Bill, Sir, to terms of service generally is one that I am afraid I rather fail to follow. I can only reiterate on that what I have already said, that there is a contractual relationship so far as existing members of the service are concerned, and the acceptance of this principle will in no way tie the hands of any hon. Member in his endeavours to get the terms of service altered for future entrants. The fact that the terms of service have not been altered does not seem to be any justification for withholding from officers who may be close to the pensionable age an

ordinary measure of justice such as this. The terms on which pensions are granted, Sir, are embodied in the Principal Ordinance. They have been raised on this Bill, but, in my submission, they have no relationship to this Bill whatsoever, and I do not propose to enter into a discussion of them beyond saying this, Sir, that a mistaken statement has been made that we are occupying the time of this Council to-day with *inter alia* four measures which are designed for the betterment of members of the service. What those four measures can conceivably be, Sir, I fail to appreciate, but there are, Sir, four measures on the Order Paper to-day, each one of which in its title contains the word "Pensions"; I can only assume it is those four Bills to which the hon. Member referred. I can assure him that when we come to the detailed consideration of the other three he will see very clearly that there is nothing embodied in any one of them which in any way improves the position of any member of the service.

The measure, I repeat, Sir, is not retrospective, and it affects those officers who are subject to the 1927 Principal Ordinance, and those only. The reason why it does not affect those who got pensions under the Superannuation Acts, Sir, is that it is in its essence only an amendment of the 1927 Ordinance, and therefore goes no further than that at all. There is nothing retrospective in any way. There is no officer at present, I repeat, who is drawing a pension under the 1927 Ordinance which is subject to abatement.

There remains one point. It is true that our Standing Rules and Orders provide that a Bill should be accompanied where the expenditure of public moneys is involved, by an estimate of that expenditure. It is, hon. Members will admit, equally true that for a long time that rule has been more honoured in the breach than in the observance. At the request of certain hon. Members, the provisions of that Rule have again been given effect to in the more recent Bills which will come before this Council, but in this particular case, Sir, I put it to hon. Members: how can we possibly give anything that could even be called an estimate of what the expenditure will be years hence? Somebody who has been granted a pension of £x may receive re-employment at the rate of £y, and a closer estimate than that it is, I think, quite impossible to give. I submit that as a debating point it may be an excellent one; as a practical point there is nothing whatsoever in it. The cost to the Colony, so far as can be foreseen within measurable time, is and will remain nil.

THE RT. HON. LORD DELAMERE: On a point of order, is a Bill not *ultra vires* which, in fact, goes against a resolution of this Council that if it will affect the finance of the country

that that Bill, in accordance with a resolution of this House which has been passed, if it affects or may affect the finance of the Colony, has to have an explanation on it? It is difficult for the hon. mover, as mover of the Bill, and also as Attorney General, perhaps, to give us a ruling on this matter, but I feel myself that a Bill of this sort certainly should have had this at the bottom of it. I would point out to him that he has just said that it was quite unnecessary, but apart from anything else it would have saved us perhaps half of the half-hour of which he was speaking.

HIS EXCELLENCY : The hon. Member is rising on a point of order?

THE RT. HON. LORD DELAMERE : Yes, Sir ; whether a Bill which is in contravention of a resolution passed by this House—whether the Government have any right to honour it more in the breach than in the observance—whether that is the case or not—whether a Bill that is in direct contravention to a resolution of this House is *ultra vires* or not?

HIS EXCELLENCY : That is your point of order?

THE RT. HON. LORD DELAMERE : I do not agree that these things are small things when they affect the finances of the Colony.

HIS EXCELLENCY : I hold it does not invalidate the measure.

THE RT. HON. LORD DELAMERE : I bow to your ruling, Sir.

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

The question was put and carried by 24 votes to 6.

Ayes : Sheriff Abdulla bin Salim, Mr. Bemister, Major Brassey-Edwards, Mr. Bruce, Canon Burns, Messrs. Butler, Fitzgerald, Gilbert, Dr. Gilks, Major Guild, Messrs. MacGregor, Martin, Mitchell, Moore, Brig.-Gen. Rhodes, Major Robertson-Eustace, Messrs. Rushton, Scott, Sikes, Wade, Walsh, Capt. Ward, Messrs. Welby, Wolfe.

Noes : Mr. Cotter, Lord Delamere, Lt.-Col. Durham, Mr. Harvey, Lt.-Col. Kirkwood, Mr. O'Shea.

THE GERMAN MISSIONS (REPEAL) BILL.

THE HON. THE ATTORNEY GENERAL : Your Excellency, I beg to move that a Bill to Repeal the German Missions Ordinance, 1924. be read a second time.

That legislation, Sir, was passed to give effect to Article 438 of the Treaty of Versailles relating to the carrying on of German Mission activities. It provided that the Allied Governments would hand over the property which German Missions previously possessed to boards of trustees appointed by the Governments and holding the faith of the Missions whose property was involved. That was done in 1924, and since that date, Sir, these Mission properties have been reverting to the previous German holders, and the only obstruction in recent years was the case of the Leipzig Lutheran Mission. Quite recently an agreement has been arrived at between that Mission and the Africa Inland Mission for the revocation of the trust and the release of those properties from the trust of the Africa Inland Mission, and the Africa Inland Mission have expressed their desire to hand over the properties and obtain release from their trusteeship, and the result of that, Sir, is that there is no longer any necessity for that legislation to remain on the Statute Book.

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

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

The question was put and carried.

THE WIDOWS' AND ORPHANS' PENSION (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL : Your Excellency, I beg to move the second reading of a Bill to amend the Widows' and Orphans' Pension Ordinance.

Whatever the title of the Bill may have conveyed to any hon. Member, Sir, it has, in fact, no financial implication of any sort. The necessity for this legislation, Sir, arises from the fact that the Railway is inter-controlled, that since the Principal Ordinance was passed the Kenya and Uganda Railway Orders in Council have been made, the office of High Commissioner has been appointed, and lastly, Sir, that that Railway has a provident fund. Quite recently it was realised that because of the definition of "servant" in the Widows' and Orphans' Pension Ordinance a number of Railway officials who had, by virtue of the terms of their agreements, contributed to the Railway Provident Fund were also servants within the meaning of the Ordinance, in that the terms of their employment were for a specified period or that their agreements were subject to termination by notice, in many cases of one month. As hon. Members are aware, the usual notice is three months. And so the position arose, Sir, that they were liable to contribute to both of these funds, because,

not having appreciated their liability to contribute to the Widows' and Orphans' Pension Fund, and no one having drawn their attention to the fact of this dual liability, they had not exercised their option to contribute to the Railway Provident Fund and had not made their claim in writing within three months of their liability accruing. That is the reason for this legislation, Sir. The officers whose names are set out in the Schedule are to be given an opportunity of exercising their option.

The other changes made, Sir, are entirely matters of draftsmanship, and again they are caused entirely by the appointment of the High Commissioner for Transport, and the change from the Uganda Railway to the Kenya and Uganda Railways and Harbours.

I beg to move the second reading, Sir.

THE HON. THE TREASURER: I beg to second, Sir.

The question was put and carried.

THE ASIATIC WIDOWS' AND ORPHANS' PENSION
(AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of a Bill to amend the Asiatic Widows' and Orphans' Pension Ordinance, 1927.

Again, Sir, I beg to say that no mention of anything in the Objects and Reasons for this Bill relating to the expenditure of public moneys is justified. This Bill entails no expenditure.

There are three reasons for this Bill. One is relatively unimportant. It is uniformity with Uganda. As hon. Members will appreciate, there are certain departments of the service which operate in both territories, and in the interests of the Asiatic members of the staff uniformity with Uganda is desirable. That is the least important of the reasons.

The other two reasons can be stated very shortly. One is that the Board which is charged by statute with the duty of applying this legislation have expressed very great difficulty in reconciling certain of the sections, particularly section 6, defining who are contributors.

The third reason, Sir, is that legislation is necessary to correct what I think we will all admit must have been an oversight at the time the Principal Ordinance was drafted and passed. The Asiatic Widows' and Orphans' Pension Ordinance differs entirely from the European Widows' and Orphans' Pension Ordinance. That Ordinance provides for a pension

calculated on the two facts, the quantum of contribution and the respective ages of husband and wife at the time of the first contribution, and in the case of an unmarried contributor at the time of marriage. The Asiatic one is entirely different. It is very much more rough and ready. It says, in effect : " Give me four per cent of whatever we are paying you and we will give your widow £50 a year."

Two questions have arisen. What does four per cent mean? Four per cent of salary throughout, or four per cent of the salary the officer is actually drawing, or four per cent of pension if he has gone on pension? It would appear that what the Legislature had in mind was four per cent of what was paid to him as salary when he was drawing a salary, and four per cent of pension when he was enjoying a pension. It is well in matters of this sort that you should be put beyond doubt, and therefore specify exactly that it is four per cent of salary and four per cent of pension.

The other difficulty is greater, Sir. The amount of the pension bears no direct or real relation whatever to the amount of contribution, and therefore if an Asiatic officer joins the service late in life he perhaps would have only two or three contributions to make and his widow would be entitled to the same pension as an officer who had joined in his youth. And so, Sir, this Bill provides that any officer who joins the service over the age of 35 shall not be eligible to contribute unless when he joins the service he elects to become a contributor and pays in addition to his contribution a lump sum contribution as if he had been appointed to his post at the age of 35 years. That provision is manifestly an equitable one. The ratio between contribution and pension is worked out in a rough and ready way.

These, Sir, are the only changes which this legislation introduces. I think, Sir, I have made it clear that no financial implications are concerned. The scheme is going to be a little fairer because of the provision about the age of 35.

THE HON. THE TREASURER : Your Excellency, I beg to second.

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

THE HON. T. J. O'SHEA : At least one good purpose has been served, Your Excellency, by the introduction of these Bills at this stage. They all go to emphasise what Members on this side of the House have contended for a period of years, and that is that the terms of employment in the service stand in need of very urgent revision.

Any unprejudiced person listening to the statement of the hon. mover of this motion would, I think, have to acknowledge that the terms of service in this country are most inequitable, and in many ways absurd, and it is astounding even to me, who has had many years' experience of these things, that the Asiatic Widows' and Orphans' Pension Scheme should be based upon the absurd provisions which have been discussed in the speech of the hon. mover. To think that pensions should be paid on a rate which bears no relationship to contributions! That discovery itself goes, I think, to emphasise the necessity for the agitation which has been carried on by Members on this side of the House for the immediate revision of the terms of service of officials of this Colony.

THE RT. HON. LORD DELAMERE: Your Excellency, the hon. mover of this measure has said on two separate occasions that this Bill can in no way mean any financial commitment to this Colony. I bow to Your Excellency's ruling which you gave just now that a Bill which contravenes a resolution which this Council has passed is not invalidated.

THE HON. THE ATTORNEY GENERAL: Your Excellency, on a point of explanation, in this case the Bill does contain the provision; it ends up, "No expenditure of public moneys will be involved if the provisions of this Bill become law."

THE RT. HON. LORD DELAMERE: I beg your pardon. I understood you to say . . .

HIS EXCELLENCY: My ruling referred to the particular case that had been put forward.

THE RT. HON. LORD DELAMERE: I am going to vote for this simply because I think it ought to be put right, but I still have the same objections that I had with regard to the first Bill, that Bills of this sort should wait over a time like this, when we ought to be thinking of other things, to be put forward. With regard to the last Bill, which has just been put, hon. Members had no time to go into it. I think it is quite possible we shall find, with regard to the last Bill, which is not under discussion at the moment that we have made a mistake in one particular, but I cannot reopen that now.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, while I am not wishing adversely to criticise the Bill, the general principles, like most of the Members on this side, I should like to emphasise what has been already stated that we have for a considerable time advocated a revision of the terms of service. That has not taken place. Until it does take place, I cannot see how we can logically vote for any

measure of this nature. I think it is one of the greatest necessities of the Colony at the present moment, and I hope that in the near future at the least Government will do something to satisfy the opinion on this side of the House in that direction. I am not suggesting—I do not propose to suggest—in any of these discussions that the contractual terms of service to our present officers should be varied, but I do think that there is a great deal of room for improvement in the terms of service, especially in the pensions scheme, and it is emphasised at every session by the measures of different sorts, the same as we have had here this morning, being brought up for amendment or adjustment.

There is one point, Sir. In clause 8 of the Objects and Reasons it states :—

“ Clause 11 provides that, if a contributor is transferred to a service in which he is not eligible to join a Widows' and Orphans' Pension Scheme, he may continue contributing to the Colony's scheme as if he had remained in the Colony.”

I should like to ask if that is not a new principle that is being introduced in this measure. It seems to me that under that clause Kenya is finding an insurance scheme for officers who are serving outside the Colony. It does seem to me something new, and I am not quite sure if it is not very undesirable.

THE HON. THE ATTORNEY GENERAL : Your Excellency, I will, if I may, deal first with the point which has just been made by the hon. Member for Plateau North—the amendment to the law which is embodied in clause 11. I am grateful to him for mentioning it, and I feel that I ought to express regret to Your Excellency and Members of Council for not traversing that point specifically in my remarks on the second reading. The conclusion which the hon. Member has drawn from the wording of the clause is diametrically opposed to that which I personally draw from it, Sir. The present position is, Sir, that an Asiatic member of the staff who is eligible as a contributor contributes while he is in the service of this Colony, and if he is transferred from the service of this Colony elsewhere he ceases to contribute, but his registered pension is there. Now, Sir, we are saying to him : “ You can go on contributing, even if you go to another Colony, but you go on contributing at the rate at which we were paying you ; if your rate is an incremental one, we shall assume, if you had remained in the Colony, you would have

reaped your increments regularly every year, and your contribution would be accordingly." The scheme is going to get more money out of him than at present, and does not seem to me to be bad finance.

There is one other point, which the Noble Lord made on the first Bill and reiterated now, and that was that we are in effect wasting time in taking these measures. I would remind hon. Members that we have not had a meeting of this Council for an inordinately long time; that the dissolution and the necessity for a general election has necessarily led to a considerable lapse of time; and this is the first meeting which we have had since these Bills were drafted. This particular Bill was drafted and laid before Your Excellency on the 7th January, and normally would have been taken and got out of the way long ago. The same thing applies to a large number of these other Bills, Sir. There is no attempt deliberately to litter up the Order Paper of this session, a most important session obviously, with legislation, but circumstances have conspired to render it difficult to avoid.

THE RT. HON. LORD DELAMERE: I did not make that accusation, Sir, that it would mean . . . I mentioned that Nero fiddled after rather a good dinner.

THE HON. THE ATTORNEY GENERAL: The only other point was, I think, made by the hon. Member for Plateau South, that the scheme was a pretty bad one, and it was an amazing thing that we had now got to try and put it right. I cannot deal with that point, Sir. I had not the honour of being a Member of this Council in 1927 when the Principal Ordinance was passed, and no persons who were Members of Council at that time require my assistance in supporting them. I do feel confident—perhaps the Noble Lord will share my confidence—that even under the bludgeonings of fate as personified by hon. Members their heads are bloody but unbowed.

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

The question was put and carried.

THE MAZRUI LANDS TRUST BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to establish a Mazrui Lands Board of Trustees, to provide for the powers and control which such Board may exercise over the Mazrui Land, and to validate certain titles granted by the Arbitration Board appointed by notice appearing on page 178 of the Gazette, 1912, be read a second time.

It is a portentously long title, Sir, and there is an equally formidable preamble, but the history of the Bill is one which I think I can give very shortly, Sir. It is just 97 years ago that Sultan Said Said took the Fort of Mombasa from the Mazrui, and when that happened, Sir, the Mazrui split into two sections. One small section remained in Mombasa under the conqueror; the other went to Takaungu and settled on land there. Later, Sir, they in turn divided, one section under Sheriff Salim bin Khamis remaining at Takaungu, and the other under Abdulla bin Rashid, going to Gazi. It is with the second of these three sections, that which remained at Takaungu, alone that we are concerned with. They settled at Takaungu, and they took to themselves rights over a considerable amount of land there, and that was the position, Sir, when the Land Titles Court started operating in that area. They found nebulous, rather unformed claims by members of that section of the tribe to a very great deal of land at Takaungu, and in Cause No. 31D of 1912, under the Land Titles Ordinance, agreement was come to and the Mazrui who claimed rights in or near Takaungu agreed to surrender all their other rights if they were given title to a certain defined piece of land at Takaungu. That was the position in 1912, Sir, and it then became necessary to give effect to that agreement, and that was done, Sir, by appointing a Board. That appointment was done, Sir, only by notice in the Gazette. The Board had no statutory authority; it had no authority in fact; it was merely a gazetted entity, and the consequences of that, Sir, are apparent. The first was, of course, that no member of the tribe was in any way bound to accept the advice of this body. It was nothing but a mere conciliation board. Secondly, that any person who bona fide and for value took title from that body got a title that in law was valueless. They purported to convey; they purported to agree to mortgages, when in law they had no right to do anything of the sort. That is the position, Sir. In the meantime, transactions in land have taken place. There was one, a very large one, in which the Standard Bank of South Africa, bona fide holders for value, are materially interested, and the position for that reason primarily has become acute. It is therefore proposed, Sir, that in place of that body of 1912, which had no statutory existence at all, which was a creature of a Government Notice only, we should have a statutory Board with power to control that land on behalf of the Mazrui residents at Takaungu. The Mazrui we have in mind are defined in the interpretation clause of the Bill. Further, Sir, than that we must go. In equity we must validate the titles which, in good faith, have been accepted by others from that Board, which, in fact, had no power to grant titles, and so, Sir, the Bill which is, in itself, a short one, has

the twin functions, firstly, of setting up a statutory body with power to control and deal with Mazrui land in their interests, and, secondly, of validating the titles which have been accepted in good faith though they are in fact valueless.

Hon. Members may say, Sir, that there is no necessity for statutory intervention, that this could have been done by a Trust Deed. I can assure hon. Members that that was very carefully explored over a very prolonged period, but the difficulty, as hon. Members will appreciate, was to ensure that every Mazrui who claimed he had or claimed to have any rights over that land was named a party to the Trust Deed. Unless we had a complete Trust Deed it was liable to rescission in court at any moment at the whim of any disappointed person. The only practical and effective way of doing what we must do, Sir, is by legislation.

I therefore beg to move the second reading.

THE HON. THE ACTING CHIEF NATIVE COMMISSIONER :
Your Excellency, I beg to second.

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

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE : Your Excellency, I wish to support this Bill, and I trust that all the hon. Members on this side of the House will do so. I have been through it with those people who are affected, and there is no reason for any objection.

THE RT. HON. LORD DELAMERE : I am sure I can vote for this measure, and I believe hon. Members on this side of the House will vote for it.

THE HON. T. J. O'SHEA : Your Excellency, I have much pleasure in supporting this Bill, and the pleasure is all the greater in finding that this Bill will put right the state of affairs which grew up in 1912 and will place these unfortunate people in the position of being given a title to land when, as an actual fact, all they have is a piece of worthless paper.

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

The question was put and carried.

The Council adjourned for the usual interval

On resuming :

THE CORPORATIONS (PROBATE AND ADMINISTRATION) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to enable Bodies Corporate to act as Executors or Administrators be read a second time.

This is rather a technical subject, Sir, but I would like to say emphatically that in my own view, and in the view also of the Association of Chambers of Commerce for Eastern Africa and of the Law Society of Kenya, it is a useful measure, particularly for the conditions which so often obtain in this Colony.

As the law now stands, it is impossible for a body corporate—taking a very common instance in this regard, a testator's own bank—to act as an executor for the reason that in law a body corporate is incapable of taking the executor's oath. There is a remedy to it, an unsatisfactory one. The body corporate can appoint a nominee, called a syndic, and the body corporate, through the instrumentality of that syndic, may take out letters of administration, but before the body corporate can act other executors or administrators have to renounce. In 1925 the law of England was amended in the sense of this Bill to permit of bodies corporate acting as executors with other executors or as administrators with other administrators, and in introducing this measure we are merely coming into line with the law of England. I do submit, Sir, that in a Colony such as this, where persons very frequently leave the country for months at a time, an ideal arrangement in the circumstances prevailing here would be that a testator appoint (a) an individual friend, and (b) a corporation aggregate, to act as joint executors. A corporation aggregate has all the machinery and the individual friend has all the zeal and desire to see the estate properly administered.

There is a safeguard introduced here which is not in the English legislation. It is that the capital of the corporation aggregate must not be less than £25,000. That provides for bankers to act, and it is sufficient to prevent mushroom growths being entrusted with the administration of estates. In the view of my hon. friend the Treasurer, the sum of £25,000 is large enough to safeguard the interests of the testator and those to whom he has bequeathed his estate.

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

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

CAPT. THE HON. H. F. WARD: Your Excellency, there is one small point I desire to raise. It is that the capital should not be so high as £25,000. I fully appreciate the arguments against mushroom growths and so on, but in a small Colony like this there might be deserving institutions which should receive the confidence of Government, and the capital should not be so high. Whether in the opinion of the hon. mover the difficulty could be got over by a financial bond or guarantee, it is, of course, rather difficult to find out.

THE HON. THE ATTORNEY GENERAL: Perhaps, Sir, it would meet the wishes of the hon. Member that, if the second reading is adopted, the further consideration of this Bill be deferred until I have an opportunity of discussing it with the hon. Member.

THE RT. HON. LORD DELAMERE: I suggest, Sir, that if the hon. Member and the hon. the Attorney General cannot come to an arrangement, this Bill should be referred to a Select Committee.

HIS EXCELLENCY: I think that had better wait until after the discussion. The question is that a Bill to enable Bodies Corporate to act as Executors or Administrators be read a second time.

The question was put and carried.

THE BOWRING PENSION BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of a Bill to Legalise the Payment of a Gratuity and a Reduced Pension to Walter Andrew Bowring, Commander of the Most Excellent Order of the British Empire.

This is the fourth and last, Sir, of the Bills which fall into the unfortunate category to which reference has been made. However, the objects of this Bill, Sir, are such that I am sure every hon. Member will agree to them.

Mr. Bowring joined the service of this Colony on the 27th April, 1899, and left it on transfer on the 3rd May, 1902. He is now Treasurer of Gibraltar.

When the 1927 European Officers' Pension Ordinance was enacted, the regulations therein contained a provision that an officer to whom the Ordinance applied (and Mr. Bowring was one of them) could exercise his option to take a reduced pension and gratuity at any time before the 30th June, 1928, and obviously it was the desire of this Government in the case of officers transferred to circularise each of them to draw his

attention to the fact, and to give him an opportunity of exercising that option should he so desire. Unfortunately, no such notice was ever received by Mr. Bowring, and there is no trace of the despatch of any such notice. Mr. Bowring has now become aware of the provisions of the Kenya legislation but statutorily he is out of time to exercise the option, Sir, and so, as no notification was apparently sent and none received, it is equitable in my opinion that we should now give Mr. Bowring an opportunity of exercising the option should he desire to do so.

THE HON. THE TREASURER : I beg to second, Your Excellency.

HIS EXCELLENCY . The question is that a Bill to Legalise the Payment of a Gratuity and a Reduced Pension to Walter Andrew Bowring, Commander of the Most Excellent Order of the British Empire, be read a second time.

LT.-COL. THE HON. J. G. KIRKWOOD : On a point of order, Sir, I would like to raise the question which has already been raised by the Noble Lord. The Bill is *ultra vires*, as it does not state the amount the Colony is committed for, and the reasons given by the hon. the Attorney General cannot hold good in this case. Your Excellency, the specific amount must be known and it is not stated in the Bill.

THE RT. HON. LORD DELAMERE : I think the feeling always on this side of the House is that all these things appear to go against the finances of the Colony. This side of the House has always shown aptitude in finding flaws in the relations with the Colonial Office on these subjects. On the other hand, when another member of the family . . .

THE HON. THE COLONIAL SECRETARY : On a point of order, Sir, is the hon. Member speaking to the Bill?

THE RT. HON. LORD DELAMERE : Yes, Sir. Another member of the family fails to find something out. Ignorance of the law is no excuse. On this occasion Government goes out of its way to pass a Bill to enable him to do something which under the regulations he cannot do. It does appear to me that we always seem to have to pay money out. We never have anything done to protect the Colony from this paying out. . . .

HIS EXCELLENCY : Is there any financial liability?

THE HON. THE ATTORNEY GENERAL : There is no possibility of estimating that, Sir.

THE RT. HON. LORD DELAMERE: But it will mean a considerable sum, I suppose. I would like to reopen that question, Sir . . .

HIS EXCELLENCY: The ruling of the Chair is final.

THE RT. HON. LORD DELAMERE: I would like, then, Sir, to put it in a different way, if I may. I bow to your ruling, Sir, that a Bill is not *ultra vires* if a certain resolution of this Council is not carried out.

I would like to ask for a further ruling. What steps can be taken by any hon. Member in protection of the privileges of the Council to see that any particular resolution is carried out? It may be of vital importance. It is rather difficult to ask the hon. mover of the Bill for a ruling, and I imagine, as a rule, Your Excellency, it is gone into with the Attorney General. I will . . .

HIS EXCELLENCY: There is no debate on the ruling.

THE RT. HON. LORD DELAMERE: I accepted your original ruling, Sir, but I put it in a different way to find out what action can be taken. I will leave it at that for a moment, and put it as a question perhaps in a day or two.

THE HON. THE ATTORNEY GENERAL: The Noble Lord who has just spoken based part of his argument on the maxim, with which I am in wholehearted agreement, that ignorance of the law is no excuse; but that maxim, Sir, salutary as it is, has no application whatsoever in this present case. It is a very sound maxim, Sir, that ignorance of the law of Kenya to a person resident in Kenya is no excuse; but it is just as much an excuse for Mr. Bowring, who is in Gibraltar, as it is for any one resident in Kenya to know little or nothing of the law in Gibraltar.

Two other points have been made, Sir. One is that this Bill has a financial implication, a financial implication which is ascertainable and a financial implication which ought to have been stated. That I would like to controvert, Sir. It may or may not have any financial implication at all. Mr. Bowring is already eligible for a pension from this Colony. He may or may not desire to exercise his option. If he does not, this Bill means nothing; if he does, it means no financial implication at all, Sir. It merely means that a portion of that sum which he is at present eligible for will be capitalised for him and that the balance will be given to him in a reduced annual sum. Furthermore, Sir, if that is considered to be a financial implication, it is quite impossible to ascertain it because it can only be ascertained when Mr. Bowring has

completed his total colonial service and has decided to go on pension. The contribution which this Colony will make will then be arrived at by a calculation of the total pensionable emoluments drawn by Mr. Bowring from this Colony and the ratio which that sum bears to all the sums which he has drawn from other colonies. Anything we do here, Sir, would be a mere guess. It may even have no financial implication, Sir, because Mr. Bowring may never live to draw a pension.

On the last point made I would like, if I may, with your indulgence, to make what I regard as a personal statement. In the short time that I have been here, Sir, I have, as I stated earlier, found that portion of Standing Rules and Orders dealing with the financial effect of a Bill to be practically a dead letter.

THE RT. HON. LORD DELAMERE: Your Excellency, on a point of order, I particularly asked—there is no reason that that should be done by the hon. gentleman—I did particularly ask that he would not answer that to-day.

HIS EXCELLENCY: What is the point of order? Is he not making a correct statement about what was said?

THE RT. HON. LORD DELAMERE: The point is that I particularly asked that this question should not be answered to-day while the hon. gentleman is in the heat of discussion of a Bill which he has put forward himself.

HIS EXCELLENCY: The hon. Member wishes to make a personal statement, to which I can see no objection.

THE RT. HON. LORD DELAMERE: I am asking him not to answer it to-day.

THE HON. THE ATTORNEY GENERAL (*to His Excellency*): Thank you, Sir. I only desire to say this, Sir. At the request, I think, of the Noble Lord himself in recent months I did undertake that in all Bills after that date that statement should appear.

THE RT. HON. LORD DELAMERE: On a point of order, Sir, this is a resolution of Council, and the fact is that it has been entirely ignored by whoever is responsible.

HIS EXCELLENCY: What is the point of order?

THE RT. HON. LORD DELAMERE: My point is not met by the very kind statement from the hon. the Attorney General that he had agreed that somebody should do it. I am trying

to ask the hon. gentleman not to give the answer now, but if he is going to I can still put my question on this particular subject to-morrow or another day.

THE HON. THE ATTORNEY GENERAL : I can allay the Noble Lord's fears, Sir ; I have given the answer.

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

The question was put and carried.

THE COURTS BILL.

THE HON. THE ATTORNEY GENERAL : Your Excellency, I beg to move that a Bill relating to the Constitution, Powers and Procedure of the Courts of the Colony be read a second time.

This Bill, Sir, imports nothing new into the law of the Colony, but it is necessary to pass it and to pass it at the earliest possible moment, Sir, primarily for one reason. That reason is, Sir, that when the Criminal Procedure Code was passed in April last year, that Code did not perpetuate certain of the provisions of the Criminal Procedure Ordinance which it repealed, those provisions being now embodied in clauses 3, 4, 5, 6, 7 and 9 of this Bill, and the result has been, Sir, that since April last year we have been without legislative provision in those regards, and from the administrative point of view it has proved at times a little difficult, for instance, to give a magistrate increased powers, owing to the absence of that statutory provision, but these sections were, until April last year, part of the law of the Colony. They were omitted at the time for the expressed reason, the reason set out in the Schedule to the Criminal Procedure Code, that they were going to be embodied in the new Courts Ordinance, and in compliance with that undertaking, here they now are.

The other reason, Sir, is that when this Council in July, 1930, passed the Native Tribunals Ordinance it became unnecessary to retain in the Courts Ordinance any reference to such tribunals, and so, Sir, this Bill is partly the old Courts Ordinance with the additions taken from the Criminal Procedure Ordinance and the deletions rendered necessary by the enactment of the Native Tribunals Ordinance.

Hon. Members will see that I have given notice on this Bill of four amendments. They are purely questions of drafting. I am indebted for them to His Honour the Chief Justice, who is the head of the Judiciary, and who is charged with the administration of the Courts Ordinance, and, so far as my personal opinion goes for anything, I only too gladly accept each of them.

The first one makes it clear that it is the Provincial Commissioner or Resident Magistrate who is entitled to hold the Court, and not the Magistrate who is entitled to be a Provincial Commissioner.

The second one merely substitutes the word "appointment" for the word "rank," a much more appropriate and proper word.

The third one, the amendment to clause 7, is purely grammatical.

The fourth one is designed to clear up what His Honour assures me is a real doubt and difficulty in the minds of magistrates as to the exact meaning of the phrase in the existing legislation that "every magistrate shall have jurisdiction throughout the Colony." What was intended, what was said in this Council, when those words were added to the existing law, was that a magistrate transferred from one district to another shall have the right to exercise jurisdiction in the latter even though there had not been time to gazette him, and that the suggested redraft, in my opinion, makes clear, Sir.

There is no new principle involved in this legislation whatsoever, Sir. I beg to move the second reading.

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

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

THE RT. HON. LORD DELAMERE: Your Excellency, I should have thought it would have been wiser to have put a Bill of this kind to a Select Committee of this Council. I am speaking entirely for myself at the moment. It is very difficult without going into Select Committee to follow all the implications, to my mind, of a Bill of this sort and see exactly where it is going to. It is no good trying to alter it after it is passed. I suggest, Sir, it would be wiser to put a Bill of this sort into Select Committee of this Council.

May I add one thing to what I suggest? We have always had one lawyer on this side of the House, and we have not got him to-day. There may be some implication in a Bill of this sort which we have not been able to catch quickly during the reading, and it would be competent for a Select Committee to ask, say, the Law Society.

HIS EXCELLENCY: Has it been referred to the Law Society?

THE HON. THE ATTORNEY GENERAL : It has not, for the reason that it imports no change at all in the existing law, Sir.

THE RT. HON. LORD DELAMERE : I do think it is better that a Bill of this sort should go to a Select Committee. Members on this side of the House are not competent to deal with a Bill of this sort. It should be sent to a Select Committee, in which case Members are competent to ask the advice of the Law Society or some other members of the law to see how far these matters affect any principle at all. We have had a statement from the hon. mover that it does not affect any principles, but sometimes there are slight differences of opinion about these matters, and I think it would be better if that were done, Sir. I feel rather strongly about this in that way.

HIS EXCELLENCY : We will not bring the Bill into Committee stage to-day until the hon. the Attorney General has time to consider the point.

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

The question was put and carried.

THE REGISTRAR OF SUPREME COURT (OATHS) BILL.

THE HON. THE ATTORNEY GENERAL : Your Excellency, I beg to move that a Bill to Empower the Registrar of the Supreme Court to Administer Oaths and to take Statutory Declarations be read a second time.

This, Sir, is a very short measure. It was advocated by His Honour the Chief Justice; it is essential in the interests of the public generally; and it has received the approval of the Law Society of Kenya.

The present position is rather an anomalous one, Sir, by reason of the fact that the Ordinance of the Colony dealing with commissioners for oaths limits the appointment of such commissioners to advocates, and what very frequently happens, Sir, is that a member of the public approaches the Registrar of the court with certain documents and wishes his oath taken to them. The Registrar has to say, "Yes, this is for the purpose of a suit—I am empowered to do that; but this one I cannot do—you must either go and find a magistrate or you must go across and find a commissioner for oaths." The magistrate is on the bench; the commissioners for oaths are, as often as not, on their feet before him in court, and the public have to suffer.

The only persons who could conceivably be affected by this legislation are advocates, and it was therefore submitted in the first instance to the Law Society of Kenya, and they have approved it in principle and in detail. It will be of assistance to the public not only in Nairobi but perhaps even more in the smaller stations where commissioners for oaths are absent and where the magistrate is either busy in court or temporarily away. It will be competent for the Deputy Registrar now to take every statutory declaration and every oath which a commissioner for oaths could take.

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

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

THE RT. HON. LORD DELAMERE : There appears to be no reason, in my opinion at any rate, for this to be referred to any Select Committee. It appears to be perfectly straightforward and simple. If the Law Society have agreed that it is not to the detriment of their particular people, it is certainly to the advantage of the public that Registrars of Courts should be able to take affidavits in these matters. Therefore, Sir, I have no proposal to make on this Bill, as far as I personally am concerned.

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

The question was put and carried.

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

The Post Office (Amendment) Bill,
 The European Officers' Pension (Amendment) Bill,
 The German Missions (Repeal) Bill,
 The Widows' and Orphans' Pension (Amendment) Bill,
 The Asiatic Widows' and Orphans' Pension (Amendment) Bill,
 The Mazrui Lands Trust Bill,
 The Bowring Pension Bill.
 The Registrar of Supreme Court (Oaths) Bill.

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

The question was put and carried.

The Council went into Committee.

*In Committee :***THE POST OFFICE (AMENDMENT) BILL.**

The Bill was considered clause by clause.

Clause 2.—Amendment of the Schedule to the Principal Ordinance.

THE HON. THE ATTORNEY GENERAL: In accordance with the notice given in the Order Paper, I beg to move that this clause be deleted, and the following substituted therefor:—

" 2. Item 10 of the Schedule to the Principal Ordinance is hereby repealed, and the following substituted therefor:—

Per 2½ lb. 0 05."

The question was put and carried.

THE EUROPEAN OFFICERS' PENSION (AMENDMENT) BILL.

The Bill was considered clause by clause.

THE GERMAN MISSIONS (REPEAL) BILL.

The Bill was considered clause by clause.

THE WIDOWS' AND ORPHANS' PENSION (AMENDMENT) BILL.

The Bill was considered clause by clause.

THE ASIATIC WIDOWS' AND ORPHANS' PENSION (AMENDMENT) BILL.

The Bill was considered clause by clause.

Clause 4.—Amendment of section 5 of the Principal Ordinance.

THE HON. THE ATTORNEY GENERAL: Your Excellency, in this clause, in paragraph (b), I beg to move that in the second line of the proviso the word "of" be substituted for the word "by"—". . . of the age of thirty-five years . . ."

The question was put and carried.

THE MAZRUI LANDS TRUST BILL.

The Bill was considered clause by clause.

Title and Preamble.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that in the fourth recital of the preamble—the first one on the second page of the Bill—the word "of" be deleted—" . . . certain land has been alienated by the said Board."

The question was put and carried.

THE BOWRING PENSION BILL.

The Bill was considered clause by clause.

THE REGISTRAR OF SUPREME COURT (OATHS) BILL.

The Bill was considered clause by clause.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that—

The European Officers' Pension (Amendment) Bill,

The German Missions (Repeal) Bill,

The Widows' and Orphans' Pension (Amendment) Bill,

The Bowering Pension Bill,

The Registrar of Supreme Court (Oaths) Bill,

be reported to Council without amendment, and that—

The Post Office (Amendment) Bill,

The Asiatic Widows' and Orphans' Pension (Amendment) Bill,

The Mazrui Lands Trust Bill,

be reported to Council with amendment.

The question was put and carried.

The Council resumed its sitting.

HIS EXCELLENCY : I have to report that—

The European Officers' Pension (Amendment) Bill,

The German Missions (Repeal) Bill,

The Widows' and Orphans' Pension (Amendment) Bill,

The Bowring Pension Bill,

The Registrar of Supreme Court (Oaths) Bill,

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

The Post Office (Amendment) Bill,

The Asiatic Widows' and Orphans' Pension (Amendment) Bill,

The Mazrui Lands Trust Bill,

have been considered clause by clause in Committee of the whole Council and have been reported to Council with amendment.

THIRD READINGS.

THE POST OFFICE (AMENDMENT) BILL.

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

THE HON. T. FITZGERALD : Your Excellency, I beg to second.

The question was put and carried.

The Bill was read a third time and passed.

THE EUROPEAN OFFICERS' PENSION (AMENDMENT) BILL.

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

THE HON. THE TREASURER : Your Excellency, I beg to second.

The question was put and carried.

The Bill was read a third time and passed.

THE GERMAN MISSIONS (REPEAL) BILL.

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

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

The question was put and carried.

The Bill was read a third time and passed.

THE WIDOWS' AND ORPHANS' PENSION (AMENDMENT) BILL.

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

THE HON. THE TREASURER : Your Excellency, I beg to second.

The question was put and carried.

The Bill was read a third time and passed.

THE ASIATIC WIDOWS' AND ORPHANS' PENSION
(AMENDMENT) BILL.

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

THE HON. THE TREASURER : Your Excellency, I beg to second.

The question was put and carried.

The Bill was read a third time and passed.

THE MAZRUI LANDS TRUST BILL.

THE HON. THE ATTORNEY GENERAL : Your Excellency, I beg to move that the Mazrui Lands Trust Bill be read a third time and passed.

THE HON. THE ACTING CHIEF NATIVE COMMISSIONER : Your Excellency, I beg to second.

The question was put and carried.

The Bill was read a third time and passed.

THE BOWRING PENSION BILL.

THE HON. THE ATTORNEY GENERAL : Your Excellency, I beg to move that the Bowring Pension Bill be read a third time and passed.

THE HON. THE TREASURER : Your Excellency, I beg to second.

The question was put and carried.

The Bill was read a third time and passed.

THE REGISTRAR OF SUPREME COURT (OATHS) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Registrar of Supreme Court (Oaths) Bill be read a third time and passed.

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

The question was put and carried.

The Bill was read a third time and passed.

*The Council adjourned till 10 a.m. on Friday,
the 5th June, 1931.*

FRIDAY, 5th JUNE, 1931.

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Friday, the 5th June, 1931, HIS EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.), presiding.

His Excellency opened the Council with prayer.

ADMINISTRATION OF THE OATH.

The Oath of Allegiance was administered to:—

TEMPORARY NOMINATED OFFICIAL MEMBER.

LLEWELLYN ARCHIBALD FEILD-JONES, Provincial Commissioner,
Coast.

ACTING EUROPEAN ELECTED MEMBER.

FRANK O'BRIEN WILSON, Member for Ukamba.

MINUTES.

The minutes of the meeting of the 4th June, 1931, were confirmed.

PAPERS LAID ON THE TABLE.

The following paper was laid on the table:—

BY THE HON. THE COLONIAL SECRETARY (MR. H. M.-M. MOORE):

Report of Standing Timber Committee.

MOTION.

1931 BUDGET PROSPECTS.

THE RT. HON. LORD DELAMERE: Your Excellency, I beg to move the motion standing in my name on the Order of the Day.

The motion proposes that the document laid on the table at the opening of Council showing the savings in expenditure effected by Government to meet the estimated fall in revenue for this year should be referred to the Select Committee on the Estimates.

I should like to make it perfectly clear, first of all, that I do not move this motion in any way in the sense of a vote of censure or of lack of confidence in the Government. No such intention underlies the purpose of this motion. So far as its attitude to this Council is concerned, I personally

feel that Government has acted quite correctly in taking in hand the emergency curtailment of expenditure, during the dissolution of this Council, to meet the sudden drop in revenue which has taken place. I must personally agree that the Government's action in laying papers before the legislature at the first opportunity showing the changes in the expenditure of the 1931 Budget which have been made to meet the emergency is in keeping with the requirements of the case. The Government's action in this matter gives normal constitutional control over such emergency alterations as have been made in the expenditure of the Colony. I will go further, and congratulate Your Excellency, in the short time you have been here, on the energy with which you have met the situation with regard to the Estimates when the House was dissolved and prevented the accumulation of what might have been a serious deficit in our current finance. In fact, Sir, this is not a vote of censure with regard to past principles or anything of that sort; it is a proposal as to present procedure.

The position we have arrived at to-day is that Government, having made economies to meet an emergency situation, has laid a Schedule of those savings on the table where it is open to debate by hon. Members, and the purpose, Sir, of the motion I am now proposing is that the discussion of these alterations in the 1931 Budget should be a practical and effective one. That is all that this motion proposes, that this Schedule be referred in the ordinary way to the Select Committee of this House, to the ordinary Select Committee on the Estimates. Members on this side of the House hold a responsibility to their constituents or to their communities to see—and I include cross benches in one instance—that the economies made by Government do not affect the principles laid down for the year when the Budget for 1931 was passed by this House in the condition it then was. Is it practicable, in a debate like this in open Council, for us to give our opinions for or against the changes made, which amount to about seven per cent of the net expenditure of the Colony—I think that is somewhere near the right figure? I submit, Sir, that that is not so, nor, in my opinion, is it possible, under such conditions, for us to arrive at any true estimation of the correctness or otherwise of the new estimates of revenue laid on the table. It is undoubtedly our responsibility, with others, to satisfy ourselves fully on this if we are to represent our constituencies or our communities properly. The Government has been dealing with a schedule of savings during the dissolution and must have quite clearly in its mind the reasons for the action taken in each case where there is any doubt in the matter. Members on this side are naturally very much in the dark at present, and the most practical way of discussing these changes in the 1931 Budget is surely to refer them back

to the Committee which sat on the same Budget a few months ago. Most of the Members of that Committee, Sir, are still Members of this Council. They know the policies which ran through the structure of the Estimates as passed and will recognize how far, if at all, the present alterations may have affected those policies as soon as my hon. friend, the Colonial Secretary, has explained the facts and the reasons underlying the changes. I do submit again, Sir, that a full dress debate in this Council is not a sensible or a usual way of dealing with such matters of detail as these, nor, in my opinion, does it enable Members on this side of the House to arrive at a proper estimation of the facts.

Unofficial Members should be associated in the present economies for which Government is at present wholly responsible, and Government and Unofficial Members together should share in the responsibility for any further possible savings which may emerge during the discussions. I feel strongly, Sir, that it will be unwise for Government to postpone combined consideration of the present estimates of the financial position for 1931. Such a consideration by both sides of the House, resulting as it is almost certain to do, in an agreed estimation of the position, must undoubtedly help to restore the confidence of the public, which is bound to become, to a certain extent, uneasy if it is kept in the dark as to whether its representatives—and I include, Sir, in those representatives the hon. Members representing the Arabs and Natives—whether its representatives concur in Government's estimation of the present and the future financial position during this year, and in the steps which have been taken and should be taken towards putting things right. Your Excellency, you have on this side of the House Members who represent all the different constituencies and the different communities—except one, which has not taken advantage of the power they hold in this matter—who are daily in touch with the matters affected by any alteration in the Budget, and I am confident, Sir, that Your Excellency will agree that nothing can be lost and much is to be gained by obtaining their support for the present Government proposals, and their advice and co-operation in the policy to be pursued during the difficult period which is in front of us. I believe the right time, Sir, for a combined consideration of the facts by all Members of this House is now, so that we can all visualize as far as possible and as soon as possible the financial position and the economic atmosphere in which the new Budget for 1932 is to be born a little later on in the year, and the steps that have to be taken even before then if necessary.

Sir, I have not mentioned any item in the Schedule of savings. Any attempt on my part to do so intelligently must,

in my opinion, fail until I am in possession of the reasons and facts which can only fully come to light round a table in Select Committee.

Your Excellency, I beg to move the motion standing in my name.

THE HON. CONWAY HARVEY : Your Excellency, in seconding this motion I desire, Sir, to emphasize that there is no desire whatever on the part of Members on this side of the House to embarrass Government in any way, nor do we, Sir, challenge the constitutional right of Government to take the action which it has taken, and I make no suggestion, Sir, now that any action other than the right action has been taken. Nevertheless, Sir, those of us who were most intimately concerned with the passage of the 1931 Estimates which have been varied feel that we should like to have full information regarding the variations which Government has deemed fit to introduce. The public, moreover, Sir, are keenly interested in this matter, and we feel very strongly indeed that the tax-paying public should be given the fullest possible information regarding the expenditure of money which they subscribe.

Moreover, Sir, further economies may be found necessary as time goes on, and it is the desire of myself and my colleagues to co-operate to the fullest possible extent with the Government of the Colony in this matter.

HIS EXCELLENCY : The question is :

“ That the ‘ Estimates of 1931 Budget prospects as at 31st May, 1931,’ be referred to the Select Committee on the Estimates, for examination and report.”

CAPT. THE HON. H. F. WARD : Your Excellency, I wish to urge the acceptance of this resolution by Government for three main reasons which are, I claim, purely logical and purely business reasons, if for no other purpose.

In the first place, Sir, I speak as one who is accustomed, perhaps in a small way, to the consideration of financial statements and the forming of a considered opinion on statements of that sort. I have never yet met a statement which could be dealt with without asking a number of enquiries and without delving into detail, and I submit, Sir, that this statement is a striking example of the necessity, from a business point of view, of being able to frame an opinion and of the necessity of asking almost, not innumerable, but a very great number of questions; and to do so in this House, either in Committee or in open Council, would take up an enormous amount of time, and therefore it appeals to me as one of perhaps the

exceptional cases where it is right that the matter should be considered in a Select Committee, as is always done in connexion with financial questions.

The second reason is this, Sir. I think all of us are agreed that we have by no means felt the full effect of the present world conditions, and none of us can quite clearly foresee what is in front of us in that respect.

I do suggest, Sir, that if an hon. Member on this side of the House is efficient to carry out his duties with intelligence then the sooner he is given an opportunity by Government of getting a bird's-eye view of the position in these matters the easier it will be for him to carry out his duties. I also submit it has a very great bearing on the 1932 Budget because, if we get the details of these Estimates, it must help the easier passage of the Budget.

My third point, Sir, is this. I do think in these difficult times that it is important from everybody's point of view, and especially from Government's, to see that the maximum amount of confidence is maintained amongst the different communities. When we get reactions, some of which must be very violent, you are bound to get trouble—want of confidence—unless the position is clearly explained. It is because of that, Sir, that the Nairobi Chamber of Commerce has passed a resolution asking that some sort of enquiry should be granted to this side of the House, or should be granted to the unofficial community, and I do think that just a bare statement of fact—the lump sum of money saved, and so on—is not sufficient to maintain that confidence. I do think, Sir, if the matter is enquired into by a Select Committee the several communities of this country would have very much more confidence and be much more likely to settle down to meet the position they have to face.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I rise to support most heartily the motion now before the House, and I congratulate the hon. mover on the manner in which he has spoken. In doing so, Your Excellency, I realize that he has knocked down all the hurdles that I proposed to negotiate. It brings me to the fact that the longer I speak the more reiterations I shall make, and I realize that that is undesirable. I would like to say however, notwithstanding that, that I am in no way associating myself with these matters in a spirit of antagonism or unnecessary criticism on the part of the Government. Your Excellency, I fully realize that during this period of great economic stress it was necessary for Your Excellency to shoulder the burden. You have done that, Sir, and up to the present there has been no direct or adverse criticism on the matter in detail.

The country generally realized to the full that it was necessary to put the house in order and to take immediate action in doing so. But we, the Elected Members, find at this, the first Council held under Your Excellency's chairmanship, that the statement now put before us, though it may be explained to be most admirable, or in any case necessary to achieve the object that everybody has at heart, it would be impossible for us to vote for it, for this mass of figures as they stand to-day in the form in which they are presented. I would also suggest that it is quite unnecessary and inadvisable for either a general debate or a full committee of this House to enquire into the details, and in my opinion it would be most undignified. I suggest that the proper body to do that is the Select Committee on the Budget as we understand it. It is, as Your Excellency is probably aware, a round table conference between the Elected Members and such officials as the Government choose to appoint. It is much easier altogether to get a correct idea than it would be in this House. It would be an economic measure and would be done much quicker, and for these various reasons, and for the reasons already stated by the previous speakers, I do hope that in the interests of this Colony and of its peace and prosperity the Government will at this moment show its appreciation of the friendly relationship which has always existed in the past between Elected Members and the Government. We realize that we have no statutory authority and we also realize that in the past we have been allowed, and, to the best of our ability, have advised Government what in our opinion is the right course.

Your Excellency, I do trust that you will see your way to accept this motion.

LT.-COL. THE HON. C. G. DURHAM: Your Excellency, there is no doubt that the country and the Government owe a debt to what you carried out, Sir, but for the reasons so ably set forth by the Noble Lord I intend to support the motion. There has been nothing said that one cannot absolutely agree with except a remark made by my hon. friend, the Member for Nairobi North, when he expressed the desire to get a bird's-eye view of the figures—I should very much like a closer one, Sir.

THE HON. W. C. MITCHELL: Your Excellency, I do not know that any good purpose is going to be served by repeating arguments already used by more Members than one, but at the same time, Sir, I do think that we should seize the opportunity of showing that Elected Members are unanimous in their desire to assist and in no way to criticize Government. I think we can all say that Government and every Member,

and Your Excellency more than all, are imbued with the same spirit to see this Colony through these difficult times with a minimum of damage to itself. Whatever steps are taken, whatever course is pursued, we are not going to get over the present state of the Colony's finances without squashing somebody or something, and that being the case, Sir, I think the more information that Elected Members can acquire the better it will be, and the steps which have been taken, and rightly taken, will be all to the good.

I feel quite certain, as has been explained, that long before December is with us we shall have to take far more drastic steps than have already been taken. I am afraid, Sir, that we are going to see very much worse conditions than those at the moment, and I do hope, Sir, that you will allow hon. Members to assist Government. So I trust, Sir, that you will see your way to accept this motion and allow us to collaborate with Government to the fullest extent of our powers.

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE: Your Excellency, I wish to support this motion, not in any spirit of antagonism, but as a Member of the Committee which sat on the Budget in December last. I think it only fair that recommendations made by the Committee should at least be referred back to the Committee to supply them with the information they require, if for no other purpose.

THE REV. CANON THE HON. G. BURNS: Your Excellency, I should very much like a little more information with regard to the purpose of the motion. I should like to know whether it is to examine in detail how the considerable savings have been arrived at or whether, in the opinion of hon. Members on this side of the House, still greater economies could, by their investigation, be arrived at or reached. I am rather in the dark with regard to the purpose for which the motion has been brought before this House and I should like that information on the point.

THE HON. T. J. O'SHEA: Your Excellency, I should like to speak on this motion, but before doing so, Sir, I should like to know, if it is possible—to have an indication as to what are Government's views.

HIS EXCELLENCY: After the Government, only the hon. mover can speak—is not that so?

THE RT. HON. LORD DELAMERE: I do not think that is right, Sir.

THE HON. THE COLONIAL SECRETARY: If the hon. Member wishes to speak he has only the right of making one speech in Council on the motion. I think he ought to continue his speech unless he wishes to lose his right of speaking to the motion.

THE HON. T. J. O'SHEA: On a point of order, Your Excellency, I have not spoken to the motion.

HIS EXCELLENCY: I rule in your favour in that.

THE RT. HON. LORD DELAMERE: I think, Sir, on a point of order, it actually is that nobody must be after the mover has replied. Except for that, I do not think there is any reason why Government should not give an indication of their views earlier in the debate.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. H. T. MARTIN): Your Excellency, I hope Members will realize that anything I have to say on this motion is mainly in the capacity of having been chairman of the Budget Committee, of the Committee which sat on the Budget in which these modifications are now taken. I am speaking, therefore, if I may say so, with a certain amount of freedom, and not directly and formally replying on behalf of Government. That is not my function. On the other hand, Sir, there are many Members opposite who sat with me on this Committee over which I presided, and I feel that it will not be inappropriate, and might be of some help, if I made a few preliminary remarks as to what in my view is the value of these modifications and perhaps, generally speaking, of their nature.

I think, Sir, anybody reading this detailed list would at once perceive that the economies can be divided into two different categories. The first category, and the more numerous category, is of course the innumerable small chippings-off, which are mainly chippings-off from small votes like "Other Charges." There are, on the other hand, certain large economies which particularly relate to a comparatively small number of Departments, and although these are, so far as possible, economies not in the nature of retrenchments, a certain amount of reduction of establishment is involved. I do not propose to traverse the details of these—it is not my business—but so far as the lines on which we discussed in Select Committee last year the 1931 Budget are concerned, I think it is safe to say that these economies are all on the lines of our discussion. They are guided by the principles of, so far as possible, not making economies which will dry up the springs of revenue, not making economies which would

merely swell the pension list, and in fact, so far as possible, of making economies which are genuine and true economies having no sort of backwash.

Now, Sir, the other side of the question is, I think, this. It has been suggested, so far as I can see, that the 1931 Budget Committee should be resurrected. While, Sir, I submit that that is not at any rate formally and technically possible, I do not wish to quibble over technicalities, but I would put it, if I may, in rather another way: that Your Excellency's Government is anxious to take all the House, particularly Elected Members, into its fullest confidence. That, I know, can be taken for granted. As to what is the best means of doing that, well, Sir, I think that is a matter for discussion, but I do suggest very strongly to Members that whatever attitude be taken, we look upon this particular document, not from a backward angle in its relationship to the discussions that we had last year, but we take it as a viewpoint looking, as the hon. Member for Nairobi North said, looking rather to 1932 than to 1931. Well, Sir, I think if we continue to look at the matter from that angle, looking forward rather than backwards, I submit and I suggest that we may be able to find some better method of discussing these matters than by resurrecting a defunct Committee.

Again, as regards these particular economies, I do suggest that we look upon them, not as something put forward like a supplementary estimate, which has not yet been approved, but rather look upon them as an achieved result on which we can build reasonably for the future.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I should first like to join with previous speakers in thanking the Noble Lord, the Member for the Rift Valley, for the terms in which he has moved this motion. It is quite clear from what he has said and from the words used by subsequent speakers that this motion has not been moved in any spirit of censure of what the Government found it necessary to do in an emergency and in circumstances of peculiar difficulty. Further, they have gone even so far as to say that that action generally has been approved. The fact, Sir, that that attitude has been adopted, makes it all the more difficult for me to explain the grounds on which the Government think that it would not be in the best interests that we all have at heart to adopt this particular method of affording further information to Elected Members opposite of the economies which have been effected up to date. I would like, in making that statement, to make it perfectly clear that the Government, in adopting that attitude, has not done so through any desire in any way to dissociate Unofficial Members from the fullest co-operation with Government in

dealing with the very difficult problems which confront them at this moment. I for my part, Sir—and I feel sure I am voicing your own opinion—feel that in these next few months that we have to face the more we can get the collective wisdom and assistance of all members of this Colony the better will it be for the interests of the Colony. The only reason why the Elected Members suggest referring these economies for examination to a further Select Committee is, I gather very largely from the tone of the debate, that the principal object which Elected Members desire to obtain from this procedure is to obtain information. That, Sir, I do feel can be given in another way, and I am sure the Government is only too anxious to give all the information that can be given.

But, as hon. Members are aware, normally the primary object of a Select Committee on the Estimates is to associate with Government the Unofficial Members and to obtain their opinion and advice as to the best manner in which the finance of the Colony should be conducted.

In this case, Sir, many of the economies shown on that paper have actually been effected. They have either been effected or necessary steps have been taken to put them in train, and any alteration of the programme is, I consider, out of court. For that reason, Sir, to obtain the advice of a Select Committee on these economies is merely asking them to go carefully over a dead corpse. On the other hand, Sir, I would like to give this assurance, and that is the point which the Noble Lord mentioned in his speech and which is a very good and reasonable point, that hon. Members wish to be assured that the principles on which the 1931 Budget was based have not been departed from; in that respect, Sir, I can give hon. Members the assurance that the greatest care has been taken not to depart from the general structure of the 1931 Budget.

I do not wish to take up the time of the House by going back over the history of that Budget. It was, however, as hon. Members know—the revenue Estimates were subjected to severe criticism but, speaking generally, the Estimates were regarded as conservative and suitable to the conditions at the time; and after the Estimates had been gone through and come back to this House and the final debate took place, I may perhaps be excused if I quote the words of the hon. Member for the Lake, who was at that time representing the Leader of the other side of the House: “In conclusion, Sir, I trust that Government will exercise every possible economy, starting right away.” That, Sir, I suggest, is precisely what we have done. The ink had hardly dried on the Budget when the further information we got made it

necessary for us to consider seriously whether the revenue could be obtained, and therefore, as a Government, we took the advice of the hon. Member for the Lake and we immediately started exercising every possible economy that we could. In doing so we adopted the procedure, not that we were going to make any fundamental alteration of the lines of the Budget as explained to and agreed by hon. Members opposite, but merely to see what economies could be obtained by the careful exercise of administration in the different departments. To obtain that you, Sir, adopted after your arrival the method of calling Heads of Departments together and putting the position very frankly to them, and saying: "How can we carry on the different services for which you are responsible with a minimum of expense?" It is on that basis, Sir, that these savings have been drawn up. I further suggest, Sir, that not only in the action we have taken we have not departed from the general structure of the 1931 Budget, but also we have taken the advice of the hon. Members opposite in making all the economies we can.

That is the first reason, Sir, why the Government feel difficulty in accepting this proposal, but there is another and still more, in my opinion, potent reason. It is this, that as a result of the economies we have made up to date we feel that it is obvious that if we are in 1932 to balance our Budget it is possible that still further retrenchments will have to be made, it is possible that radical alterations of policy may be necessary. The economies made up to date have all the time been made with one eye on the 1932 Budget. For example, it has been freely suggested that further economy could be effected by the curtailment of leave. But when we came to look into it—and I think if hon. Members will reflect they will see what I mean—it was discovered that it would have a repercussion on the 1932 Budget. Therefore we believe that the economies we have made are reasonable economies and should obtain the general acceptance and confidence of the public. We realized that the 1932 Budget was likely to present a much more difficult task; and therefore, Sir, it is your desire to call on Heads of Departments to prepare their 1932 Budget—to have their figures ready at the earliest possible date, and it is your intention, Sir, to lay these estimates before a Select Committee of the House that they may go fully into the figures.

Six months of the year have almost gone, and if we try to go over again the work done in 1931 it is considered that it would not be in the best interests of the Government to do so. For that reason, Sir, and I would like to repeat that it is not from any desire not to obtain the co-operation of Elected Members, the Government feel they are unable to accept this motion.

THE HON. T. J. O'SHEA : Your Excellency, even at this late hour I feel it is necessary that I should urge upon Government the strong advisability and the wisdom of accepting this motion. In urging that, Sir, even after the statement of the hon. the Colonial Secretary, I should like to re-emphasize what I had hoped was sufficiently made clear by the Right Hon. the mover of the motion that this has not been put forward in any critical but entirely in a constructive spirit. I would like to add my personal opinion that not only Members on this side of the House but the country as a whole appreciate the unusual initiative which was taken by the Government, after Your Excellency's arrival here, to meet the financial situation. We do not question in the least, Sir, that it was the right and proper thing for the executive of Government to deal with the situation immediately. We do not question that it was the right and proper thing that Government, recognizing that revenue would not come in as anticipated, should cut down expenditure in the ways that it thought fit, and, Sir, not questioning Government's action in so doing, the Estimates should be submitted to the review of this House in the only way it is possible to review them properly. We are merely endeavouring to play our proper part as Members of this Assembly. I think, Sir, one has to be a Member of this House for some years and have considerable experience and deep knowledge of all the political problems of this country to appreciate to the full that the conditions under which we are working are extremely difficult and it is only possible to work if there is a proper understanding between the executive and the legislative sides.

That it is essential to the successful working of that constitution that the minority of public representatives are actuated by the strongest possible desire to collaborate with the executive in working in the best interests of the country. Sir, during the whole period that I have been associated with this House, I can assert that Members on this side of the House have done everything in their power to carry out the responsibilities and to work in co-operation with Government for the best interests of the Colony, and it was in that constructive spirit that we put forward this motion. We regarded it as more than ever necessary that at this very difficult period there should be that co-operation between the executive and the representatives of the public; it is necessary to enable us to meet these difficulties.

I cannot help feeling, Sir, that a grave mistake has been made by Government in taking this fateful decision to decline our offer of co-operation with Government in the difficult period that lies ahead of us. Sir, however the hon. the Colonial Secretary may endeavour to gloss over the fact, it

cannot but be apparent to all that to-day's decision is a definite decline of our offer of co-operation with Government in the immediate future. That such a decision should be taken just now is indeed most regrettable, and I cannot believe that it is a decision that is likely to result in the interests of those whose interests have been committed to our care, that they are going to be looked after in the immediate future better than they have been during the past few years when that co-operation prevailed. I feel very strongly indeed, Sir, that this change should take place just when Your Excellency is embarking upon your most difficult task. We all feel very strongly, Sir—the country as a whole recognises that you have come here actuated by the strongest possible desires to do all you can in our interests, and it was our earnest hope that it would be possible for us to give you every possible support in the carrying out of those intentions, but, Sir, in view of the decision that has been taken to-day, I cannot see how that is possible. A very grave responsibility has been thrust upon us, Sir, and while I feel sure no hasty action will be taken by us, I cannot help feeling that the relations that have existed between the elected elements, the elected representatives of the people, and Government for some years past cannot continue as they have been. What the decision of Government amounts to is this, that not only does it maintain, as it is entitled to do, the function of the executive, but it is also declining to give to the representatives of the people a proper opportunity to criticise, as they should, the actions taken by Government in the financial sphere, and it has also decided that it does not wish for the co-operation of the people's representatives in drafting its future programmes for dealing with the case.

THE HON. THE COLONIAL SECRETARY: On a point of explanation, Your Excellency, I think no one could have made it clearer than I did myself how much the Government desire the co-operation of all sections of the community.

THE HON. T. J. O'SHEA: Your Excellency, accepting that reassurance as sincere, I can only express my astonishment at the inability of the hon. Member to appreciate that he has made that co-operation impossible. It is on the authority of two Commissions that have visited this country and on the authority of our late Governor that the system that has prevailed in the past has been the best possible under which Government could have that assistance, and until some better system can be devised I cannot but believe that it is Government's intention to decline the assistance that has been given in the past.

As one hon. Member has pointed out, Sir, it is very necessary to the position of the Government in the immediate future that it should have the confidence—and the whole confidence—of all the people, and I do not see how it is possible for it to get that confidence unless it is prepared to accept the people's representatives as competent to give advice and competent to share the responsibilities for acting upon that advice.

I had hoped, Sir, it was made clear to Government that it was not merely for the purpose of examining the details of this estimate that we wished for this Committee. Any discussion in detail of these Estimates would almost certainly have given rise to suggestions from this side of the House as to how other savings might be effected, and I would draw Your Excellency's attention to this, that even since these Estimates were drawn up, the position of the country has become more grave. Government apparently has not yet realised that fact, but it is almost certain that in the immediate future further savings will have to be found, and I should have thought that Government would have been glad of the co-operation of Members on this side of the House in finding out the best ways by which those savings might be made.

Frankly, Sir, this decision of Government comes to me as a surprise. Knowing that it was going to be made perfectly clear to Government that the motion was put forward in a spirit of co-operation, I must confess that I never anticipated this decision, and I am deeply disappointed indeed that, having waited until late in the debate in the hope that it would have been my part to express our appreciation to Government for having accepted this motion, I have unfortunately to play the part of expressing our grave disappointment at its adverse decision. I am very deeply regretful of that decision, Sir, and I can only hope that Government, not realising what it means to us and to the country, will find other ways and means by which to re-establish that confidence that it has so rudely shaken this morning.

THE HON. F. O'B. WILSON: Your Excellency, I am indeed sorry that the first time I have the honour of addressing this House it should be my lot to deplore the decision of the Government in turning down such a unanimous request for co-operation from the whole of the elected side of this House. We do feel, some of us, that it is in our power, from the experience we have had of this country, to be able to assist in detail and in principle the Government in carrying out the policy of economy which has unfortunately been put on to us. I am a very new Member of this House, but I am a fairly old inhabitant of the country, and in all my time it has always

been my idea that people are out to help, that there is a certain amount of knowledge and experience on this side, which, owing to the force of circumstances, in some directions there cannot be on the other side of the House. It has always been the idea of the House, I believe, to try and put that knowledge at the disposal of the Government, and it was in that spirit that I believe this motion was moved by the hon. Member this morning. It came as a bit of a shock that it was turned down. It rather seems that Government have now decided that they are omnipotent and omniscient, and that they are now going on in their own way.

The hon. the Colonial Secretary informed us that there may be a possibility of considering the 1932 Budget, but 1931 is only half done, and I do not believe any Member here thinks that we are at the end of the necessary economies we have got to find. The Government foreshadows a matter of another £40,000 unforeseen expenditure—there is no provision whatsoever for surplus balances—there is no provision at all for odds and ends that may come in, and we may be going deeper and deeper into the mire. I do hope that Government will not strictly adhere to the terms, or to what I understood was the expression of their views from the hon. the Colonial Secretary, in saying that as far as this year is concerned there is no intention of consulting this side of the House or of getting their co-operation.

THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MACGREGOR, K.C.): Your Excellency, when I came here this morning nothing was further from my thoughts than the possibility of my intervening in this debate, and I do so with a certain degree of diffidence. My intervention is due, Sir, purely and simply to what I cannot help thinking is a slight misapprehension which has appeared, particularly in the speeches of the last two hon. Members who have spoken after my hon. friend the Colonial Secretary addressed the Council. The terms of the motion, Sir, firstly are to consider the economies, particulars of which are given in the statement which was laid on the table of this Council on the opening last Tuesday. The reason that Government considers it unnecessary to refer those economies to a Select Committee, Sir, had, I thought, been very very clearly stated indeed by my hon. friend the Colonial Secretary. It is, Sir, that those particular economies are *un fait accompli*; they are economies which, I should like to reiterate, affect no principle, affect no part of the integral structure of the Budget.

THE RT. HON. LORD DELAMERE: Question.

THE HON. THE ATTORNEY GENERAL : They are economies which are *un fait accompli*, and to consider those particular economies in a Select Committee would be flogging a dead horse. They are done, for better or for worse ; they are done, and the particulars of them have been given. But, Sir, in the last two speeches attention has been drawn, not so much to those economies which have been effected, but to the need for further economy in the near future, and if I correctly interpret the last two speeches it was to a considerable extent on the need for that further economy that the desirability of referring this matter to a Select Committee was stressed.

That point also, Sir, I thought the hon. the Colonial Secretary had very amply covered. It is the intention of Government, Sir, to introduce the Budget for 1932 at as early a date as possible. No one is more fully and vitally conscious of the need for further economies than Government, but here we are very nearly half way through the year, and in the light of Government's intention to introduce the 1932 Budget as early as possible, in view of the fact that the Budget will be put before the Select Committee with the full knowledge that the co-operation of Elected Members will be forthcoming, is it necessary, Sir, in June, to cover the ground which will again very shortly be covered with the fuller knowledge which must necessarily come with the passing of time? What is the need of doing that work now, Sir, when it can be so much better done on the proper platform, on the platform of the programme for the coming year, looking forward ; when it can be so much better done in the Select Committee on the 1932 Budget?

The Council adjourned for the usual interval.

On resuming :

HIS EXCELLENCY : As a rule I do not like to intervene in debates of this Council over which I am presiding, but I should like on this occasion to say one or two words. In the first place I should like to thank the Noble Lord and hon. Members on that side of the House for the very considerate way in which this motion has been proposed, and for the friendly attitude they have adopted towards myself.

I assure you I have come here as Governor at a very difficult time, and it is essential I should have your help particularly within the next few months ; any idea that because of this difference of opinion to-day I should be deprived of that help would be deplorable. To put it shortly, stripped of all oratory, the difference of opinion is not much. The difference is that you want these retrenchments to be referred to a Select Committee at once, whereas the Government's

attitude is, that in this abnormal year we are going to introduce the Budget if possible in August, and then appoint a Select Committee to deal with it in detail; the only difference of opinion is that we would prefer to have your help within the next few months instead of now. If we do differ on this point I sincerely hope I shall not be deprived of your co-operation, as I shall certainly want it in the coming months.

Is the Noble Lord going to reply?

THE RT. HON. LORD DELAMERE: Your Excellency, I think I was one of the first two Members who came on this Council as an Unofficial Member, and in all the years I have been on this Council I have never before heard a case where Government refused the request of the united body of the Unofficial Members on such flimsy arguments as have been put forward to-day by the hon. the Colonial Secretary, who was representing Government in this matter.

The one bright spot in the whole of this debate, Sir, is the remarks just made by Your Excellency that the Select Committee on the Estimates will deal in the ordinary way with the 1932 Budget when it comes out in a month or two. Sir, none of the arguments, I think, which were put forward by this side of the House were answered at all. The Colonial Secretary stated, and I think it was stated in another place, that Government had two reasons why this motion should not be accepted. One was that Government had already passed these economies, and therefore that they were *un fait accompli*. In my mind, Sir, that is a very peculiar attitude for Government to take up. It was the attitude taken up on one or two occasions by the Railway last year, and at that time it was agreed to have a Railway Council, and then they were refused facilities and expected to take everything for granted. It is really creating an almost impossible situation.

The Colonial Secretary has given us that as one reason. He stated that these economies have actually been effected, and he says that it would be going over a dead corpse, or some such expression, and I assume perhaps it occurred at some meeting that they held before this Council sat. The Commissioner for Local Government, Lands and Settlement used "defunct committee," the Colonial Secretary "dead corpse," and the Attorney General talked about a "dead horse." Now, Sir, we do not consider it in that light at all, and it has been said by two Members on the other side of the House that no principle on which the 1931 Budget was founded has been departed from. Now, Sir, I take exception to that broad statement. I believe it to be an incorrect statement (with

respect to Your Excellency) because it has been found necessary by Your Excellency to refer to certain things out of that Budget because they had affected the principles on which the Budget was based; and, Sir, it was very generally for that reason that Members on this side of the House hoped that this particular motion would be agreed to by Government, that, in fact, it would be competent for them to decide whether or not the principles on which the 1931 Budget had been founded had been departed from, and, in my mind, it is right for them to see if that is the case or not.

I cannot deal with the arguments from the other side, because there are none, so far as I can see. One is that the proposals set forth in the paper laid on the table are defunct, dead. So far as the executive is concerned, probably they are dead, because they have gone through them and they are passed. So far as this side is concerned, they are not dead, because they feel they are entitled to go into them. I believe that this whole matter of the 1931 Budget has nothing whatever to do with the 1932 Budget, though it will have to be reopened in a very short time, if only for the reason put forward by Your Excellency in your opening speech to the Council, which was an allusion to the locust menace. I have just had a telegram which I hope it will not be out of place to read: "Chamber of Commerce at Eldoret of opinion present efforts to combat locust menace futile present position flying swarms of gravest concern approximately 5,000 acres Hoey's Bridge alone totally destroyed Wednesday."

Now, Sir, with that before the House and many other things of the sort, how is it possible to say that this Schedule which is before us is the last word on the 1931 Estimates? I am quite sure, Sir, that it will be necessary to reopen these figures. I am also sure that Government, as they have refused the help of hon. Members over this particular set of figures laid on the table, that it will mean that if Members decide to collaborate with Government in future they will start at a disadvantage in not knowing what has been done and will be in great difficulty as to advising Your Excellency on emergency measures.

HIS EXCELLENCY: I think it has been made clear to the Noble Lord that we are most anxious to give hon. Members all the information we have with regard to these measures.

THE RT. HON. LORD DELAMERE: The Colonial Secretary says Government desires the help and co-operation of all communities of the country. That has a disagreeable feeling for me. Government has a channel through which it reaches

all the communities of the country, and to my mind there is no other channel which is the proper one for Government to use in these matters.

There were two reasons, as I repeated before : one was that Government considered that the present figures were dead. I would answer to that that Members on this side of the House have probably had more experience than many of us of the Budget difficulties in this country—than any of the Members on the other side of the House, or a good many of them, at any rate— and it is not likely that at a time like this, unless some grave principle is involved in the cuts made by Government, that the Elected Members, or the Unofficial Members, would attempt to embarrass the Government by altering the schedule except where it was absolutely necessary.

The second reason given was that the Budget for 1932 was going to be discussed immediately. That, Sir, appears to me an argument in exactly the opposite direction. If the 1932 Budget is going to be discussed, not immediately at all, but in, say, July or August, then it seems to me that the foundation for a successful Budget and for Government having the information to found a successful Budget upon would be the very actions and suggestions of the Committee which has been proposed by this motion.

I can see nothing in the arguments whatever, if you will allow me to say so, which did in argument refute anything that has been said in argument on this side of the House, and I regret more than I can say that Government has found it impossible to accept this motion. I look upon this as a direct refusal to the motion. If Government had seen its way to give an answer which would have enabled me to withdraw the motion with any decency at all, I should probably have suggested that that should be done, but under the circumstances of this answer that Government has given to this debate, I must with great regret allow this matter to go to the vote, and Elected Members will, I am sure, search their minds very carefully as to what action they are bound to take at a time like this when, not a deadlock, but something very like it, occurs as to the methods of dealing with the finances of the country.

HIS EXCELLENCY : The question is :

“ That the ‘ Estimates of 1931 Budget prospects as at 31st May, 1931,’ be referred to the Select Committee on the Estimates, for examination and report.”

The question was put and lost by 12 votes to 20.

Ayes : Sheriff Abdulla bin Salim, Messrs. Bemister, Cotter, Lord Delamere, Lt.-Col. Durham, Mr. Harvey, Lt.-Col. Kirkwood, Messrs. Mitchell, O'Shea, Major Robertson-Eustace, Capt. Ward, Mr. Wilson.

Noes : Major Brassey-Edwards, Mr. Bruce, Canon Burns, Messrs. Butler, Feild-Jones, Fitzgerald, Gilbert, Dr. Gilks, Major Guild, Messrs. MacGregor, Martin, Moore, Brig-Gen. Rhodes, Messrs. Rushton, Scott, Sikes, Wade, Walsh, Welby, Wolfe.

THE RT. HON. LORD DELAMERE : I do feel—I do not know how far Members on this side of the House agree with me—but I do feel, as far as I am concerned, I cannot, after what has just happened—I should very much prefer if we could adjourn the House and go away for the time being, because, as far as I am concerned, I am quite unfitted after that debate we have just had, to go into these very small questions on the Order of the Day. If Your Excellency would see your way, I think it would be a good thing.

THE HON. THE ATTORNEY GENERAL : The next item is the first readings of two Bills. As the Noble Lord is aware, there are no formalities. The second Bill, the Butter Levy Bill, is a measure which, I am sure, hon. Members would like taken on Monday if possible, if I may at least take the two first readings this morning. There are no formalities.

HIS EXCELLENCY : We will continue with the two Bills.

BILLS.

FIRST READINGS.

THE LAND SURVEYORS (AMENDMENT) BILL.

On motion of the hon. the Attorney General, the Land Surveyors (Amendment) Bill was read a first time.

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

THE BUTTER LEVY BILL.

On motion of the hon. the Attorney General the Butter Levy Bill was read a first time.

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

THE RT. HON. LORD DELAMERE : Your Excellency, may I ask the hon. mover of this Bill to put it off for a short time until Members have had a chance of going into it—put off the

second reading until we have had a talk over one or two points which are not quite understood by some of our Members on this side of the House.

THE HON. THE ATTORNEY GENERAL : I am, of course, in Your Excellency's hands in the matter.

THE HON. THE COLONIAL SECRETARY : It is a matter for your decision, Sir.

HIS EXCELLENCY : As regards the second reading of the Butter Levy Bill, we can arrange that in the Order Paper.

I do not know whether it is the desire of the House to continue, or whether hon. Members would rather adjourn.

THE HON. CONWAY HARVEY : I think they would rather adjourn, Sir.

THE HON. T. J. O'SHEA : If it would have your approval, Sir, in the circumstances, as I hope it will, we should prefer an adjournment.

*Council adjourned till 10 a.m. on Monday,
the 8th June, 1931.*

MONDAY, 8th JUNE, 1931.

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Monday, the 8th June, 1931, HIS EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.) presiding.

HIS EXCELLENCY opened the Council with prayer.

ADMINISTRATION OF THE OATH.

The Oath of Allegiance was administered to:—

NOMINATED OFFICIAL MEMBER.

OSCAR FERRIS WATKINS, Provincial Commissioner, Nzoia.

ACTING EUROPEAN ELECTED MEMBER.

WILLIAM KINGTON TUCKER, Member for Nairobi North.

MINUTES.

The minutes of the meeting of the 5th June, 1931, were confirmed.

NOTICE OF MOTION.

THE HON. T. J. O'SHEA: Your Excellency, I beg to give notice that I shall move the following motion:—

“ That in the opinion of this House the Report of the General Manager of the Kenya and Uganda Railways and Harbours Administration for 1930 does not justify any change in rating policy but does emphasize the necessity of effecting economies in the costs of administration, and of stimulating development and closer settlement.”

MOTION.

SUSPENSION OF STANDING ORDERS.

CAPT. THE HON. J. L. COTTER: Your Excellency, I beg to move that Standing Orders be suspended in order to discuss the locust menace that is coming on to Kenya at the present moment.

THE HON. T. J. O'SHEA: I beg to second that.

HIS EXCELLENCY: Perhaps before we go any further, I might explain the position to hon. Members. The Government are fully alive to this danger, and I have already given permission to the Acting Chief Native Commissioner and

Mr. Blunt of the Agricultural Department to tour Kavirondo and the affected parts. They will be back to-morrow. I have summoned a special meeting of Executive Council on Wednesday, as I have already informed this Council, to go into this matter, and if I might suggest it, it would be inadvisable for this Council to discuss the matter until the Executive Council has had a chance of reviewing the position.

Perhaps after hearing that statement the hon. Member will not proceed further now.

THE RT. HON. LORD DELAMERE: Your Excellency, it is very difficult to know—it is rather a grave business at the present moment. I have heard a rumour this morning—it is no more than a rumour—that the Council is to adjourn to-morrow for a week, in which case, of course, Members going back to their constituencies will not be in a position to inform them of the knowledge that Government at present has on the locust position.

HIS EXCELLENCY: Perhaps we can discuss the matter during the interval and see what arrangements can be made to meet hon. Members.

THE RT. HON. LORD DELAMERE: Yes, Sir, that will meet the case if the hon. Member will see his way, if that will meet his case that the matter should be discussed between Elected Members and the Governor during the interval as to whether this could be taken to-day. I understand that is so, Sir?

HIS EXCELLENCY: If you like.

THE RT. HON. LORD DELAMERE: As to the time you can give us?

HIS EXCELLENCY: Between the time of adjourning Council and the future business of the Council.

THE RT. HON. LORD DELAMERE: Well, Sir, may I say with regard to this question of locusts that I do feel, as the hon. Member who has moved the adjournment of the House feels, that it is very desirable that Members going back to their constituencies, or even if they are not going back to their constituencies, should know what the position is as far as possible. There are a lot of rumours. One sees different accounts in the newspapers. We get these reports from Government which are printed generally very late. I mean they are only prepared after they come in from a very long distance and so on, and they do not give an up-to-date picture.

of the facts, and I think the feeling undoubtedly of this Council is that they wish to discuss the position before going away.

HIS EXCELLENCY: I am sure we shall be able to meet the Noble Lord during the interval.

THE RT. HON. LORD DELAMERE: It is for the Member involved to agree.

The point, I think, is this, that Members could discuss it with Your Excellency during the interval, and Your Excellency would then give time after the interval to discuss this matter, if we thought it was necessary, Sir.

HIS EXCELLENCY: The motion is now for the suspension of Standing Orders.

THE RT. HON. LORD DELAMERE: No, Sir, for the adjournment of the House, and the adjournment of the House can only be stopped by the vote of the Council itself, Sir. I think you can take that as a fact, Sir.

THE HON. THE COLONIAL SECRETARY (MR. H. M.-M. MOORE): On a point of order, Sir, the hon. Member for Kenya moved the suspension of Standing Orders.

THE RT. HON. LORD DELAMERE: I beg your pardon, Sir.

CAPT. THE HON. J. L. COTTER: That is so. With your permission, Sir, and that of my seconder, I withdraw this motion.

The motion was withdrawn.

ORAL ANSWER TO QUESTION.

RETRENCHMENTS.

LT.-COL. THE HON. C. G. DURHAM asked.—

“ Will Government state:—

- (1) How many first class officials have been retrenched since 1st January, 1931?
- (2) How many second class officials have been retrenched since 1st January, 1931?
- (3) How many other officials have been retrenched since 1st January, 1931? ”

THE HON. THE COLONIAL SECRETARY: The hon. Member is referred to the statement of retrenchments annexed to the “ Estimate of 1931 Budget Prospects ” which was laid on the

Table on the 2nd June. I desire to take this opportunity of making a correction to that statement, namely, two officers on the permanent and pensionable staff of the Post Office, who are shown as having been retrenched, should be shown as about to leave the Service for other reasons.

The total number of European pensionable and non-pensionable officials retrenched or about to be retrenched thus becomes thirty-two, of whom six were entitled to first class privileges, the remainder to second class privileges.

BILLS.

SECOND READINGS.

THE NATIVE LANDS TRUST ORDINANCE (APPLICATION TO COMMUNAL RESERVES) BILL.

THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MACGREGOR, K.C.): Your Excellency, I beg to move that a Bill to Apply the Provisions of the Native Lands Trust Ordinance, 1930, to Communal Reserves, be read a second time.

It will be within the recollection of hon. Members that in 1929, in June, a Bill amending the Crown Lands Ordinance was passed, the effect of which was to enable the Governor, in addition to the powers which he has under the Principal Ordinance—the Crown Lands Ordinance—to declare Native Reserves, also to declare Communal Reserves over areas where native and non-natives—in this particular case, Arabs—live together, and exercise communal rights over their land. In moving the second reading of that Bill, Sir, the hon. the Acting Commissioner for Local Government, Lands and Settlement drew specific attention to the particular area in the Coast Province in which the Wasin Arabs, the Wasegeju and Wakifundi lived together in a communal state and indicated clearly that it was in respect of that area primarily that the additional powers were sought. In the course of his speech on second reading the hon. Member also stated that the Secretary of State had been approached with a view to his sanction being obtained to this compromise and his reply was that he had no objection to the proposed agreement so long as safeguards equivalent to those relating to Native Reserves were provided for the settlement area. It is to give effect to that expressed wish of the Secretary of State, Sir, that this Bill is introduced.

Last year this Council passed the Native Lands Trust Ordinance, which gives a degree of security and sanctity of tenure to native land which those lands had not hitherto had. No such legislation has yet been passed in respect of communal areas and the effect of the Bill now before hon. Members is to apply exactly the same safeguards to any area which may

be declared to be a Communal Reserve. Only one Communal Reserve has been declared, Sir, and that is the area to which I have already referred, the Digo-Shimoni Reserve, which is in the communal occupation of Arabs and two native tribes, the Wasegeju and the Wakifundi, to which I have already referred. The sole object, Sir, is to give them the same rights, the same security, the same safeguards in respect of their land which they would have had had there been no Arabs in that area, because had there been no Arabs there the area would have been part of the South Nyika Native Reserve and automatically the provisions of the Native Lands Trust Ordinance would have been applied to it.

The primary effect of the passing of this legislation will be that rents for any areas of that land which are at present leased to non-natives will go to the communal fund. At present there is no machinery statutorily by which we can achieve that very desirable object, and further, no dealings can take place in their land unless the communal inhabitants of it have first been consulted and have given their consent.

I beg to move the second reading.

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

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

THE HON. CONWAY HARVEY : Your Excellency, I am not altogether happy about this Bill, and as I feel that there is a danger of grave injustice to a number of Arabs whose interests it is alleged will be prejudicially affected, I suggest, Sir, that further enquiry should be made before a vote on the second reading is recorded and the irrevocable step indicated in the terms of the motion is taken, by for all time incorporating what is now called a Communal Reserve in the Native Land Trust.

It is stated, Sir, in the Objects and Reasons, that it is considered desirable to give the fullest protection to natives in Communal Reserves. Now, Sir, Elected Members have always been most eager to see that natives are given absolute security in the possession of their lands, but it would be improper in the extreme to give natives secure and permanent possession of land which may possibly belong to some other body, the Wasin Arabs for instance. There is no doubt whatever, Sir, that very grave uneasiness and dissatisfaction exists in the minds of many Arabs in connexion with this matter, and I suggest therefore that further enquiry should be made before this Bill is passed. Many people claim, Sir, that

Government has not always done what it might for these very pleasant people, the Arabs, in order that they might play the part they are capable of playing in the economic life of the country.

Now, Sir, this Bill is really the third stage in a series of events. The first stage, Sir, was in June, 1929, when we passed the Crown Lands (Amendment) Bill. The then Senior Commissioner for the Coast quite clearly and definitely stated that no one was going to be disturbed, and after all, Sir, that amending Bill merely gave the Governor power which he already enjoyed under the Crown Lands Ordinance to declare an Arab Reserve or a Native Reserve.

The second stage, Sir, and this is of some importance, occurred in July, 1930, when we were told by the Chief Native Commissioner—and I do not suggest for one moment, Sir, that the late Chief Native Commissioner was not speaking the truth on that occasion—we were told quite plainly that the Arabs had agreed to waive thirty-two claims to title in that area provided they were given, together with certain native tribes concerned, communal interest in 76,000 acres. We were also informed, Your Excellency, that this matter had been explained to the people concerned and that they had expressed agreement. I was not quite happy about that, Sir, and when that Bill was read a second time, on that occasion in Mombasa, I urged that it should be then referred to a Select Committee in order that the evidence of interested parties, more especially the Chief Liwali for the Coast, Sir Ali bin Salim, should be given an opportunity of expressing their views. His Excellency's reply to me then was:—

“ The hon. Member has asked for a procedure which was in any case in the mind of Government to accord. It is proposed to refer this Bill to a committee—I think a Select Committee is the best committee—and every opportunity will of course be given for all shades of opinion to make themselves heard before that committee reports.”

Well, Sir, Government did not implement its promise; no Select Committee was appointed and no report was laid before this Council, but, Sir, a majority at least of the Council, when the Bill was considered clause by clause in Committee of the whole Council, accepted in all good faith the assurance of the then Chief Native Commissioner which I have already mentioned, and the Bill was passed.

Well, Sir, since then representations have been made to many of us, and I believe to Government, by people who claim that their agreement was obtained under a misapprehension,

and they now claimed an opportunity of appearing before some impartial tribunal to obviate any injustice which might possibly be created. I do not suggest, Sir, that Government is wrong in this matter, but I do say in all seriousness in my humble opinion it would be a very great mistake to take such an irrevocable step unless all parties are completely satisfied that they are getting a square deal. Now, Sir, I suggest whatever form the enquiry takes—and I am not particularly concerned with the form of that enquiry—that there should be some perfectly definite liaison with this House, and I would suggest for Your Excellency's consideration, if you agree with my suggestion, that at least one or two unofficial representatives have an opportunity of hearing the evidence. I sincerely trust that Your Excellency will agree to the postponement of this measure until some form of enquiry has been held.

THE HON. SHERIFF ABDULLA BIN SALIM: Your Excellency, I entirely agree with the views expressed by my friend, the hon. Member for the Lake, and in addition to that, Sir, I should like to state emphatically that the Arabs who are referred to in this Bill never asked for a Communal Reserve and, in fact, Sir, they have already filed their applications for grant of certificates of ownership to evidence their freehold proprietorship to the respective holdings. The previous Provincial Commissioner for the Coast, with a view to depriving these people of their legitimate right and in order to save Government from the expense of holding a further survey went and told the parties concerned that Government is at present unable to send a surveyor, and he impressed upon those people that it was far better for them to let the Government acquire it as Crown Land and that they would benefit thereby.

Well, Sir, at first the Arabs did not agree and insisted upon being granted certificates of title to their holdings, but in the end, Sir, when the Provincial Commissioner for the Coast found that they were not pliable he threatened them that if they were not going to agree to his proposal they would have to walk out of the place. Sir, that threat had the desired effect and fifteen got frightened and agreed to the proposal in the main, and at the very moment they affixed their signatures to the paper which the Provincial Commissioner put before them they could not go back.

I can assure you, Your Excellency, if Government were to hold an enquiry and if those Arabs who were senior were asked to give evidence, the facts would be found as stated, but I am afraid, Sir, Government will not think fit to act upon my suggestion for the sake of these few poor illiterate people but will stand firm on the word of its representative.

THE RT. HON. LORD DELAMERE : Your Excellency, I am going to support my hon. friend, the Member for the Lake, and the hon. Member representing the Arabs, in the action which they are asking Government to take.

At the opening of Council you invariably read the Prayer which says : " . . . and grant that we may treat and consider all matters that shall come under our deliberation to advance the peace, prosperity and welfare of this Colony and Protectorate and of those who interests Thou hast committed to our charge," and I say, Sir, it is impossible on this side of the House to judge on these matters so long as facilities are not given us. The late Governor, Sir, did promise that a Select Committee should be appointed to go into this matter, and although it is possible some other form of Committee may be better, it must stand to reason, Sir, that this side of the House must be properly represented so that they can put forward points at the time which may be looked at from a different point of view. I think everyone must be agreed that the Arabs at the Coast, or a portion of them, have not been happy within the last year or so, and I certainly think a matter of this sort which is going to fix Communal Reserves—which to my mind always was a most peculiar method of dealing with this question—I think it is all wrong that that should be made absolute before everyone is certain that the people want that Communal Reserve. It was done in the past for the good of the natives, although I see in some of the evidence given in London that the natives of Tanganyika appear to treat that as one of the obstacles to the Kenya method of government, being put in Native Reserves. That it was done for the good of the natives of this country is the only excuse for a Bill of this sort. After all, Sir, the Arabs are at least the people who came to this country before ever we came here, and I think that more notice should be taken of them in these matters, and I hope Government will not go on with this Bill until some enquiry, which will get to the bottom of this matter, has been held. There is no doubt that a good deal of friction has taken place and will take place if this Bill is passed without a full enquiry into the facts.

THE REV. CANON THE HON. G. BURNS : Your Excellency, I have pleasure in supporting this motion from the point of view . . .

THE HON. THE COLONIAL SECRETARY : On a point of order, Your Excellency, what motion? 4

HIS EXCELLENCY : The hon. Member is speaking to the second reading.

THE REV. CANON THE HON. G. BURNS : . . . from the point of view that there are other people living in the land under discussion as well as the Arabs, and I think, from the point of view of those natives who are living there, that an enquiry into the whole question would be of value and help to elucidate the position.

I have pleasure in supporting the amendment.

THE HON. F. O'B. WILSON : Your Excellency, I have pleasure in supporting the arguments which have been adduced by previous speakers. It would be advisable for Government to withhold the passage of this Bill until further enquiries have been made, because the Arabs are, I think, the least articulate community in this country and it behoves us, therefore, to be careful when they do raise their voices. It would be in our interests to pay attention to their murmurs. It must be obvious to a democratic Government that the Arabs at the Coast are becoming discontented, and they feel that they have not been well treated by Government, and that being the case I think, Sir, that we should be careful, we should be quite sure, that we are acting in their interests. Hon. Members on this side of the House have been unwillingly committed to this policy of Communal Reserves and only, Sir, because they were given a very definite assurance indeed that the desire was shared by these people, and they, in fact, agreed with Government because they were told that they would be better situated and that they would be more satisfied under the system of Communal Reserves than under any other arrangement. In actual fact these Arabs are not at all satisfied and they do not wish to go into a Communal Reserve unless there is no other way of safeguarding their rights.

In the circumstances, I do hope that Government will agree, not only to hold this enquiry, but to hold it in such a way that this House will be satisfied after it has been held that every possible thing has been done to give these people their rights and we shall then be quite sure that the conclusions arrived at are in accordance with the wishes of those people.

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE : Your Excellency, I do not think it is necessary for me to adduce further arguments but I can assure you that the reasons which have been given are most excellent and Government would be well advised to grant this enquiry and get the matter cleared up once and for all.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I do not propose to deal with any of the points which have been made by the hon. Members on the other side, though naturally my failure to do so must not be construed as an admission that they are sound as against the advisability of the measure. My failure to deal with the points is due to the fact that I am authorized by Your Excellency to state that you propose to institute a public judicial inquiry into the circumstances under which a document, which I personally have seen, signed by the Arab claimants surrendering their rights to freehold titles, was executed by those Arabs.

I would ask leave, Sir, to report progress.

HIS EXCELLENCY: Let it stand over for the report.

THE MAIZE SUBSIDY REPAYMENT BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of a Bill to Provide for the Recovery of Certain Sums Advanced from the Revenues of the Colony as Subsidies to Maize Growers Exporting Maize from the Colony.

In view of the very long preamble to this Bill it is, I think, unnecessary for me to take up the time of Council with any explanation of its purpose.

Hon. Members are aware that on the 30th August, 1930, certain relief from public funds was given to maize exporters by resolution of this Council, and one paragraph of that resolution dealt with repayment in these terms:—

“ That in so far as the Colony's share of the total sum involved is concerned the amount refunded may at a future date be recoverable from the industry in such a form or manner as this Council may hereafter decide.”

Similarly, Sir, in the case of the maize subsidy, as is known, which was approved on the 17th January this year, the method of repayment is dealt with in paragraph (e):

“ Any contribution paid . . . shall be repayable to Government by way of a cess on export as soon as the price of maize for export exceeds the value of Sh. 7/25 free on rail Kenya main line stations based upon the ruling price of maize of K.2 grade on the London market. Such payment shall be at the rate of 50 per centum of the difference by which the ruling price exceeds Sh. 7/25.”

This short Bill, Sir, gives effect to that resolution. It provides in clause 2 that the Governor may declare the price of K.2 grade maize free on rail at a main line station of the Kenya and Uganda Railway, and that as from the date of

such declaration there shall be paid on all maize exported from the Colony, not only K.2 but on all maize, 50 per cent of the amount by which the price so declared exceeds Sh. 7/25. It does, Sir, exactly follow the terms of the resolution of this Council of January this year in respect of the maize subsidy, and also gives effect to the prior resolution which left the exact method of repayment to be determined hereafter by this Council. Clause 5 sets out, for the benefit of those who are affected, what is in fact an inherent power. It sets out that payment may at any time be suspended for any period if circumstances render that step necessary, and the concluding clause limits the operation of the Ordinance to such period as is necessary completely to repay the amounts advanced. There can be no cess levied after the total amounts advanced from the revenues of the Colony have been recovered.

THE HON. THE ACTING DIRECTOR OF AGRICULTURE (MR. H. WOLFE) : Your Excellency, I beg to second.

HIS EXCELLENCY : The question is that a Bill to Provide for the Recovery of Certain Sums Advanced from the Revenues of the Colony as Subsidies to Maize Growers Exporting Maize from the Colony be read a second time.

THE RT. HON. LORD DELAMERE : I beg to support this Bill as presented because—I represent one of the constituencies in which maize is largely grown—it does, in my opinion, implement the agreement come to by maize growers and Government on this matter. At the same time, I have always regretted myself that the amount of Sh. 7/25 instead of Sh. 8, recommended by the Maize Conference, was fixed. I can have no other feeling than that this Bill is a proper one.

THE HON. CONWAY HARVEY : Your Excellency, as this Bill is an obvious corollary to the motion which was previously passed and agreed to, I think unanimously, one has no alternative, if one is in any way reasonable, but to support it. Nevertheless, Your Excellency, under the bludgeonings of chance as illustrated by the effects of this measure, a considerable number of inequities have undoubtedly arisen. I should like to mention one or two in the sincere hope that Government will make every effort to ameliorate the very hard lot of sufferers.

First of all, Your Excellency, there is the case of a number of people who, having drawn the subsidy in respect of this year's crop, will stop growing maize. They will, of course, be called upon to make no contribution whatever when times get better. Another body of sufferers, Your Excellency, and they do suffer very severely, are those, especially in that

area that I particularly represent—during this year, which qualifies for the subsidy, the crops were almost negligible, they did not amount to ten per cent of a normal crop, which of course means they got a subsidy of ten per cent; but when the time comes and they have a normal crop again they will be called upon to refund over ten times what has been subsidised, which I suggest, Sir, is very very unfortunate and not a little unfair.

Another class of man who is likely to be very severely penalized is the newcomer, the man who starts planting maize for the first time this year or next year. He will, of course, be called upon to contribute to this subsidy from which he has derived very little benefit except very indirectly in so far as the measure is undoubtedly for the benefit of the industry as a whole and the Colony altogether.

I did intend, Your Excellency, on this motion, to ask for a statement of the position in regard to the available maize supplies and to elicit information as to Government's proposals to meet the unfortunate situation which has arisen during the last few weeks, but in view of what Your Excellency stated earlier in the morning I think that might well stand over until we discuss the locust position.

THE HON. W. C. MITCHELL: Your Excellency, I feel inclined to take a somewhat different line from the hon. Member for the Rift Valley and the hon. Member for the Lake by repeating that the original Bill providing for the advance of certain sums of money to maize growers under certain conditions constituted an agreement with maize growers; I still feel that that agreement might be subject to revision by mutual consent. It seems to me, Sir, that with the present conditions ruling this season and the almost certain advance of maize for local consumption to a figure considerably higher than any figure that has been experienced in the country for some time, the maize industry as a whole might be prepared to consider some revision of the original agreement and possibly we might be able to have some system of collecting this cess on local sales of maize at a time when the price of maize is at a figure enabling maize growers probably to refund that money very much more easily than they could refund it from export values which are nearly certain to be very much lower at a later date.

THE HON. T. J. O'SHEA: Your Excellency, I am sure the overwhelming majority of the maize growers of the Colony who benefited by this subsidy regard the passage of this Bill as merely legalizing a debt of honour. That being the case, Sir, their representatives cannot do otherwise than support

the Bill or the principle of it, but I must confess it seems to me rather unseemly haste on the part of Government to want to rush through this Bill at the present time. If they regard it merely as a matter of form to have on the Statute Book the consequential legislation of the original motion then that is, I admit, a reasonable excuse for its introduction, but, Sir, I would ask Government to consider this : is it really advisable that they should be in such a hurry to pass a Bill of this nature making provision for the repayment of a debt which is frankly acknowledged when the circumstances are such that it is extremely unlikely that Government can possibly ask for repayment of the debt for some time to come?

I have felt an atmosphere of unreality about our proceedings during the last few days, Sir. Members on the other side of the House laughed—or smiled, shall I say—the other day when the Rt. Hon. Member for the Rift Valley gave as a simile Nero fiddling while Rome burnt. Sir, I frankly confess it seems to me that this House is showing an utter lack of understanding of the realities of the situation in dealing with such matters as it has been dealing with, and it is emphasizing that lack of understanding of realities when it is passing a Bill talking about the collection of debts based upon the export of maize when, to anybody who is in touch with the situation at all, it must be obvious that instead of exporting maize in the near future we are very much more likely to be importing it. It seems to me most unwise. It will leave a very bad taste in the public mouth if we go on at this stage and pass a Bill of this nature when, in actual fact, we should be devoting our time to dealing with a state of famine in the very near future.

I feel in a very difficult situation in regard to this Bill. On the one hand, I do not wish to say or do anything that would give Government the impression that there is any reluctance on our part to pass the necessary legislation for the honouring, for the payment of this debt of honour, but on the other hand, I feel very strongly that it is a waste of our time and it is showing ourselves up in a very bad light to the public that we should be devoting time to the consideration of such a Bill as this when we should be doing something that is more closely in touch with the requirements of the situation.

LT.-COL. THE HON. J. G. KIRKWOOD : Your Excellency, I find myself in some difficulty. In the first place, this Bill, if passed and when passed, will have very far-reaching effects. At the same time I do not wish, in speaking against it, for a moment to suggest any repudiation of the responsibility for the money advanced by Government to maize producers, but I am hoping that there is another way out. I suggest this

Bill should be delayed. It is not a suitable time to discuss the collection of a cess or the conditions under which it can be collected when, as far as we can see at the moment, there is no possibility of that collection taking place. I agree with one of the previous speakers that the matter of this Bill might be delayed and further consideration might take place. I think I am right in stating that it was the outcome of a recommendation made by the Maize Conference called by Government last year. Everybody in this House will remember, I think, in 1929, the price of maize was regulated, it was regulated against the producer. In other words, when the price advanced and Government required certain stocks for famine relief in the northern Provinces they passed a controlling Act to regulate the price of maize. That price was regulated against the producer. There was no recommendation by the Maize Conference to Government for the stabilization of prices. Personally I think that was a grave error. When the Government took the responsibility on a previous occasion of regulating the price against the producer, the producers had a perfect right to expect Government to regulate the price somewhat in their favour, that is, to stabilize the price of maize last year. It was not done. Instead of that they were given a subsidy of Sh. 2 under certain conditions which are embodied in this Bill.

Now the effects of this Bill, Sir, are more far-reaching than the general individual imagines. A cess invariably brings about anomalies, if not always. It is going to do it in this case. Once the cess is imposed—that is, when maize reaches Sh. 7/25, 50 per cent over that value may be reclaimed—I visualize producers then coming on to the local market. That will mean that the price will then tell against themselves. You will be able to buy maize in this Colony, once you start collecting the cess, under export parity. I am speaking from many years of experience, both here and in South Africa. I also prophesied it that the maize prices would not rise above the export parity, notwithstanding the subsidy, and my prophecy has come true. Elected Members on this side of the House took a different view, but as far as my own opinion is concerned I am thankful to say it has been right. Maize has not risen until very recently; rumours have it these last two or three days that the price has gone up. If that is true, I hope it is.

Another very unfortunate reaction that will take place, once this Bill becomes law, will be that the new settler will in one way have to pay a cess from which he has received no advantage, he will be liable to pay a cess on the export price of his maize, that is, any maize over Sh. 7/25, 50 per cent over Sh. 7/25. The natural corollary of that, Sir, will

be that he probably, if he is a careful man and can see into the future, will not really lose himself if he is buying land—he will buy land taking that contingency in view, which is going to depreciate the value of land in this Colony. I suggest, Sir, that this Bill might well be held over. I would also suggest, in view of the suggestions that have been made, that it should be tested out, that another conference should be called and that producers should be asked whether they are prepared under present conditions to pay or come to some other agreement with Government whereby an amount might be paid back out of local sales in the near future. There are possibilities. It has caused a great deal of anxiety to a great number of people, especially maize producers. They are not over-thankful for the measure. A large number were of the opinion that the cess would be made against the individual, as far as I know. As I visualise it, I think that is not practicable. The measure, as it stands, from the Government point of view, is fool-proof. Subject to the rise in maize, the amount is bound to be repaid, but I do suggest in all seriousness, owing to the very divergent opinions throughout the Colony, the inadvisability of this Bill without a further effort being made to try and get agreement on some other lines.

THE HON. F. O'B. WILSON : Your Excellency, when, of course, a Bill like this one is naturally going to afford, as it implies, ways of repayment of a debt which was incurred on both sides I have no objection, but when this Bill was drafted I believe the people who drafted it visualised an entirely different state of affairs from what there is at the moment. At the present moment it seems very probable that there will be no export of maize and local maize will be at a very high price. I do therefore suggest that Government put this back for a short time to reconsider the altered situation that has now arisen. I do think a thing like this could be done in committee because one can see it is going to be a very complicated procedure to try to put a tax on locally sold maize, but it would be worth while to make enquiries and see if they can come to some arrangement with the Kenya Farmers' Association to see if they could get the subsidy repaid sooner than by passing the Bill which lies on the table.

COL. THE HON. W. K. TUCKER : Your Excellency, I only want to put forward one point and that only after associating myself most emphatically with the view of the Noble Lord. The point is this, Sir, the hon. mover drew attention to your powers under section 5. Well, Sir, in many circumstances I can imagine appeals being made to you on somewhat nebulous grounds. In this case, as I understand it, the arrangement made as between the maize growers and the

Government was based on a few specific figures. As to the cost of producing a bag of maize I am satisfied that additions have been made, additions in the way of extra labour and the increased price of many materials occasioned by the locust menace, and I do suggest to the Director of Agriculture that he should collate and collect generally throughout the Colony precisely what that additional cost is so that as and when an appeal is made to you, Sir, under section 5, for the postponement of your powers, then it will not be a matter of guess-work so much as an authoritative pronouncement from the Director of Agriculture based on figures which are quickly compared to the basic figures on which the original agreement was made.

THE HON. THE ATTORNEY GENERAL: Your Excellency, there is, I think, little for me to say in reply, with one exception. It appears to me that the basic principle underlying this legislation, that of legalising and implementing that debt of honour, has been accepted by every hon. Member on the other side of the House. So far as the hon. Member for Plateau North is concerned, I may have misunderstood him but his speech did give me the impression that though he was a Member of this Council at the time the resolution was passed in January this year and though his voice was not heard in opposition, he does now desire to repudiate the agreement which was then reached . . .

LT.-COL. THE HON. J. G. KIRKWOOD: On a point of order, Your Excellency, I am not repudiating the agreement.

THE HON. THE ATTORNEY GENERAL: I accept that. I am extremely sorry I misunderstood. It makes the case still weaker, Sir, because he is in complete unanimity with this Council. To the hon. Members for Nairobi South and Ukamba I am very grateful for an extremely interesting and intriguing question, but the hon. Members will be the first to appreciate that it is not a suggestion which we can put into form as draft legislation now. It can, of course, only be done with the full agreement of the maize growers. That agreement, although we are not all pessimistic, necessarily will take time to obtain, and even if we have to obtain that agreement, Sir, I suggest there is no reason for deferring the passing of this legislation, which is not prompted by undue haste or the desire to get our pound of flesh. Government has no intention of being harsh. Circumstances have arisen, circumstances caused at this moment by the locust plague, that would naturally lead in some cases to a suspension of the statutory power of recovery, and it was for that reason that clause 5 was put in its present form.

HIS EXCELLENCY : The question is that a Bill to Provide for the Recovery of Certain Sums Advanced from the Revenues of the Colony to Maize Growers Exporting Maize from the Colony be read a second time.

The question was put and carried.

THE LAND SURVEYORS (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL : Your Excellency, I beg to move the second reading of a Bill to Amend the Land Surveyors (Amendment) Ordinance, 1930.

I do not suppose it is possible for anyone to say anything new about the printer's devil, and I do not propose to attempt it; but the responsibility for this legislation is very largely, if not entirely, his.

When last year the Land Surveyors (Amendment) Ordinance was passed by this Council it was passed in the correct form, but unfortunately in one of the lines there was a broken or rather blurred comma, and attention to that broken comma was specifically drawn. Unfortunately, the remedy for that very small defect entailed the linotyping of the whole line again, and the linotype operator seemed to think that the word "necessary" was more suitable than the word "unnecessary" in section 4, and it made the sense of that section of the Ordinance completely meaningless. And so, Sir, it is necessary to substitute the word "unnecessary" for "necessary" in reference to that section.

THE HON. C. O. GILBERT (SURVEYOR GENERAL) : I beg to second, Your Excellency.

HIS EXCELLENCY : The question is that a Bill to Amend the Land Surveyors (Amendment) Ordinance, 1930, be read a second time.

The question was put and carried.

THE BUTTER LEVY BILL.

THE RT. HON. LORD DELAMERE : Your Excellency, I understood that this Bill was to be put back to a later stage of this session for certain reasons which I gave, and I understood that Government agreed to.

THE HON. THE ATTORNEY GENERAL : I may have misunderstood the Noble Lord on the last occasion, but I understood that the only application which was then made was specifically that the second reading should not take place then.

THE RT. HON. LORD DELAMERE: Your Excellency, my feelings are not hurt, I am quite sure. At any rate, I mean to say what I am now saying. The only point was that hon. Members should consult during the recess of this Council and that Members should talk it over, and I do ask, Sir, that this Bill should be put back. No one is keener than I am to see this Bill passed as soon as possible, but I think that with Bills of this sort every opportunity should be given for the discussion of its details, and as this session is not likely to end at this stage, I think, if it could be put back, perhaps it would be better.

HIS EXCELLENCY: I propose to adjourn the Council now.

The Council adjourned for the usual interval.

On resuming:

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to Provide for the Imposition of a Levy upon Butter be read a second time.

In view of the very great amount of interest which this question has occasioned throughout the Colony, the very great deal of correspondence which has appeared in the public Press on the subject, and the very lively interest which every hon. Member has personally displayed in it, I hope that I will not be accused of unduly taking up the time of this Council if I cover as briefly as possible the facts and circumstances on which the introduction of this Bill is primarily based.

The Butter Industry in the Colony, Sir, is one of comparatively recent growth, and the export of butter, which now amounts to more than 50 per cent of the total production of butter—some 62½ per cent, in fact, Sir—is a very gratifying recent development in the industries of the Colony as a whole. That development, Sir, I am sure hon. Members will agree with me, is very largely due not only to the producers of butter, though of course it is due to them primarily, but in almost equal degree, if not quite an equal degree, to the Co-operative Creameries which have existed and now exist in an amalgamated form as the Kenya Co-operative Creamery Company, Limited, in the Colony. I say that, Sir, because the export of butter is a difficult and technical matter. Butter is a highly perishable product. It has to be exported in bulk; it has to be exported in special containers; it has necessarily to be exported under conditions to which the shipping companies are parties so that the refrigerating plant which is so necessary for the carriage of such a highly perishable product is available. Because of those special factors, which are hardly applicable, certainly not applicable to the

same degree, in the case of other primary products of the Colony, the export is in the hands of the one organisation, the Kenya Co-operative Creamery Company, Limited.

Now, Sir, I repeat that the amount of butter exported is more than the amount consumed locally on the East African market, and the price of export butter has, unfortunately, of recent months, been low. I stress that point, Sir, because that is really the primary reason for the suggestion embodied in this Bill, the suggestion to impose a levy on butter for local consumption. The reason for that, Sir, in greater detail is this: if we assume that the exported butter—for the sake of argument and for selfish reasons, Sir, because I am no arithmetician—is 50 per cent of the total production, then, Sir, three-quarters of the total production of butter in the Colony comes from the Creameries; the remaining 25 per cent comes from the non-co-operating private producer, who produces it only for the local market. Of the three-quarters of the total production which emanates from the Creameries, one-quarter goes to the local market, and the other two-quarters are exported. The Creameries have been able, Sir, more or less to stabilise the price of butter on the local market at Sh. 1/50 per lb., but recently they have been obtaining on behalf of their members only something like 65 cents per lb. for exported butter. Of every 4 lb. in the Colony, 3 lb. is Creamery butter and is sold at under Sh. 1 per lb. Of the three Creamery pounds, one is sold at Sh. 1/50, the other two are sold at approximately 65 cents each; that is, Sh. 1/30, which makes, for the 3 lb. of butter, Sh. 2/80, an average of only 93 cents per lb. of butter, taking it all over the Creamery production. Manifestly, therefore, Sir, the non-co-operator who does not export, who has not got the machinery to export even if he wished to do so, who has not got any of the facilities which the export of such a highly perishable product necessarily connotes, is in a better position than the co-operator to whom, and to whom alone, the Colony is indebted for the building up of this very considerable export trade. He is, I say, in a better position than the co-operator and exporter, though he sells his butter often at Sh. 1/30. In fact, Sir, non-co-operators can obtain, as I am informed, as much as Sh. 1/35 per lb. for their butter as against approximately 93 cents per lb. for each pound of Creamery butter.

The suggestion embodied in the Bill, Sir, is that on each pound of butter for local consumption there should be levied a cess of a sum not exceeding 25 cents. For the sake of argument I shall take it at its maximum of 25 cents. The present position already is in favour of the non-co-operator to the extent of Sh. 1/35 as against 93 cents. If the cess is imposed the non-co-operator will get his Sh. 1/35, from which

will be deducted the cess of 25 cents, leaving Sh. 1/10 net. The creamery member will pay 25 cents on one of his three pounds, and will receive 25 cents on two of his three pounds, so that over the three pounds he will be 25 cents better off, that is, 8½ cents should be added to the 93 cents, which brings him up to Sh. 1/02 per lb. The advantage is still, on these figures, slightly in favour of the non-co-operator, but nothing like so revolutionarily and alarmingly in favour of the non-co-operator as it is at the present moment.

Now, Sir, I shall be told that I am arguing entirely in favour of the co-operator, that the whole trend of my argument is a veiled attempt to force non-co-operators into co-operation, and further, that in all I have said up to this moment there has been not a word about that most important section of the community, the consumer. Now, Sir, my answer to that argument can be put very plainly and very simply and very shortly. The co-operative organization which exists here in the butter industry is under no obligation to export. It is a powerful body representing the producers of three-quarters of the total butter production of the Colony, and there is nothing to prevent them, there can be nothing to prevent them, from saturating the local market, from ceasing to export and putting their butter, with the reputation which it has behind it, on to the local market and, in effect, putting the non-co-operator out of business entirely.

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

THE HON. THE ATTORNEY GENERAL : They have control of three-quarters of the local production, Sir, and there is nothing to force them to export a pound of it. They have behind them their capital resources. It would be a piece of tactics for which precedent could be found in more countries of this world than I like to think of. It is a perfectly ordinary commercial way of putting the inconvenient small competitor out of business. But the effect of it would be more than that, Sir. Having put a certain number of non-co-operating competitors out of business, there would equally be nothing at all to prevent the co-operative organization, which would then be more powerful than ever, from putting up the price from then onwards against the consumer, so that the consumer, equally with the non-co-operating producer of butter, would be liable to suffer were that done.

Furthermore, from the point of the consumer, Sir, it is but right that I should state that the Co-operative Creamery Company, Limited, has publicly announced that if this cess imposed it will not by reason of this cess increase the price

of butter to the consumer. That is an undertaking which it is only right, in the interests of the large consuming public, I should voice here and now.

I repeat, Sir, if we are to retain our export of butter, an export which is extremely valuable in the best interests of the Colony as a whole, some measure like this would appear to be necessary, but I wish to close, Sir, with one further statement. In all that I have been saying I have to a very large extent, if not to the full extent, been voicing my personal opinions and my personal opinions only. I have to state, Sir, that this is not a measure which, as Government sees it, it is the duty of Government to press. The fate of this measure will rest primarily, as it ought to rest, with hon. Members on the other side of this Council. It will be by the vote of the majority of the hon. Members opposite that the ultimate fate of this measure will be decided.

I beg to move the second reading.

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

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

THE HON. F. A. BEMISTER: Your Excellency, I am very sorry to have to speak in an atmosphere in which I believe I shall be proved, or may be proved, to be in a minority of one, but the whole tenor of this Bill is absolutely repulsive to me and to my constituents.

I have listened very carefully to the words of the hon. the Attorney General and I certainly think his speech was, if it could be printed, a first-class address to the shareholders in a co-operative society. My whole difficulty in attempting to try to understand the idea of Government forcing this measure on to people: it is true, Sir—I see the Attorney General shaking his head—that you have said that the measure will be decided by the vote on this side, but, Sir, the Government has blessed this Bill, the Government has printed this Bill, the Government is going to work the Bill, it is going to have the whole force of Government influence behind it—is it not obvious, therefore, that the average man in the street must think that it is a Government measure?

The hon. mover mentioned a good deal about the building up of an export trade and nobody will deny that an export trade to any country is of very great benefit, but, Sir, when the figures—not my figures, but the hon. mover's figures—when the figures are examined, when it is found that the

price people can buy our butter for after travelling six or seven thousand miles and paying all kinds of fees is about 10d. and 1/-, and in this country we have to pay Sh. 1/50 for this special grade of creamery butter, and which we can get from non-co-operators for Sh. 1/20, is it not time that we thought more of the people in this Colony? It is stated also, Sir, by the hon. mover that the export trade is two or three times—I am not quite sure—the local consumption trade. Then why, Sir, should this cess be collected out of the price of the local sales? It will mean a bolstering up of the price inside the Colony against the ordinary consumer. Now, Sir, I doubt very much if the consumers in this country quite believe the statement that they will not be made to pay this cess. I know it is stated and I know it will be placarded all over the place, but I have never been in any business or industry where it was ever found that the consumers did not actually pay.

Now here you have an actual fact, Sir, that the creamery butter, as supplied to the local consumer, is Sh. 1/50, and by the non-co-operator it is supplied at Sh. 1/20. I do not buy much butter myself; I am only taking these figures as they are stated. Now, Sir, is it even to be imagined that when all the non-co-operators are forced in this beneficent institution, the Co-operative Society, that they will pay their 25 cents and still sell to the local market at Sh. 1/20? I doubt it, Sir; I doubt it very much. I think they are just ordinary normal human beings who, if they have to pay with the one hand, will get it back with the other, and I am not going to blame them. But, Sir, my main objection to the whole thing is this Government's entering into an idea or a system of coercion in business. I want to know what the right of Government is to interfere. When the Kenya Farmers' Association was formed, did Government pass a Bill to force everyone in who did not join? Can you name any society in this country when the Government set up machinery and imposed fees and let the Treasurer collect a levy? Show me any precedent, Sir, in this Colony for such an infamous proposal. Co-operations to-day can crush anyone who comes against them, and if they have that power let them fight, but don't come behind the Government and force it upon anyone who does not wish to join.

CAPT. THE HON. J. L. COTTER: Your Excellency, I rise to support this Bill. My private opinion is very much against it, but I feel that my constituents are in favour of it. There is one thing I would like to say: Is it possible to make the duration of this Bill for some certain time? It is for this reason that in my own district alone the making of butter has gone up about 300 per cent within the last year or two, and in the whole country it has gone up about double. In a few years' time we shall be making five or six times as much. In

that time it will be obvious that the levy you will have to put on butter sold then will be something about a shilling in the pound.

What I suggest is that there should be a time limit put on the operation of this Bill.

THE HON. T. J. O'SHEA: Your Excellency, I beg to support the Bill. I understand, Sir, that it will be referred to a Select Committee for consideration of its details, so that in committing myself to the principle of the Bill I am not standing for all of its provisions. I am supporting it, Sir, even though its passing may meet with a certain amount of opposition in my constituency, because the principle of the Bill is a direct encouragement by Government of the principle of co-operation amongst agriculturalists in this country, and I approve that action because I believe it is absolutely necessary to encourage the progress of agriculture. In spite of the earnest speech of the hon. Member for Mombasa, I am more of opinion than ever that under the conditions prevailing to-day it is impossible for an agricultural industry to make progress without the Government behind it to help. I go further and say, Sir, that one of the duties of this Government is to take more steps in this direction than it has in the past.

The second reason, Sir, is that I can foresee, and it requires in my mind some foresight, that because of the changes which have taken place in the world prices of cereals in the last year or two, there will be an increasing tendency to go in for mixed farming based on dairy produce. That being the case, Sir, it is probable there will in a very short time be such an increase in the making of butter that provision must be made for its export on equitable lines. In drawing attention to the fact that under the provisions of this Bill we shall be selling butter to the English public more cheaply than it would be sold to our people, this is not an argument which impresses me though we have probably a very much more limited knowledge of business, commerce and trade than the hon. Member for Mombasa has. I see evidence every day that it is a common thing for articles to be sold at a lower price in the country in which they are not produced than in the country where they are produced. I can mention instances. It is an accepted maxim of industry to-day, that in order to build up your industry your internal price must be higher than your outside price; in order to enable you to build up an export trade. In doing this we are merely carrying out the principle which has enabled the countries of Western Europe to build up a flourishing export trade.

The suggestion has been made that the Bill would have been more popular if the period of its duration were limited. There appears to be something in that, but on the other hand, if you reason the thing out on the lines suggested by the hon. Member for Kenya, it will be seen, I think, that the Bill has been designed to give encouragement to the export trade at a time when it is very badly needed, and one of the very immediate results of this Bill will be that this Bill will become a necessity in a very short time. In limiting the levy to a sum at present considered sufficient, Sir—25 cents—it is apparent that if any considerable increase of the export trade in relation to the internal trade is made, a 25 cents levy will be of negligible importance to the trade, and the assumption is that butter will be exported in greater amounts. Therefore, Sir, it appears to me that in a very short time it will have given the necessary encouragement to the export trade which is badly needed, and I have no doubt that in the course of a few years those in opposition will acknowledge it has been an act of wisdom.

THE HON. W. C. MITCHELL: Your Excellency, as a representative of what may be termed of consuming constituency, I should like to take up the argument of the hon. Member for Mombasa. I think his argument is based on the assumption that the price of butter in Mombasa or elsewhere is directly concerned with the cost of production. I do not think so, Sir, and unless the price is controlled I see no reason why the introduction of this measure should increase the price. If by any chance the price of butter was advanced slightly, I should be sorry to think that the hon. Member for Mombasa would take such a short-sighted view, when it would be the means of putting one of, what I think will be, the main industries of the country upon a sound foundation. The fact is that this cess will become inoperative as the export trade grows.

It will in effect give that support to the industry which at present is necessary, and as it becomes less necessary so it will be gradually withdrawn. I have much pleasure therefore in supporting the Bill.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, in general principles, I am in support of the Bill. It is well known to the whole House that it is a measure which has been asked for by the industry, and it has not been forced upon the producers by the Government. Had it not been asked for it would not have been before Council to-day. In view of the fact that in several districts, including my own, people are taking very active measures to turn over to mixed farming, which will include very largely the production of butter and cheese, etc., I think this Bill is an advisable one

at the present moment; it will level up their ideas—or level them down—to actualities, and not give them a false estimate based upon local prices only.

As I visualise it, it is a Bill to assist in exporting butter. It is also a Bill to equalise the difficulties of manufacturing and marketing in this Colony. It does in a measure divide the producers into two classes, that is, the co-operator and the smaller non-co-operator. The non-co-operator in a measure is probably better equipped by his conditions and geographical situation, being spread over the whole Colony, to compete with the local market. He has an advantage that way, and I see no reason why he should not contribute to the levelling up of the export.

Might I say that in detail I think the Bill could be improved; I believe it is the intention of Government to send it to a Select Committee, and that will obviate any necessity of going into detail. I believe when the Report of the Select Committee is laid before this House it will be unanimously agreed to pass the Bill when it is re-submitted to the Council.

LT.-COL. THE HON. C. G. DURHAM: Your Excellency, a number of my constituents have asked me to oppose this Bill, but as I understand it is Government's intention to submit it to a Select Committee, I shall defer the proposal put up by those constituents of mine, and hope that it will be dealt with in that Select Committee. I will not therefore waste the time of the House further.

COL. THE HON. W. K. TUCKER: Your Excellency, my primary object in rising is to discharge a duty to the substantive Member for Nairobi North who, just before he left, told me he had attended a large meeting, at any rate, one representative of associations in Nairobi, which, as I understand it, after being assured that there would be no increase in the price to the consumer, agreed that this was a desirable Bill in the interests of the country. That point has been made, Sir, by the hon. and learned mover in precisely the same way when he gave a similar assurance in connexion with the Wheat Pool Bill, which was discussed here in the autumn of last year.

I should like to add, Sir, that having spent the greater part of my life in the largest milk-producing area of England, I was impressed twelve years ago when I came to this country with the wonderful potentialities of dairying in Kenya. I have said so and written so many times, but there have been difficulties. It has taken some time to overcome and control cattle diseases in this country. More recently still, we have

got on the Statute Book compulsory dipping and fencing legislation, which are absolutely essential to the inception of a really large and well-organised export trade, so that, Sir, on these broader grounds, I do support the principle, even though I should qualify that support in regard to other associated agricultural industries, at any rate at this moment.

My final point—I am too new to this House to know whether it is a point of principle or of detail in committee—is the variation in this Bill, as compared with the Wheat Pool Bill, when it comes to control. We saw very clearly during the second reading of the Wheat Pool Bill, as I remember it, how the thing was going to be controlled in the interests of all parties, whereas on this occasion the Treasurer and the Treasurer only appears to be the only official organisation—if I may, with respect, call him an organisation—to whom the varying interests, Sir, will look in respect of the many points on which I can see they will need not moral guidance but protection. Sir, I should like to assume, in the absence of contradiction, that that is a point which may be raised in the Committee stage. I have no more to say now.

THE HON. F. O'B. WILSON: Your Excellency, I should like to support the principle of this Bill. I associate myself with most of the reasons that have already been given, but the main reason I wish to support it is, as I say, unless a Bill of this sort is brought in embodying the principles laid down in this Bill, there will be almost inevitably a wholesale collapse of the prices of dairy products and butter in this country. Well, Sir, we do not want another collapse just now. I feel most of the industries here are feeling bad enough as it is, but we have got the dairy industry which is one of the few which is holding up its legs—standing on its legs, I will say. If there is a possibility of that getting disorganised it is going to be a very bad thing for this country. At the moment we are trying to persuade a lot of people to turn over from one-crop farming to mixed farming; but they are not quite in the position that people were who started dairying a few years ago. They are turning over to a large extent because of the collapse of cereal prices in this world. They are turning over when they are in a pretty bad state financially, and if on top of all that, when they are trying to turn over, owing to their bad financial state, you have a collapse in the price of butter in this country, I do not think you will get that turning over. They will not be able to do it. That is one of my main reasons, in fact, my main reason, in supporting the principle embodied in this Bill.

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE: Your Excellency, till quite lately I had every intention of opposing this Bill, as the people in my part of the country are all consumers, but in view of the statements we have heard I am inclined to think that this Bill will undoubtedly be of great benefit to the country in general. On account of the statement that the cost will not be put on to the consumer, I propose to support the Bill.

THE HON. THE ATTORNEY GENERAL: Your Excellency, there is, I think, little for me to answer, less than at first sight would appear because, though I have now, as I have always had, the utmost admiration for the earnestness and honesty of purpose of the hon. Member for Mombasa, I consider that we are such poles apart that nothing I can say here is likely to influence him, and I can give him the assurance, which may or may not comfort him, that nothing he has said has had the slightest influence on my own views on this subject.

There are only two points that I should like to mention. One is in answer to what was said by the hon. Member for Nairobi North, when he drew, or rather when he failed to draw, an analogy between the procedure outlined in this Bill and the procedure which we found in the Wheat Pool Ordinance. To my mind, Sir, the analogy is complete, but it is entirely my fault that the hon. Member has not already agreed with me with regard to the agency. Here we have the organisation sitting on my right (the hon. the Treasurer); the agency is aided and assisted for the purposes of that legislation by a non-statutory body, and Government is prepared, Sir, if this legislation meets, as I think it has met, with the approval of a majority of hon. Members on the other side of this Council, to appoint for the purposes of this Bill an organisation, also a non-statutory body, to assist. There is here, as in the Wheat Pool Ordinance, no adumbration of that policy in the legislation because Government, as at present advised, sees no necessity to make that body statutory.

I did not, Sir, touch upon matters of detail. I deliberately refrained from doing so, firstly, because we on this side of the House have the advantage of having the clock in front of us, and it is an ever-present and ever-visible warning to us, and, secondly, because I am authorised to announce it is Your Excellency's intention to refer this Bill for the consideration of detail to a Select Committee, and in the event of the second reading being adopted, Sir, I shall immediately move that the Bill be referred to a Select Committee, the personnel of which I shall then announce.

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

The question was put and carried.

APPOINTMENT OF SELECT COMMITTEE.

THE HON. THE ATTORNEY GENERAL : Your Excellency, I beg to move that the Bill which has just been read a second time be referred to a Select Committee constituted as follows :—

The Hon. the Treasurer,

The Hon. the Acting Director of Agriculture,

The Hon. the Chief Veterinary Officer,

The Hon. the Elected Member for the Rift Valley,

The Hon. the Elected Member for Kikuyu,

The Hon. the Elected Member for Kenya,

The Hon. the Elected Member for Nairobi North,

with myself as Chairman.

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

The question was put and carried.

MOTION.

ADJOURNMENT OF THE HOUSE.

CAPT. THE HON. J. L. COTTER : Your Excellency, I wish to move the following motion :—

“ Be it resolved that this Council do stand adjourned in order that the situation caused by locust infestation be discussed.”

I need not say very much on this matter. I think it is well known to all the hon. Members of this Council that practically speaking the whole western area of this country is overrun by locusts, and I think it would be a very good thing if we could all look into this matter and see what can be done in the matter.

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

I have recently been informed, Sir, by a person to whose opinion Government will, I am sure, attach a lot of importance, and who has just made a tour of the Kavirondo District, that the situation there was already so serious that it was

practically impossible to stave off famine, and, to use his own words, "Unless immediate action is taken by Government, I can foresee natives in that area dying like rats within the next four or five months." In such circumstances, Sir, I feel sure I am justified in urging the adoption of the motion.

HIS EXCELLENCY : The question is—

"Be it resolved that this Council do stand adjourned in order that the situation caused by locust infestation be discussed."

THE HON. CONWAY HARVEY : Your Excellency, one point which has not been touched on, Sir, is the extreme importance of immediately collecting statistics showing precisely what food supplies are available in the country, and what the prospects are of the coming crop. I am told on extremely reliable authority, Your Excellency, that nearly 200,000 Kavirondo in the Southern and Central Kavirondo Reserves are now actually demanding famine relief, and the situation, Sir, of European farmers, very large employers of native labour, principally Kavirondo, is so serious that they are discharging all their natives—they cannot even afford to feed them, and there is no work for them to do.

I do think one purpose of this debate, Your Excellency, is to provide an opportunity for Government to reassure the public by a perfectly plain and unequivocal statement that they are fully alive to the situation, and some indication of the measures in detail which Government proposes to adopt in regard to such of those matters as have been raised would be very greatly appreciated.

THE RT. HON. LORD DELAMERE : On a point of order, we are talking to the motion for the adjournment, are we not?

THE HON. THE ATTORNEY GENERAL : Yes, Sir, that is the motion before the House.

THE RT. HON. LORD DELAMERE : Has anybody seconded the motion?

THE HON. T. J. O'SHEA : Yes, Sir, I did.

HIS EXCELLENCY : Perhaps I may make a statement. I assure you, as I told you before, the Government are fully alive to this unfortunate situation which has arisen, fully alive to the danger of a shortage of food supplies in the Kavirondo and other areas. We have been thinking it out for some time past. At the present moment the Chief Native

Commissioner and Mr. Blunt of the Agricultural Department are touring round the district and will come back on Wednesday, when we are having a special meeting of Executive Council to consider any further measures which may be necessary, and, as I have assured you, we will have an opportunity of discussing the matter when Council meets next week. I hope that will satisfy hon. Members as to what we are doing.

THE RT. HON. LORD DELAMERE: I am very sorry, Sir, it seems rather absurd, but we have not voted on the question of the adjournment of the House, which has to be taken in order that this House can give its opinion on such an adjournment.

HIS EXCELLENCY: According to Standing Order No. 33, " . . . unless, in the opinion of the President, there is involved a definite matter of public importance and the mover is supported by at least two other Members."

CAPT. THE HON. J. L. COTTER: On hearing Your Excellency's statement, I withdraw my motion.

THE RT. HON. LORD DELAMERE: Your Excellency, I bow to your ruling; I believe it is right. You were perfectly right, but I misunderstood a rule of this House.

HIS EXCELLENCY: It is not often that the Chairman's ruling is so satisfactorily received.

The motion was withdrawn.

BILLS.

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

The Maize Subsidy Repayment Bill,

The Land Surveyors (Amendment) Bill,

The Corporations (Probate and Administration) Bill,

The Courts Bill.

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

The question was put and carried.

The Council went into Committee.

*In Committee :***THE MAIZE SUBSIDY (REPAYMENT) BILL.**

The Bill was considered clause by clause.

THE LAND SURVEYORS (AMENDMENT) BILL.

The Bill was considered clause by clause.

THE CORPORATIONS (PROBATE AND ADMINISTRATION) BILL.

The Bill was considered clause by clause.

Clause 2.—Interpretation.

THE HON. THE ATTORNEY GENERAL: Your Excellency, when this Bill was read a second time a few days ago, the hon. Member for Nairobi North mentioned a small point in connexion with the definition of the expression "trust corporation." Hon. Members will recollect that he somewhat hesitantly suggested that the financial limit of £25,000 was excessive, and the Government then undertook to defer the further stages of the Bill until there had been an opportunity of conferring with the hon. Member and seeing exactly what it was he wanted. That opportunity fortunately occurred, Sir, before the hon. Member left Nairobi, and his suggestion is not that there should be any amendment of the definition of the expression "trust corporation," but that there should be a proviso at the end of it that a corporation which, but for the fact that its subscribed capital is not £25,000, would otherwise be qualified, should be enabled to act as executor or administrator with the leave of the Supreme Court, and on giving security to the satisfaction of the Supreme Court. That is, of course, a procedure to which all of us are accustomed in such matters, a procedure to which I personally can see no objection. I therefore beg to move, Sir, that at the end of the definition of "trust corporation" there be added these words:—

"Provided that a body corporate which would be a trust corporation but for the fact that its subscribed capital is less than twenty-five thousand pounds, may act as executor or administrator in any case with the leave of the Supreme Court and on giving such security as the Supreme Court may determine, and thereupon for the purpose of so acting as executor or administrator such corporation shall have all the rights and privileges conferred on a trust corporation by this Ordinance."

The question was put and carried.

THE COURTS BILL.

The Bill was considered clause by clause.

Clause 4.—Magistrates.

THE HON. THE ATTORNEY GENERAL: Your Excellency, in accordance with the notice which was given in the Order Paper for the 4th day of this month, Sir, I beg to move in respect of clause 4, firstly, that clause 4 (1) be deleted and that there be substituted therefor the lengthy amendment which appeared in the Order Paper on that day, namely:—

"4. (1) The following persons shall by virtue of their offices be empowered to hold courts as shown below:—

A Provincial Commissioner or Resident Magistrate: A subordinate court of the first class.

A District Commissioner: A subordinate court of the second class.

A District Officer: A subordinate court of the third class.

A Liwali: A Liwali's court.

A Cadi: A Cadi's court.

A Mudir: A Mudir's court."

and, secondly, that clause 4 (2) be amended by substituting the word "appointment" for the word "rank" at the end of the sub-clause. Of that also, Sir, notice was given on the 4th.

The question was put and carried.

Clause 7.—Local limits of jurisdiction of subordinate courts.

THE HON. THE ATTORNEY GENERAL: Your Excellency, in this clause I beg to move the deletion of the word "In" at the beginning of the first three paragraphs, and the substitution of the capital letter "A" for the small letter "a" immediately following that word. Notice of this has also been given, and hon. Members will see that it is merely improving the grammatical structure of the clause.

The question was put and carried.

Clause 8.—Jurisdiction of magistrates of subordinate courts.

THE HON. THE ATTORNEY GENERAL: Your Excellency, in this clause again, Sir, in pursuance of notice given on the 4th of this month, I move the deletion of all words after the word "fit" in the fourth line of the clause and the substitution therefor of the words which hon. Members will find under the heading of this clause in the Order Paper of that day, namely:—

"and every such magistrate shall forthwith exercise jurisdiction in such province or district, as the case may be, without further appointment or notification, provided that notification of such appointment shall subsequently be published in the Gazette."

The question was put and carried.

Clause 19.—Mixed cases.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the clause read out as clause 19, which actually appears as No. 24, be renumbered 19.

The question was put and carried.

Clause 20.—Repeal.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I have a similar amendment to move in this case, Sir; it has been numbered 25.

The question was put and carried.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Maize Subsidy Repayment Bill and the Land Surveyors (Amendment) Bill be reported to Council without amendment; and that the Corporations (Probate and Administration) Bill and the Courts Bill be reported to Council with amendment.

The question was put and carried.

The Council resumed its sitting.

HIS EXCELLENCY: I have to report that the Maize Subsidy Repayment Bill and the Land Surveyors (Amendment) Bill have been considered clause by clause in Committee of the whole Council and have been reported to Council without amendment; and that the Corporations (Probate and Administration) Bill and the Courts Bill have been considered clause by clause in Committee of the whole Council and have been reported to Council with amendment.

THIRD READINGS.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that—

The Maize Subsidy Repayment Bill,
The Land Surveyors (Amendment) Bill,
The Corporations (Probate and Administration) Bill,
The Courts Bill,

be each read a third time and passed.

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

The question was put and carried.

The Bills were read a third time and passed.

*The Council adjourned till 10 a.m. on
Tuesday, the 9th June, 1931.*

TUESDAY, 9th JUNE, 1931.

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Tuesday, the 9th June, 1931, His EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.) presiding.

HIS EXCELLENCY opened the Council with prayer.

MINUTES.

The Minutes of the meeting of the 8th June, 1931, were confirmed.

PAPERS LAID ON THE TABLE.

The following Paper was laid on the Table :—

BY THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. H. T. MARTIN) :—

Report of Select Committee on the Town Planning and Development Bill.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT : May I point out to Council that this report is, of course, not the report of this existing but of the lately deceased Council and has not yet been laid, either in the last or in this Council.

THE HON. CONWAY HARVEY : On a point of order, Your Excellency, when may we expect to have the report of the Road Rail Committee laid in terms of Your Excellency's speech at the opening of Council?

THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MACGREGOR, K.C.) : The report is still with the Government Press. I have been promised it this morning, but I am afraid it will not be in time to lay this morning, but I intend, subject to anything Your Excellency has to say, to circulate it to hon. Members at once and to give publicity to it in the usual way. Perhaps I may explain, Sir, why it is not yet ready. Just about the end of May, Sir, there were six Bills, two of them very lengthy, which had to be got ready at the earliest possible moment so as to give the normal fourteen days' publication, and in addition to those six Bills there was the report. The report was put subsequent to the Bills, Sir. The 3rd June was a holiday, which further complicated matters, but the report has already been promised for this morning and will be published as early as possible.

HIS EXCELLENCY : It will be circulated to hon. Members at once.

THE HON. CONWAY HARVEY : In explanation may I say, Sir, the intention was not to impute any degree of slackness, but we do regard the matter as very urgent that the public should be fully informed.

NOTICE OF MOTION.

THE HON. T. J. O'SHEA : Your Excellency, I beg to give notice of the following motion :—

“ That this Council requests Government to appoint a Commission as soon as possible to enquire into the terms and conditions of the Civil Service.”

BILL.

SECOND READING.

THE DEFENCE FORCE (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL : Your Excellency, I beg to move that a Bill to Amend the Defence Force Ordinance, 1927, be read a second time.

The origin of this Bill, Sir, can be stated very shortly indeed. On the 13th January this year the Commandant of the Kenya Defence Force wrote a letter in the following terms :—

“ At a meeting of the Central Defence Committee held in Nairobi on the 5th instant, it was unanimously agreed that the time had now arrived when the Local Defence Committees appointed under section 6 of the Defence Force Ordinance, 1927, should, in the best interests of the Force, be abolished.

2. Each individual member of the Committee was of opinion that whilst the Local Defence Committees were of the greatest use at the inception of the Defence Force, their use had now ceased and their duties, as prescribed in the Defence Force Ordinance, were subversive of military custom and tradition.”

With those views, Sir, the Officer Commanding the Northern Brigade, King's African Rifles, expressed his concurrence, and this Bill now before hon. Members is the result.

The existing district organization of the Defence Force hon. Members will find in sections 6 and 7 of the Ordinance of 1927, as set out in the left-hand page of the print. There is for each district a Local Defence Committee, and their

powers and functions are *inter alia* to appoint Section Commanders and other officers and to perform such duties and functions as the Governor may prescribe, and under section 7 to draw up the scheme of defence for each district in the Colony, including the selection of rallying points, the establishment of defensive posts and the arrangement of a system for the collection and use of available supply and transport. Those duties, Sir, I am instructed, have been admirably but completely performed, and it is the view of those responsible for the discipline and for the proper conduct of the Force that, inasmuch as those duties have been completed, there is no longer any necessity to perpetuate the existing district organization.

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

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

COL. THE HON. W. K. TUCKER : Your Excellency, I rise to oppose this amending Ordinance. I do so on the grounds that it is contrary to the spirit and intention of the Principal Ordinance (hear, hear) and further that it is inimical to the interests of the Defence Force itself, and more particularly I speak in regard to Nairobi. I should like at the outset to say that if District Committees in the out-districts choose to renounce their powers and you do not choose to appoint others that does not affect my argument. I also should like to say that I exclude in my arguments the position of the Railway, which is a separate district, operating under very dissimilar conditions from any other district in that there is only one employer and a good deal more than the ordinary measure of control is therefore exercisable over the members of the Force.

It is rather unfortunate, Sir, perhaps, that the hon. and learned mover, together with several other of your principal advisers, were not in this country when the Principal Ordinance was passed, and more particularly during the many months that preceded its enactment, because he would then have been able better to follow some of the points I desire to make. I shall be as brief as possible, Sir, but I must describe one or two of those facts precedent to the enactment. This measure, Sir, was only achieved after many months of bitter controversy in the country—of controversy in the country, I would say, and a very bitter controversy within the town of Nairobi, a controversy that was largely placated by the understanding that for all time there would

be a civil committee, a Local Defence Committee, acting as a buffer between the civil population and the military authorities. One of the last things the substantive Member for Nairobi North said to me last week was to describe a very hostile meeting, a mass meeting, which he and the hon. Member for Nairobi South convened in the Theatre Royal in regard to the Principal Ordinance, when he emphasized that had they been unable to describe the existence and the probable functions of these Local Defence Committees that placation would never have taken place. Well, Sir, that is by the way. What we want to deal with are the facts, and they are these, that while immersed in that controversy the people in Nairobi clearly realized the great dissimilarity between the material that we are dealing with in an urban district as compared with the country district where the introduction and organization of a burgher force, though entailing very much work and no doubt a considerable amount of difficulty, was a comparatively simple matter. In Nairobi, we no sooner got to work than we found a very high percentage of the men who were enrolled had never handled a rifle, had never been on a parade ground; in fact, Sir, they were at school during the progress of the Great War. It therefore became obvious, after a very great deal of time and consideration, that the only way to make a success of this Force in Nairobi was to create a training depot, a training battalion, very much along the lines of the Territorial Force in England, that from the very outset the Local Defence Committee of Nairobi went far outside its three functions laid down in the body of the Principal Ordinance. Those functions they have exercised year in and year out with the full knowledge of the Government who, in fact, were represented on the Committee throughout the entire period, and were followed with the closest interest and sympathy by your distinguished predecessor, so that if there is any risk of this Committee being wiped out of existence because they have performed these three functions, then, Sir, I suggest that your officers might have been sufficiently meticulous to have amended the Bill two years ago whereby you had localized the extraneous and multifarious duties which they, in fact, were called upon to perform. In Nairobi, Sir, these duties include and must continue to include things right outside the military sphere. We have a great deal of competition so long as the compulsory side of the Act is not in force, a great deal more competition than in the outside districts, in the sense that while a few lads may be very keen others have to be persuaded to give up other attractive methods of spending their spare time, and in that direction, Sir, we have, as this morning's paper announces, taken a very big step forward in the acquisition of a licence whereby a regimental

institute can be created in Nairobi. That is one of the sort of things a civil committee can and is doing to bind this Force together in the face of great difficulties.

Now, Sir, in support of that argument I would refer to what the hon. mover himself read out, and that is, while three specific duties, three obvious initial duties, were scheduled in the body of the Bill, yet in section 6 (3) it was definitely envisaged that other powers and duties were likely to be given to these Local Defence Committees which, I repeat, we all regarded as an integral part of the Force itself.

Now, Sir, I should like to make one point with regard to the Objects and Reasons. They more or less come under three headings. It is first stated "in the best interest of the Force" the Committees should be abolished—that I challenge for the reasons which I have just given. Secondly, it is stated that their use has now ceased—that, too, I challenge, Sir, for the reasons I have given. And thirdly, it is stated that their existence is "subversive of military custom and tradition"—I challenge that, Sir, from a great deal of experience I have had of the creation of the Territorial Force in England, where the whole structure was built up on associations, powerful associations in every county, associations that not merely pioneered the Force but were of the very greatest assistance up to and through the war and, to the best of my knowledge and belief, Sir, those associations are still in full power and work to-day.

I would suggest, too, Sir, that this is rather an eleventh-hour decision on the part of Government, because at a recent meeting of this Committee we were informed by the Staff Officer who, I would like to say here, has always treated us with the greatest courtesy and consideration, that certain proposals were being submitted to the Attorney General defining the specific duties of Local Defence Committees, and when those were issued the existing vagueness as to the various duties would be eliminated; I suggest, Sir, that they are being eliminated with a vengeance if this Bill goes through.

Then, Sir, without asperity of any kind, I feel I must reflect the views held outside this House that in a country where so much public work is required and which is carried on so few shoulders, it does seem lamentable that men, as in this case, who, by spending an evening elaborating such a scheme as I have just been talking about, a social scheme, should find in their newspaper the next morning a big heading to the effect that the Defence Committee has been abolished or is to be abolished. That is—it is quite unintentional, I am sure—not quite the way to encourage other men to come forward and bear the burden which so few bear to-day.

I cannot deny what the hon. mover said, Sir, with regard to the unanimous view of the Central Defence Committee on which Nairobi was represented. I have tried and shall try to avoid all personalities, except to say this, that if our representative took that view it was entirely without the consent of the Committee and without their knowledge.

I have little else to say, Sir, except to express some perplexity as to what proposal I should make. I cannot move an amendment, it is too involved, but I do beg you, Sir, to consider whether you would refer this matter to a Committee on two lines: (a) to examine whether the Defence Committee for Nairobi is essential in the future both in the interests of the Force itself and of the community; and (b) if so, that the Committee should recommend what should be their duties in the future, which I am quite prepared to admit should vary quite considerably from those they have exercised in the past.

I am the more encouraged to make that suggestion, Sir, because on your side of the House—I beg your pardon, Sir—on Government's side of the House, there is an hon. gentleman, who is not here this morning, in whose knowledge and in whose judgment I have complete faith.

I have only to add, Sir, that if the findings of such a committee do not support the arguments I have put forward we shall at all events have cleared the air, and I am quite certain that the committee I have referred to so many times, including myself, will accept the decision of that committee.

LIEUT.-COL. THE HON. C. G. DURHAM: Your Excellency, I am going to support this Bill because it met with the unanimous approval of the Central Defence Committee, Sir, when it was stated that you do not want a Local Defence Committee to carry out the duties of the Defence Force, but I cannot entirely agree.

My Local Defence Committee is appointed from Limoru; to my mind, Sir, that is entirely wrong. At the time it was appointed there were no officers; to-day I have Section Commanders in every area, and I submit that if I am responsible for the defence of my district, I must also be responsible for the scheme of that defence. I cannot agree that that Local Committee can help me in any way. If I am to put up a scheme of defence I must confer with my Section Commanders who live in the areas that they know, and I do say definitely that the Committee that I had did not know the areas as those Section Commanders did. Without their help, Sir, I would not undertake the responsibility.

Sir, when that Committee was appointed it was definitely appointed, as I understood, to cease its functions really after they had appointed Section Commanders in their areas. It is quite obvious they could not function in a military capacity. To my mind it is quite impossible that they could do that. I personally could not accept their orders in any way if they insisted that I should carry out schemes that they put up which I did not approve. The Commandant is the only ex-officio member, and I should think it was entirely his right to command his Force with the help of his Section Commanders.

With regard to Nairobi, Sir, I agree that there is a very great difference. You have a community amassed together and, as stated by the hon. Member for Nairobi North, if you had an association such as they had in the Territorial Force you could do quite a lot to make the movement popular; with that I agree, Sir, but I do not agree that the Commandants in Nairobi should be subordinate to the Local Defence Committee; I would support him if he could put down an amendment suggesting the duties of the Local Defence Committee outside the military sphere. That is why I cannot agree, Sir. I submit Commandants, if they are going to run the thing at all, must be in a position to train people as they think fit and draw up their own defence schemes as they think fit. It may be done on the suggestions of the Local Committee, but he should not be subordinate to that Local Committee.

Then I would like to stress the point that if the Local Committees are so soon to go, I could call up the members of the Local Committee at any time I liked. I must consult the Section Commanders of each particular district, otherwise it is quite impossible for me to move in the matter.

If, Sir, the hon. Member for Nairobi North might be allowed to move an amendment, as far as Nairobi is concerned, to have an association—call it a Local Committee, if you will—to work in conjunction with the defence scheme, I should support him in that, but it must be, I think, outside the military sphere.

THE HON. T. J. O'SHEA: Your Excellency, I have pleasure in supporting the opposition to this Bill in anything like its present form, and after hearing the arguments adduced in its favour I, as one of the members of the Central Defence Committee, which Committee advised Government in this matter, am more than ever satisfied that I am doing the right thing. It is obvious from the arguments that have been adduced in its favour, Sir, that those who advised Government

have seen its implications entirely from a military point of view. I say that this Bill is the outcome of the militarist mind. I say that for this reason, Sir, a military man acquires a way of looking at problems which can only be described as a military outlook. I have great respect for a military man, as I have for any other man in any sphere of life who makes a success of it, but, Sir, in connexion with the Defence Force Committee I do urge that it is very necessary indeed for this House to look at it in an altogether different way.

Now, Sir, looking at it from another point of view I would like to lay great stress on what has been said by the hon. Member for Nairobi North that it is necessary to consider the conditions under which the Principal Ordinance was passed, because there was great opposition and it was only accepted by the country on the definite undertaking that it would include some measure of civil control, and as I took the Government's part in urging the acceptance of the Defence Force Bill I say this, that I should regard it as a terrible breach of faith indeed if we were now on such slender arguments to deprive the public of that measure of democratic control. It would be a breach of faith of which this Government would be ashamed, and to which every member on this side of the House would be ashamed of being a party.

My objection to the Bill is one of principle. I have come in contact with the arguments in its favour and I have been much impressed by this discovery, that members of the Defence Committee who have urged the desirability of it are now just as definitely of opinion that the objects which have been shown to secure military control could just as well be secured by an alteration of the terms under which those committees act. At the time they came to that decision they did not contemplate that possibility. That being the case, I would strongly urge upon Government the advisability of reconsidering the Bill from that point of view. When the original Bill was passed the work of these committees was thought of only from the point of view of organizing the Force; they did not look sufficiently far ahead and see that, having performed those functions, there would be other functions to be performed with advantage to the Force. In connexion with a Force of this nature it is very necessary indeed that they should have the support of public opinion. I think the continuance of that public support can be secured by having the Bill amended so as to permit of the continuance of these committees.

In these circumstances, Sir, I urge upon Government the advisability of reconsidering this Bill.

CAPT. THE HON. J. L. COTTER: Your Excellency, I intend to support this Bill. With regard to the remarks made by the hon. Member for Nairobi North, I cannot see any analogy at all between the Territorial Force, which is entirely a volunteer force, and this Kenya Defence Force, which is entirely a conscriptive force. There is nothing similar about them at all in any way or in any form of efficiency. As far as this Defence Force is concerned I cannot see there is any sense in having any civilian interference whatsoever.

THE HON. THE COLONIAL SECRETARY (MR. H. M.-M. MOORE): Your Excellency, I had not intended to intervene in this debate, but in view of the remarks that have been made by certain hon. Members opposite, pointing out the disabilities which they see in the practical working of the Bill as amended, and also the suggestion that possibly the Government, by pressing this amendment now without further consideration might be going back on the spirit in which the Ordinance was originally passed, I am authorized by Your Excellency to say that with the leave of the House the Government desire to report progress on this motion in order to go further into the question of possibly attaining that degree of military control which, as a military organization, I think all will agree, should be vested in the Commandant and his district officers, but at the same time providing perhaps on the lines thrown out by the hon. Member for Nairobi North that the useful work done on the civil side by these Defence Committees might be maintained and still further fostered.

THE RT. HON. LORD DELAMERE: Your Excellency, I am sure that every member on this side of the House, except those who wanted to speak and have not got the chance . . .

HIS EXCELLENCY: Order, order.

THE RT. HON. LORD DELAMERE: I beg your pardon, Sir. I only meant because Government has agreed so quickly. I do not mean any disrespect in what I said at all. I was simply making a remark rather at the expense of ourselves.

We have to be very grateful to Government from this side of the House for the way in which it has met us over this matter, and I personally hope that when Government—or whatever committee Government decides to set up on this matter—will give it rather broader terms of reference than those put forward by the hon. Member for Nairobi North who opposed this Bill first. Whatever those terms of reference may be, I do not think they ought to be only applied to Nairobi, Sir. I think whatever way the matter is gone into

it should be gone into from the point of view of the whole country on the lines proposed by the hon. the Colonial Secretary.

I am sorry, Sir, if I made this little joke, but it was not meant as anything else.

HIS EXCELLENCY: The debate on this Bill stands adjourned.

THE TOWN PLANNING AND DEVELOPMENT BILL.

HIS EXCELLENCY: The next item on the agenda is the Town Planning and Development Bill. I understand that hon. Members have only to-day received this report of the Select Committee, so I propose to postpone consideration of this Bill until next week.

That being the end of the business to-day, I adjourn Council till 10 a.m. on Tuesday, the 16th June.

THE RT. HON. LORD DELAMERE: There is one point, Sir—the train from the Coast does not get in till 10.30 a.m. on Tuesday.

HIS EXCELLENCY: Will it suit you better to have it at 11 a.m.?

THE RT. HON. LORD DELAMERE: Yes, Sir, from the point of view of the Members who live at the Coast.

*The Council adjourned till 11 a.m. on
Tuesday, the 16th June, 1931.*

TUESDAY, 16th JUNE, 1931

The Council assembled at 11 a.m. at the Memorial Hall, Nairobi, on Tuesday, the 16th June, 1931, His Excellency the Governor (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 9th June, 1931, were confirmed.

PAPERS LAID ON THE TABLE.

The following papers were laid on the table :—

BY THE HON. THE COLONIAL SECRETARY (MR. H. M.-M. MOORE) :

Third Supplementary Estimates, 1930.

BY THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MACGREGOR, K.C.) :

Report of a Committee to consider the Motor Services Bill.

Report of Select Committee on the Butter Levy Bill.

THE HON. THE ATTORNEY GENERAL : In respect of the latter document, Sir, I would ask hon. Members to delete the signature of the hon. Member for Kenya, who has intimated that he would prefer not to sign the report.

BY THE HON. THE TREASURER (MR. H. H. RUSHTON) :

Statement of Excesses on Sub-heads which have been met out of savings under the same Head as at 30th September and 31st December, 1930

BY THE HON. T. FITZGERALD (POSTMASTER GENERAL) :

Abridged Annual Report of the Post Office and Telegraphs Department, 1930.

NOTICE OF MOTION.

THE HON. THE COLONIAL SECRETARY : Your Excellency, I beg to give notice that at a subsequent meeting of this Council I shall move :—

“ That the Third Supplementary Estimates, 1930, be referred to the Select Committee on the Estimates.”

ORAL ANSWERS TO QUESTIONS.

ANTI-LOCUST CAMPAIGN.

THE HON. T. J. O'SHEA (on behalf of the Hon. Conway Harvey) asked :—

“ What steps have been taken to ensure the effective co-operation of the Railway Administration in the anti-locust campaign? ”

THE HON. THE ACTING DIRECTOR OF AGRICULTURE (MR. H. WOLFE) : As soon as a decision could be made as to the plan of the locust campaign, the Railway Administration was asked to assist with the carriage and distribution of locust bait. This was readily agreed to, and locust materials have been very promptly moved and every assistance readily rendered by the Railway.

On the 28th April, a letter was addressed to the General Manager asking him to bring into commission a locust train for use in the Londiani District. Steps were immediately taken by the Railway Administration to overhaul and repair the apparatus. Repairs were completed and the train despatched on May 11th. In addition, the railway permanent way gangs in the locust areas are assisting in every possible way, and poison bait has been supplied in large quantities for this purpose.

THE HON. T. J. O'SHEA : Your Excellency, arising out of that answer, may I ask what success was met with by the Railway on the stretch between Eldoret and Jinja?

THE HON. THE ACTING DIRECTOR OF AGRICULTURE : I shall have to inquire into that, unless the hon. the General Manager can give the information.

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS (BRIG.-GEN. G. D. RHODES) : I can give a general reply, Sir. I do not think the bait was used in that particular area at all. I think it was supplied for the more closely settled areas. With regard to the actual success of other apparatus, such as brushes under the locomotives, they only proved partially successful.

MILK SUPPLIES.

THE HON. T. J. O'SHEA (on behalf of the Hon. Conway Harvey) asked :—

“ What quantities of imported milk and local fresh milk respectively were used by the Railways and Harbours Administration, in Kenya, during January, February and March, 1931? ”

THE HON. THE GENERAL MANAGER; KENYA AND UGANDA RAILWAYS AND HARBOURS : The following quantities of milk were consumed by the Railways and Harbours Administration in Kenya during the months of January, February and March, 1931 :—

	<i>Imported Milk.</i>		<i>Fresh Milk.</i>	
	<i>Tins.</i>		<i>Quarts.</i>	
Railway Restaurant Services ...	250	...	4,084	
Marine Services ...	195	...	869	
	<u>445</u>		<u>4,953</u>	

As a general practice, tinned milk is only used to supplement fresh milk when, for some reason, the latter fails, or when milk goes bad.

MAIN TRUNK ROADS.

LT.-COL. THE HON. J. G. KIRKWOOD asked :—

“ Will Government favourably consider handing over main trunk roads to District Councils on contract? ”

THE HON. THE DIRECTOR OF PUBLIC WORKS (MR. H. L. SIKES) : When concrete proposals are put up by a District Council the feasibility of this course will, in the first instance, be referred to the Central Roads and Traffic Board for advice.

LT.-COL. THE HON. J. G. KIRKWOOD : Further to that answer, Your Excellency, I take it that if concrete proposals are put up they will be given favourable consideration?

HIS EXCELLENCY : I think that hardly arises out of the question.

LT.-COL. THE HON. J. G. KIRKWOOD : I understood there was some reference to the proposals.

HIS EXCELLENCY : It is stated in the answer

LT.-COL. THE HON. J. G. KIRKWOOD : I would ask whether, if proposals are put up

HIS EXCELLENCY : It is stated that “ the feasibility of this course will, in the first instance, be referred to the Central Roads and Traffic Board for advice.”

THE HON. T. J. O'SHEA : May I ask whether the advice of that Board will be asked in time to permit of the upkeep of the roads being taken over in 1932, if the decision of that Board is favourable?

THE HON. THE DIRECTOR OF PUBLIC WORKS : A meeting of the Central Roads and Traffic Board will be held very shortly, and no doubt Government will consider the advisability of putting that matter before the Board at that meeting.

RAILWAY GOODS OFFICES AND SHEDS.

LT.-COL. THE HON. C. G. DURHAM asked :—

“ 1. What was the total cost of the new Goods Offices, also the new Goods Sheds? ”

“ 2. In what period does the Kenya and Uganda Railways and Harbours Administration anticipate making full use of its new and numerous goods sheds? ”

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS : 1. (a) The new Goods Offices cost £8,200; (b) the new sheds, with equipment, cost £34,200; (c) sidings, roads, drains, water service, hydrants, fencing and other minor works cost £12,600; a total of £55,000.

2. The full use of the new Goods Shed at Nairobi is dependent upon the return of normal economic conditions. The covered space previously available was capable of accommodating only approximately two-thirds of the outwards traffic dealt with at this station. There is no reason to suppose that, under normal circumstances, the additional accommodation, which is so essential for the efficient, economic and safe handling of the public traffic, will not be fully utilised.

LT.-COL. THE HON. C. G. DURHAM : Your Excellency, I am delighted to hear that it is such a small amount. May I ask the hon. the General Manager whether that covers all the overheads—is it the total cost?

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS : That is the total cost, Your Excellency. In the Railway costing system we allow very fully for overhead costs.

RAILWAY HOUSING PROGRAMME.

LT.-COL. THE HON. C. G. DURHAM asked :—

“ In view of the large number of houses lately built will Government state what number of houses, including Asiatic, are unoccupied? ”

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS : Six Railway European officers' houses are vacant at the moment in Nairobi—

(a) one house having been recently vacated by an officer who has been retired;

- (b) three houses having been recently vacated by officers who have proceeded on leave;
- (c) two houses having been recently constructed.

These six houses will shortly be required for officers, either due back from leave, or who will be stationed in Nairobi in connexion with other leave arrangements.

No Railway Asian quarters are, at the moment, vacant.

COMMUNICATION FROM THE CHAIR.

HONOURABLE MEMBERS OF LEGISLATIVE COUNCIL,

It is my duty this morning to tell you that this Government, in common with the Governments of Uganda and Tanganyika, which are taking similar action to-day, propose to introduce and deal with in all their stages two short Bills, one amending the Customs Tariff Ordinance and the other repealing the Ordinance authorizing the levying of a consumption tax.

I have already informed you of the economies that have been effected, and of the fact that the 1932 Budget is now in course of preparation and that it will be laid before you in August. But whatever your advice may be when you deal with those Estimates of expenditure in Select Committee, the Government feels sure that extra revenue will somehow have to be found as a result of the conditions arising from the world-wide depression which have been made worse by a misfortune which we hope will not again fall upon us for at least some time to come: I refer to the locust invasion.

Now this being the position, it seems to me, and to the majority of my Executive Council, that, as a measure of precaution, we should take some immediate interim steps to add to our sources of revenue, always provided that such steps will not inflict undue hardship on the individual taxpayer of this Colony. I do not propose to go into the details of the Tariff Bill, as the hon. Commissioner of Customs will, on moving the second reading, afford you all possible information. But it will be explained to you that that portion of the Bill which deals with the Consumption Tax is merely an administrative measure, making no appreciable addition to the tax already paid in this Colony. I may, however, remark that Tanganyika and Uganda are to-day increasing their tax on wines and spirits to the extent of our Consumption Tax.

As regards the section dealing with motor cars and accessories, it will likewise be shown that although in a full year £18,000 of revenue should accrue, the individual purchaser will not suffer any material hardship.

A further means of raising revenue, amounting to about £10,000 a year, has been approved by the Governors in Council of the three Territories under the powers granted them to vary the postal rates within a certain defined maximum. The alteration of rates will take effect from the 1st July, the new rates being the same as those in existence before the reductions of April last year were made. Practically, the revision means 5 cents additional postage on an ordinary letter.

Honourable Members, all taxation is distasteful, but I do sincerely trust that these very moderate proposals will meet with your approval. It may possibly be urged that hastily considered retrenchments would effect the same purpose, but I warn you against this. Retrenchments beyond a certain point mean depriving people of this Colony of services they can ill afford to do without, and, this being so, they require the most careful consideration, which I trust will be given by the Select Committee which will soon deal with the Estimates for 1932.

I now call upon the Attorney General to move the suspension of Standing Orders.

SUSPENSION OF STANDING ORDERS.

THE HON. THE ATTORNEY GENERAL: Your Excellency, with your leave, Sir, I beg to move that Standing Rules and Orders be suspended to enable the two Bills to which Your Excellency has referred—a Bill to Amend the Customs Tariff Ordinance, 1930, and a Bill to Repeal the Wines and Spirits Consumption Tax Ordinance, 1926—to be taken through all their stages at this sitting without due notice.

THE HON. THE COMMISSIONER OF CUSTOMS (MR. G. WALSH): Your Excellency, I beg to second.

The question was put and carried.

THE HON. T. J. O'SHEA: On a point of order, may I point out that the Bill laid down before us does not, as far as I can gather from a hasty reading, show the clauses of the original Bill.

THE HON. THE ATTORNEY GENERAL: That is so, Sir, but Standing Orders have been suspended. That was required by Standing Orders.

THE HON. T. J. O'SHEA: That being the case, it of course gives justification for it, but it makes it very difficult for Members.

BILLS.**FIRST READING.****THE CUSTOMS TARIFF (AMENDMENT) BILL.**

On motion of the hon. the Commissioner of Customs, the Customs Tariff (Amendment) Bill was read a first time.

SECOND READING.**THE CUSTOMS TARIFF (AMENDMENT) BILL.**

THE HON. THE COMMISSIONER OF CUSTOMS: Your Excellency, I beg to move the second reading of the Bill entitled an Ordinance to Amend the Customs Tariff Ordinance, 1930.

As is necessary under the Customs Agreements an arrangement for the simultaneous introduction of this Bill in the three Territories has been made, and the Legislative Councils of Tanganyika and Uganda are at the present moment considering an identical measure. As Your Excellency has stated, the three Governments have had precisely the same object in view, namely the imperative necessity for safeguarding, as far as possible, the financial position of the three Territories without imposing any undue hardship upon any section of the various communities. So far as the portion of the Bill relating to wines and spirits is concerned, the Government of Kenya has agreed to come into line with the other Territories, who hitherto have confined the taxation of wines and spirits to the tariff ratings of 1930, and now wish to impose additional taxation on these articles. It will be within the recollection of hon. Members that in 1926 a so-called Consumption Tax of Sh. 7/50 per liquid gallon of spirits, Sh. 15 on champagne, and Sh. 3 on other wines was imposed in Kenya but not in Uganda or Tanganyika, this tax being collected by the Customs Department of Kenya and Uganda at the time of the collection of the import duty. The other Territories are now willing to increase the tax on wines and spirits to a figure approximating the combined present import duties plus consumption tax. A Bill to repeal the Wines and Spirits Ordinance will be passed through its several stages this morning, so that no additional taxation under this heading need be feared so far as Kenya is concerned. Certain minor alterations in the incidence of the tax have been made owing largely to the manner in which the Consumption Tax Ordinance of 1926 was framed. These small differences will be explained during the Committee stage of the Bill.

The other portion of the Bill relates to the duties on vehicles and parts, including tyres and tubes. Hon. Members will recall that the Customs Tariff which came into operation in April of last year afforded a measure of relief from taxation, and that a considerable portion of the relief took the form

of a reduction in the duties on vehicles and parts. The financial situation has since altered to such an extent that Government is no longer justified in forgoing this revenue, and it is therefore proposed that the duties upon tyres and tubes shall be doubled, that the duties on bicycles shall revert to 20 per cent *ad valorem*, and the duty on other vehicles, not including heavy motor lorries and tractors, shall be increased from 10 per cent to 15 per cent. Tractors and lorries remain on the free list as before. Having regard to the fact that the basic duty under the tariff is 20 per cent *ad valorem*, or its equivalent, the suggested increases are by no means abnormal, and the new scales still compare favourably with the duties imposed in other parts of the world on vehicles and their parts and accessories. It is confidently anticipated that the proposed duties will cause no hardship to Kenya, although the resultant increase in revenue will approximately amount to £18,000 per annum in Kenya and to about the same figure for Uganda.

I beg to move the motion.

THE HON. T. J. O'SHEA : May I ask what is the motion that has been moved—which Bill?

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

HIS EXCELLENCY : The question is that a Bill to Amend the Customs Tariff Ordinance of 1930 be read a second time.

LT.-COL. THE HON. J. G. KIRKWOOD : On a point of order, Sir, I should like to raise a question on this Bill under Rule 64, that it does not state the Objects and Reasons of the Bill.

THE HON. THE ATTORNEY GENERAL : I can only repeat, Sir, that Standing Orders have been suspended.

THE RT. HON. LORD DELAMERE : Your Excellency, we on this side of the House are faced this morning with a position that is unprecedented in the annals of this Council for at least ten years—at any rate, the last ten years—and it has come in my opinion at a time when only the team work of the whole of this Council, both Government and Elected Members, is likely to be able to solve the financial and economic difficulties which are on this country in different ways. Surely, Your Excellency, the whole of this Council must have one object at the present time, and that is to try and bring our ship of state in this country back into harbour safely after its rather difficult period. Now, Sir, Elected Members have shown their willingness to drop politics and to

come down to economics. They have tried for months to persuade Government that the position was serious, and that an Economic and Finance Committee, where ideas could be interchanged between the bureaucratic Government of this country and the Elected Members, who represent the constituents of this country, should be formed, and would be the only sane and sensible method of dealing with the situation, by the agreement which has always been reached by both sides of this House, as in the past. As unexpected difficulties were put in the way, both before Your Excellency came and since, of the calling together of such an Economic and Finance Committee, Members only a fortnight ago—Elected Members on this side of the House—who were anxious to find in a meeting of that Committee, Sir, any practical method of dealing with the situation, asked that the savings put forward by Government in the present financial situation of the country should be laid before the Finance Committee or the Select Committee on Finance on the same Budget, the Budget of 1931. They did that, Sir, in order that they could take their place by the side of Government in considering the economies already made during the dissolution of the Legislature, and their part in working out the financial steps which had to be taken to meet the future and to put things right. They considered, Sir, and I think they still consider—I, at any rate, do—that that step, although a belated one, would have enabled us to get together over the last fortnight and to get agreed figures, agreed policies and agreed methods, financially and otherwise, for dealing with these things, or at any rate, to start to do so. Now, Sir, to their amazement, for the first time, as I say, for a great many years in this Council, which has built up certain privileges with regard to finance, based partly on its constitution and partly on the privileges, as I say, which have been built up on that during a considerable period of time, as is done in every British Colony—to their amazement they were told, Sir, that Government intended to deal with any alterations in the 1931 Budget itself, that savings had been made which were unalterable, and that the Budget had been readjusted to show . . .

HIS EXCELLENCY : Might I call the Noble Lord's attention to Standing Order No. 34, which says :—

“ When a question for debate has been proposed, debated and disposed of, it shall not be competent to any Member without special leave of the President to raise a question substantially identical therewith within a period of six months.”

The Noble Lord is referring exactly to what we debated the other day.

THE RT. HON. LORD DELAMERE : I am giving reasons. I shall come in one moment to the reasons how it applies, Sir, on this particular step which we are debating this morning.

HIS EXCELLENCY : Perhaps the Noble Lord will confine himself to the motion before the House. That is the Standing Order which I have just read out.

THE HON. T. J. O'SHEA : Your Excellency, on a point of order, may I ask whether that Rule does not refer to the moving of a question, or am I to understand that it is your ruling, Sir, that Members of this House are not allowed to make any reference to a matter that has been debated in this House?

HIS EXCELLENCY : I read the Standing Order :—

“ . . . proposed, debated and disposed of, it shall not be competent to any Member without special leave of the President to raise a question substantially identical therewith within a period of six months.”

LT.-COL. THE HON. C. G. DURHAM : Has it been disposed of? This is additional taxation we are going to be asked to submit to now. You are trying to find some revenue; the other day you had to find some revenue. With due respect, has that matter been disposed of, or is it continuing now?

HIS EXCELLENCY : I do not wish to restrict hon. Members. It may be done with the leave of the President, and I have no objection.

THE HON. F. O'B. WILSON : On a point of order, have not Standing Rules and Orders been suspended, Sir? You cannot have it both ways.

THE HON. THE ATTORNEY GENERAL : Only to enable the Bills to be taken through all their stages without due notice.

THE HON. T. J. O'SHEA : That being the case, Sir, may I ask for your ruling as to whether that does not apply merely to the tabling of a question or whether it is intended to exclude any reference to a question which the Council has previously discussed? In the latter event, Sir, the position is a serious one.

THE RT. HON. LORD DELAMERE : Your Excellency, in the past the question of raising a question within six months has always been applied to the tabling of a motion of the same sort or of a question of the same sort, or something of that kind. Other debates in the past are referred to in order to bring arguments to bear on a question which is before the

House at the present moment. It does appear that is not the reason this particular Order is in the Standing Rules and Orders.

HIS EXCELLENCY : However, as I have said . . .

THE HON. THE ATTORNEY GENERAL : May I point out the difference in wording between No. 32 of the Standing Rules and Orders, which deals with a specific motion, where the wording is : " to propose any question for debate in Council," and No. 34, which has very much wider wording—as Your Excellency says, it is raising a question which has been disposed of.

THE RT. HON. LORD DELAMERE : Well, Sir, to continue.

The position as we saw it, at least from a financial point of view, was that the Budget of this year—and I cannot, Sir, leave out questions with regard to the Budget of 1931—that taxation is being put in to readjust that Budget—it is impossible, I think, Sir.

HIS EXCELLENCY : As explained to the Noble Lord, I have no desire to restrict the debate. It is by leave of the President, and I have no desire to restrict the debate.

THE RT. HON. LORD DELAMERE : The figures as laid before this House the other day, as I say, were that the Budget had been readjusted to show a surplus of £1,200, I think it was, at the end of this year, and that Government and the statement I think certainly meant—it was not said in so many words—that the Government was capable of dealing alone with economies in the 1931 Estimates.

Now, Sir, surely the only excuse that can ever be admitted to a Government for overriding the Rules and for departing from the established methods and for straining the privileges of the representatives of the taxpayers would be the complete and overwhelming success of the scheme put forward in a time of emergency. Under those circumstances Government would get the backing—and even although it did not fall in with the customs of the House or anything of that sort—Government would get the backing probably of public opinion and of a large number of Members on this side of the House. But, Sir, instead of that, Government has already to-day, only a fortnight later, shown, to my mind, at any rate, its incapacity to deal with the situation as it stood by the only sane method, which is making every effort to cut down the size of its coat to meet the diminishing amount of the cloth which is available, and has come to Council to-day to propose increased taxation.

Sir, a fortnight ago, I personally thought that we had reached the limit of human comprehension as to how far self-assurance could carry this Government when we were told that this Government, composed in a very large proportion of newcomers to Kenya, considered itself more capable of dealing alone with a position like the present one than in combination with Elected Members who had lived their lives in the Colony and knew its problems and its people by heart, and who had just received incidentally the confidence of the whole country at the general election, except perhaps a minority upon whom the Government depends to take its advice. We thought, Sir, as I said before, that it was the limit of human comprehension that Government should rebuff Elected Members and should set aside their privileges for no apparent reason—but that Government should, on the top of that, a fortnight later, confess its incapacity to deal with the situation by proposing increased taxation at a time when the taxable wealth of the country has probably dropped by quite a large proportion or is in process of doing so, again, Sir, that appears to me to pass the limits of concession which can be granted voluntarily by this side of the House. A fortnight ago, Sir, Elected Members on this side of the House hoped that Government would learn—especially the head of the Government, Sir, with the greatest respect, who had only been a very short time in the country—that it would be wise to call in the help of our side of the House. We were anxious to avoid raising any question at the present time from a political point of view or to start anything like a political agitation, but, Sir, what has been the result? Instead of meeting us, and working out the best method of solving the difficulties of the country by logic and reason round a table, Government has presumably mistaken our attitude for one of weakness, and has actually gone so far as to propose new taxation without even letting the representatives of the taxpayers, as always in the past, show how expenditure can be reduced, as they undoubtedly could.

Now, Sir, the whole of this question has been raised this morning, as far as this year's Estimates are concerned, and Your Excellency has already said, and the hon. the Colonial Secretary has already announced, that Members are to take part in the discussion on the 1932 Estimates, so we are confined to this year's Estimates, and as far as this year's Estimates are concerned the whole of this discussion, the whole of 'his straining of the privileges of Elected Members, and so on, has arisen over a question of £9,000 for the half year. Now, Sir, I submit to Your Excellency and to hon. Members of this House that in something like half an hour round a table—I will give it to lunch-time, because we shall probably have some little difficulty over procedure to start with—an Economic and Finance Committee would not only have found £9,000,

but would have found a great deal more; but we will say £9,000—it would have found £9,000 without any harm being done to the administration or to the running of this country.

Now, Sir, I must say this, that if Government forces on Members on this side of the House a deadlock with Government over the question of the finances of this country and the economic position of this country, it does so wantonly and on its own. We have tried in every possible way to meet Government. All we have asked is that, as always before, ever since this Council was anything in the position it is to-day, always before we have been called voluntarily into these counsels in order to give our experience of the country and our knowledge of its finances and economics to the Government of the day, and without some sort of agreement measures have not been taken. I say this, Sir, that we should be false to our constituencies and to the future of the Colony if we acquiesced voluntarily in the present policy. We do not want political agitation. We want to go about the economic and financial business of the Colony in the way we have taken in the past, the only sane and sensible way which has been found to work, and the only one which appears to be in keeping with the privileges of the unofficial portion of this House. Therefore, Sir, I am going to oppose the second reading of this Bill, and I hope I shall be supported by hon. Members generally on this side of the House. It is hopeless to expect any support from the other side; at any rate, as far as voting is concerned.

Now, Sir, that is on the main issue, and the general principle. There is another principle which arises to-day, and that is the question of the Consumption Tax. Rightly or wrongly, this House, in full agreement with the Government of the day, came to the conclusion that it would be wise for the more progressive portions of the population to take on themselves the burden of the higher standard of education which they required in proportion to other portions of the population of this country. That was an agreed policy. It was carried out—as I say, rightly or wrongly—with the full agreement of this Government; and here, to-day, we have a Bill, under suspension of Standing Orders, brought forward to repeal that principle. And, Sir, I consider again that in dealing with Customs—and as Government has been dealing with Customs, the last thing which they should have touched, in my opinion, without any advice from this country or without going into the matter with Elected Members on this side of the House—the very last thing Government should have touched was a part of the Customs which again raises the question of a principle which has been agreed by both sides of the House at some period before. I am not going any further into that matter at the moment.

Now, Sir, it is a very curious thing—we all admit that when Customs have to be changed they have to be changed without notice on the day that they are going to be changed—but it has been found perfectly possible in the past to go into the general principles or as to whether taxes or more taxation is required and as to the best sorts of methods of imposing it, though it is the right of Government to see that no revenue is lost through taxation proposals through the Customs leaking out. It is a curious thing, Sir, that at a time when a large Committee is sitting in London to decide whether we have Closer Union, whether we are to have a co-ordination of services, or whatever it may be, that three Governors—with the greatest respect—should take it out of the hands of that Committee, and go off together and decide a matter on Customs which they have a perfect right to do as heads of their Governments, but which is against all precedents in this country, without anything being known about it beforehand. And Customs, Sir, I may say is a matter which on this question of Closer Union or co-ordination of services is a matter of the greatest difficulty, of influence probably on all the questions which have been brought up. I am not going to say any more on this, because I think we can go into the details during the time this House is in Committee of the whole House, but I must say, Sir, that I am deeply disappointed that Government should have taken our gestures to try and meet them on these matters in the way they have, and that the first result of our attempt at co-operation should be the sudden production of a Bill to increase taxation, without any chance having been given to Members on this side of the House to show, as I am quite certain they could have done, how its expenditure could have very easily been cut down.

THE HON. T. J. O'SHEA : Your Excellency, there is such a thing experienced in life that one fails to see the wood by being too close to the trees. I have tried to get away from the wood in this case, and to see the position in its proper perspective. As of necessity a critic of Government in matters of this sort, I have tried to the best of my ability to consider Government's position and to consider it in a fair and reasonable light. I appreciate the Government is faced by a very difficult position at the present time, and I appreciate that it suffers very great difficulties in dealing with such a situation, and therefore, Sir, critical as I may be of its methods, I must try to be fair to it.

It suffers one great handicap in that it is a bureaucratic Government of Civil Servants, and of necessity is not in close touch with the economic life of the people whom it is attempting to govern, and it is placed at a great disadvantage. Those who are in a position to lessen the disadvantages of

that position have offered their services, and those services have been refused. Therefore I think I am justified in taking the point of view that Government is not entitled to very much sympathy on that score. In endeavouring to review the position, it seems to me that there are three methods by which Government could deal with its present financial difficulties. It could curtail expenditure, or it could borrow, or it could increase taxation.

Now, Sir, a week or ten days ago, we were assured by Your Excellency that Government had done everything in its power to curtail expenditure to meet to-day's situation, and we had placed before us a schedule in which we were shown in broad outlines the ways in which Government had curtailed expenditure, and we were very emphatically assured that the review of expenditure had been so complete, so thorough and so detailed, that we could with safety accept Government's assurance that further curtailment of expenditure was not possible, even if Government had the assistance of Members on this side of the House.

Well, Sir, I hope I am in order in drawing attention to a few items in that schedule to substantiate my argument that there is no justification for the introduction of this Bill for increasing taxation at the present time, and that in fact the situation, as disclosed to us so far, could have been met by a further reduction in expenditure.

The first item in that schedule, the vote for His Excellency the Governor, is reduced from the figure of £18,000 by £767 to £17,233. May I point out, Sir, that only about six or seven years ago, the vote under that Head was approximately half what it is to-day; that the increase, a very substantial increase, was made for altogether different conditions at a time when we, that is, the country, were very much better off than we are now. With all due respect, there should have been a much greater reduction in that vote before Government should attempt to justify an increase in taxation.

In the hope last year that it would be possible to raise the amount of revenue estimated for, we agreed to a vote of £142,098 for the general staff of the Administration Department. Government's survey of the expenditure in that Department has only resulted in a saving of £2,000, rather less than $1\frac{1}{2}$ per cent of the total vote. I ask you, Sir, is it reasonable to assume that on a large vote of this nature it is only possible in the circumstances in which the country is now placed to effect a saving of a miserable amount of $1\frac{1}{2}$ per cent? I say again, Sir, that before there should be any question of introducing fresh taxation in this country, that vote could be and should be reduced by a further substantial amount.

The vote for the Agricultural Department is £172,957; the saving on that £9,450. Anybody who knows the work of the Agricultural Department, and however much one may admire it, nevertheless must agree that it is possible by an examination of the Estimates of that Department to make further savings if Government really intended to get out of its difficulties by savings.

Lastly, the Medical Department. The vote for that Department in this year's Estimates as passed was £252,061. The saving suggested in this schedule is £16,787—approximately 6 per cent. That is a Department that in the last few years has had its vote increased enormously. It has had its services extended to a very considerable extent. It has embarked on undertakings that are not essential to the life of the country, however desirable they may be. Under conditions like those prevailing to-day, there is no justification for such a small decrease in the vote of that Department. However much I may admire its work, I cannot refrain from saying to the House that I know of expenditure in that Department that can very well be saved in times like the present.

Secondly, Sir, I cannot possibly support the suggestion by Government that instead of curtailing expenditure as we can do and should do, I should support any proposal for the imposition of fresh burdens upon the people in the form of fresh taxation.

Again, Sir, the position might have been met by borrowing. On that score it is very difficult for one on this side of the House to-day to say whether Government was or was not in a position to consider borrowing, because we have been denied the opportunity of getting at the facts upon which we could form an opinion. It is now six months since Members on this side of the House realised, as Government then did not, that the situation was serious, and was going to be much more serious, and we urged upon Government the urgent necessity of appointing a competent body to inquire into the foundations of our position. That very reasonable request, that very obvious duty of ours, was refused—Government refused point-blank to hold any such inquiry. It considered that no inquiry was necessary; that if left to itself the situation would relieve itself. And so I cannot express an opinion as to whether the Government could or could not meet the situation by borrowing.

Then, Sir, we come to the third choice—that taken by Government to increase taxation.

I cannot fail to observe that this motion is urged upon the House by Government on one argument and one argument alone; that it would not impose undue hardship upon any

individual taxpayer. No effort was made to make out a case for justifying increased taxation at the present time. That all-important justification for increased taxation was ignored; instead of which it is urged upon the acceptance of the House by what I can only call a petty pilfering argument, the argument used by the dishonest shop assistant who has not the courage to steal openly but justifies himself in petty pilfering by saying that it will not be felt. I should have thought, Sir, that it was the most obvious duty of Government to endeavour to satisfy this House that the economic position of the country justified and allowed of the imposition of fresh taxation at the present time. No such attempt has been made, Sir, and it shows, I think, to any reasonable person that even to-day the Government is not alive to the realities of the position, that it has no understanding, no conception whatever of the economic position of the country, and that, in fact, it is afraid to face the position as it will have to face it before this year is out. Surely, Sir, when one is introducing fresh taxation it is only right and proper one should consider whether the economic position of the country is such that it can afford fresh taxation. I should have thought that was one of the first and most obvious arguments to justify a measure of this sort.

I, Sir, must attempt to justify my strong opposition to this proposal on the ground that the economic position of the country is such that it is a most unjustifiable action on the part of Government to introduce fresh taxation at the present period. On what is the taxable capacity of this country based? On its agricultural industry, and, practically speaking, on that alone. Its national revenue from other sources is comparatively small. I say that the amount of revenue in the form of taxation that can be derived from such other sources of revenue as that are already sufficiently great, that they do not permit of fresh taxation from those sources, and however indirectly those taxes may affect the agricultural industry, they do in fact affect it. It is very alluring to say that no particular individual will suffer undue hardship because of the imposition of these taxes, but in the next breath the hon. mover of this motion pointed out, as he had of necessity to do, that these little trifles collected here and there in a way that would not cause grave discontent would amount in the aggregate to £18,000. Therefore, Sir, however much one may endeavour to disguise the fact, one eventually gets back to it that the taxpayer will have to pay up £18,000 to carry on Government services, and that £18,000 must of necessity come out of other channels of expenditure. Our national revenue being mainly derived from agriculture, I think it is

not unfair to the House to occupy a little of its time in reviewing what is the position of the agricultural industry to-day. The sisal industry has closed down—for the time being it is practically non-existent.

HIS EXCELLENCY : I think the hon. Member is getting a little beyond the scope of the debate on this Bill. He is not entitled to range all over the position.

THE RT. HON. LORD DELAMERE : Your Excellency, on a point of order, surely in imposing a tax the position of the country from its taxable value point of view is germane to the question, and cannot be avoided? On a point of order, Sir.

HIS EXCELLENCY : I will allow the hon. Member to continue.

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

In considering the lines upon which it was my duty to consider this proposal, Sir, I certainly did take it for granted that a consideration of the existing taxable capacity of the country was germane to the issue. At the same time, Sir, I must confess I also thought that that was a consideration that did not weigh with Government. As an actual fact, this motion has been brought in without any consideration whatsoever of the taxable capacity of the people. The sisal industry, one of the most important sources from which Government has been deriving its revenue in the past, is practically closed down. It is not in a position to contribute revenue to-day and yet it is indirectly being asked to contribute more. The maize industry is working at a serious loss, a loss so serious that it is at the present time in the most regrettable position of hoping that its circumstances will be improved by the prevalence of widespread famine in the country. To such a state have these people been reduced that they have actually been left to hope that they may gain by the possibility of the starvation of others, and yet, Sir, these people are being asked to contribute further revenue to Government services. One can go down the whole line of the branches of the industry covered by the admirable Report of the Agricultural Department, and one finds the same story, that the income is less, and that where the profit is not very much less that it is non-existent. In fact, most branches of that one and only industry of ours are working at a loss, and because of the economic position prevailing are being compelled to sell the fruits of their labour and capital at a loss, and yet, Sir, these people are being asked to contribute fresh taxation. I cannot help feeling, Sir, that Government has been to a certain extent rather clever in devising this particular way in which to endeavour to raise new revenue because seriously I have

doubts if that revenue that it anticipates from these new taxes is going to be realised, but it has been clever in this way, that it has devised them so that they they are not likely to cause grave discontent. The bureaucrat, Sir, has some of the characteristics of the Bourbons. Apparently that weighs very much in Government's mind that whatever they do in the way of raising fresh taxation they must not cause grave discontent, and so they are distributed in a way that no particular individual may be conscious of the injury that is being done. But, Sir, in looking at it in that way, did Government realise that there are to-day many many people in this country to whom the insignificant sum of 25 cents of a shilling is an amount of some importance in their daily affairs? Does Government realise that the imposition of a new tax of Sh. 3/50 per bottle on vermouth will constitute a burden on quite a number of people in this country?

THE HON. THE COMMISSIONER OF CUSTOMS : On a point of order, there is no intention that there should be any additional tax on vermouth.

THE HON. T. J. O'SHEA : Does it realise, Sir, that by increasing the tax on motor vehicles and parts it is adding to the burden of the present day on a good many people in this country? Government has, I think, got so much into the habit that is prevalent in other circles in this country of thinking only in large figures that it overlooks the burden that can be accumulated in an accumulation of small figures.

Then again, Sir, I think it is advisable that the House should examine this proposal from another point of view. Is it likely—accompanied by the other measures of a similar nature that have been taken to meet the needs of the situation—I agree that if Government could show that this measure, accompanied by the others of a like nature, would meet the financial situation of the year and of the immediate future, there might be something more to be said for it, but can even that much be said for it, Sir? Is the amount of money likely to be raised from this measure likely to be any appreciable proportion of the sum that Government even now requires to balance its expenditure and revenue? I suggest not, Sir. We are already warned that we shall be asked to vote sums of money to meet a certain situation; we have already had indications that the schedule placed before us only a fortnight since, showing a reduction of £231,000 in our estimated revenue, is already likely to be very considerably exceeded. You have been good enough to let us know, Sir, that in regard to at least one part of our native territories the revenue coming forward from Hut and Poll Tax will be very much less than anticipated. That being the case, Sir, I

would ask Government to say in reply to this debate : Is the amount of money anticipated from this and the other new taxation in the course of the year—totalling, I understand, a paltry £14,000—likely to have any appreciable influence on the financial position of the Government before the year is out? If it has not, Sir, and I contend that it has not, is Government justified in causing the grave discontent that this measure will undoubtedly cause for the sake of such a small amount, seeing that that amount will not be of any material value in dealing with the situation? Also I would ask for an expression of opinion from Government as to whether they are satisfied that even the small amount anticipated will be realised. The financial position of the country has been going from bad to worse since September, 1930. I understood the mover of the motion to base his estimates of revenue from these sources on last year's figures. Is he really satisfied in his own mind, is Government satisfied, that the amount of revenue from these sources in 1931 is going to be anything like what it was in 1930? If so, then it is one more reason to justify my belief that Government, even at this late hour, does not realise what the position is.

Turning to the actual taxes themselves, the duty on bicycles has been raised to 20 per cent from, I understand, 15 per cent. Not having a copy of the original Ordinance before me, I may be in error in quoting the figures. That tax will very largely be borne by the native peoples. They are far and away the largest purchasers of bicycles in this country. Is it justified that they should be asked to pay a higher price for their bicycles to-day? Is their earning capacity so much greater that they can with justice be asked to pay more? When one looks at it from that point of view, it becomes plain that the attitude Government has adopted is that where reductions in the cost of imported articles have taken place, Government can with fairness to the community, seize some proportion, if not all, of that change in price. Now, Sir, that I regard as a most unjustifiable attitude for Government to take up, because the only possible chance the country has of keeping afloat on the reduced revenue that it is getting from its exports is by the compensation coming from imports at reduced prices and if, as Government has callously and cynically done, they use the argument that because these are coming down in price they should stand increased taxation, I say that it is most unfair and it is only going to aggravate the difficult position in which we find ourselves.

Motor vehicles and parts are having the duty on them increased. As regards motor vehicles for transport services, they are very graciously being left free of tax, but I would point out that up to a short time ago there was no duty on parts or

accessories for motor vehicles for transport purposes. It was less than twelve months ago when Government decided to tax such parts, and now within a short space of twelve months or less they are actually increasing the tax on these commodities. These commodities, Sir, cannot be regarded as being called luxury commodities. Transport is one of the essential things of economic activities, and I think it is most inadvisable that Government should attempt at the present time to increase the tax on these commodities. As presumably, Sir, the Bill will go to Committee before being rushed through, I hope then to have a greater opportunity for dealing with it in detail.

In conclusion, Sir, I would say that the introduction of this Bill, meaning as it does that Government can find no way out of its difficulties other than the imposition of increased taxation on the people, is proof that this bureaucratic Government of ours is absolutely bankrupt of constructive ability. It is the sort of thing that in commercial and other life is reproduced by a man who is in financial difficulties going to the bank to increase his overdraft as a way out of the difficulty. That, in effect, is what the Government is doing by this measure. When industry should be relieved to every extent possible of her unnecessary burdens, the Government chooses the course of adding to those burdens, and I can only regard that as tantamount to increasing one's overdraft—

THE RT. HON. LORD DELAMERE: And perhaps other people's as well.

THE HON. T. J. O'SHEA: —and incidentally, as it is pointed out to me, may result in increasing other people's also. Finally, Sir, I say that there is neither justification nor excuse for this measure, and I shall oppose it.

LT.-COL. THE HON. C. G. DURHAM: Your Excellency, I intend to oppose this Bill as I would oppose any further taxation. Frankly, Sir, I am becoming distrustful of the Government, and I can only believe that this is the thin end of the wedge of further taxation. In spite of the sounds that may come from the "Big Berthas" on the other side of the House, I state that the remedy lies very much nearer home. Kenya, Sir, is the most overstuffed Colony in the British Empire. For the moment I am not going to stress that point, as I have not had an opportunity of putting up views to Government—Government not having invited Members to meet them to discuss these things or anything else. I would like to make a suggestion to the Government. I appeal to the Government to ask its Civil Servants—and there are many sportsmen amongst them—to forgo their leave this year. I do not ask them to do that without compensation, Sir; far from it. I

suggest that Government ask them to forgo their leave—not hold it up, Sir—absolutely forgo it, and in place of that Government to offer them a certain percentage as a bonus for so doing. If Government did that, Sir, I am convinced in my own mind that it would not only save the £14,000 it hoped to do, but ten times £14,000 in the long run, because I am absolutely certain that a great number of civil servants would welcome a thing of that nature, Sir.

Your Excellency, the hon. Member the Commissioner of Customs made a great point that a few changes have been made in the taxes on wines and spirits. Now, Sir, it is only a small matter, but I would like to ask him to consider this. He proposes to reduce the tax on champagne produced in a foreign country and in exchange for that he proposes putting it on light sparkling wines such as are produced in British Colonies to equalise it. Champagne is not within the reach of many people in this country; these light wines are. I suggest that he has got it wrong. He should have left it where it was.

Your Excellency, it has been said that the taxes will rest very lightly on everybody in the country. I am not one of those who suggest that the Civil Servant should not get his full salary, but, Sir, to-day he is the only man that can bear any further taxation. He has an income; the majority of settlers in this country have not, and for that reason I am going to oppose this Bill.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I am like the previous speakers in the debate on this Bill, and on behalf of my electors wish to say that I and they are disappointed in the manner in which this Bill is being brought in. It is unfortunate that at the meeting of this Council a few days ago that atmosphere prevailed. Elected Members were appealed to for the above reason. They did decide to carry on, with the result that in a few days an appeal has been made to Elected Members for their co-operation, and their co-operation has, I say, been deliberately flouted. We have measures before us this morning for increased taxation. It would have been very easy to ask Elected Members whether they would agree in principle to increased taxation without discussing the details. They were not asked. Until we sat down here this morning, we were not aware of the full details as to what was proposed. On the economic question I am very opposed to the Bill. It is increased taxation. It is a tax that is going to reflect very definitely on the producers of this Colony who are at the present moment struggling for existence. It is going to increase the cost of production. To tell one to

accept as a reasonable argument for increasing the tax on motor vehicles and tyres that *ipso facto* the tyre one buys to-day is at a lesser cost, that the extra mileage has given you a better quality and secondly you are getting better value and better mileage. I have heard figures quoted down to the fraction of a cent, not a mile, that foreshadowed that line of argument that the object and reason and the method of a Bill should be based on that we are really cut down all taxes something like $1\frac{1}{2}$ per cent as against the one that produced a ton.

Another reason why I am strongly in opposition is from the general principle. With this Bill, part of these measures, I believe, is being brought into this House this morning to level up and unify the legislation in Tanganyika, Uganda and Kenya. It is a deliberate interference with the control of this House as a whole over the fiscal policy of Kenya. That is one of the principles that Elected Members have always stood up for.

It also, I would point out, indicates that the Joint Committee that has been sitting at home was inadvised to study Closer Union at home when we have already got it here as indicated by these Bills by agreement of the three Governors, and that the Bills should be brought in practically at the same time and the duty is forced through by the steam-roller.

I am perfectly certain that these measures will have a very unsteady effect on the Colony. I am not sure as to how far that disturbance might go. I have lived here some eleven years out of thirty-five years in Africa, and I think I know my fellow men. They have stood a great deal in the past, and they have been asked to stand a great deal more at the present time than they have ever felt. I say deliberately it is not wise during the period of depression that this Colony is feeling to-day, a depression that they have never felt to the same extent on previous occasions, to force on them increased taxation, without even consulting their representatives in this House, without first of all investigating and ascertaining other means for financing the Colony. I say it is a great injustice. The Select Committee on the Budget last year did ask for and recommend an Economic Committee to be appointed. There were hopes held out of the appointment, but it has not taken place. During these last six months the Colony has been run in a very bureaucratic manner, and the climax that we have before us this morning is Bills for the first time for some considerable time forcing increased taxation on the Colony.

I endorse every word that has been said by the previous speakers, and I do not wish to go into any detail beyond pointing out that it would have been an act of courtesy if the hon.

the Commissioner of Customs had given the information on the left-hand page that this House has a right to expect. We are not in the habit of discussing conundrums in this Council.

Your Excellency, in conclusion, I do hope that this measure is not going to create trouble in this Colony that would be regretted by all of us.

THE HON. F. A. BEMISTER : Your Excellency, I do want to try and bring this debate to a little more amicable state. I am not a politician, and I never was, but how I would like to examine these proposals is whether they are on the basis of a business man's experience. It would seem to me, listening to the debate on the Budget of last year, that the Elected Members foreshadowed every event that is now being stated as a fact by the Government. At that time the Elected Members suggested various ways and means, but it would seem that the Government, contrary to business experience, instead of in a period of depression lowering their overhead costs and expenses simply raised their revenue. I am sure, Sir, that if there was any business man in this Colony who could work his business on those lines, there would not be any work for the Bankruptcy Court, but as I suggested many years ago in connexion with the Railway Budget, is it not possible for the Government, on the basis of the great Henry Ford, to look inside and see if there are not economies which they know of and which would not hurt anybody, in fact, which would benefit the people affected? It seems a contradiction, but you have, Sir, on your files a proposition which does and can give you £74,000 a year definite saving on readjustment of one item in the Civil Service and at the same time does not affect any individual. In fact, it is a voluntary proposal, which would be jumped at by fifty per cent of the people concerned. If that were so, Sir, why could not that be considered? Why could not these suggestions be arranged and talked over? One great difficulty that Elected Members, especially myself, have, is this : that there is a growing feeling that the Elected Members are a sort of permanent opposition. It is a feeling, Sir, which has kept out of this Council, especially for Mombasa, the best men in the town. I am continually preaching it, and shall continue to do so, that we are here as their voluntary advisers chosen by the electorate to put forward their views to Government. I say to you earnestly, Sir, treat us like that, call us into your counsels, consult us with your difficulties, and there is not one question which you can raise and there is not one difficulty which you will have to surmount which will not be easily and very quickly disposed of if you carry out that policy.

COL. THE HON. W. K. TUCKER : Your Excellency, I desire first of all to associate myself with the opposition expressed by the Noble Lord and by subsequent speakers. This is the

first time I have had to face a Bill without the opportunity of consulting my constituents or other people in advance. That obviously is impossible with a Bill of this nature, but I am conscious, in so far as Nairobi is concerned, of one or two essentials, first of all that in a diversified community like this there will be a large group who will not find it unwelcome that there should be a reduction of a shilling per case on all proprietary brands of whisky; and then I will find another equally important group to whom any facilitating of the proverbial sundowner is anathema and in particular if that is achieved at the expense of the public purse. I will also be conscious, Sir, in so far as Nairobi is concerned, of a very sincere desire that this side of the House should exercise very great patience in dealing with what is to all intents and purposes a new Government.

After examining this Bill, Sir, and hearing its introduction, I have no hesitation in taking upon myself the responsibility of stating that the unnecessary irritation it will cause must exhaust the patience of the people I represent, not only because of that irritation but because of the principle which the Bill attacks. One could approach and attack it from many many angles. It does not matter which one is chosen, Sir, and I venture, for the reason which will very shortly be obvious, to choose a semi-personal one. I am one of a small group who, to our regret, go to Europe more often than our fellow men, a group of men who are credited with doing a certain amount of useful missionary work while we are in Europe—missionary work amongst two groups at home: first of all, those intending settlement; and, secondly, financiers in London and elsewhere who are capable of adding to our funds. Now, Sir, it is difficult enough in these times—and I have just come from Europe myself—to discount the facts of locusts, pests, diseases, droughts and other difficulties we have to contend with, but in the past we have always been able to use two arguments: One is that we have no income-tax, and the other is that in the case of indirect taxation it is never varied until and only after the fullest consultation, and the consent of the whole of the people of the country has been secured. Now, Sir, if this Bill goes through to-day I venture to say that all those statements are nullified, and what is very much more, a very dangerous precedent will have been established.

Regarding the taxation of motor vehicles and spare parts, I would like to say one word, Sir. I should like to remind the hon. mover that in April, 1930, when introducing the tariff of that date, he stated that motor transport had now become almost essential to the life of East Africa. What was essential in April, 1930, is equally essential to-day, but the

circumstances, so far from enabling taxation to revert, have in certain very definite ways swung the other way. I would only remind you, Sir, that many of the people in Nairobi, many more of the people in this country, who use transport, are voluntarily or otherwise drawing very much less salary than they did when the hon. mover made that statement. I would point out that, according to the Cost of Living Commission, transport, to the average worker in this country, and in particular to the urban worker, represents eleven per cent of the total cost of living. I know myself men who are using transport to-day, unfortunately, for the purpose of scouring the country looking for work, but a very much wider point is this, that there have been, and very often at Government instigation, many attempts in the last few months to reduce the cost of production in the case of all our key industries. Now, Sir, how is it possible where transport plays such an important part to tackle the question of reducing the cost of production in one moment and in the next moment consent, as we are asked to do to-day, to an increase in taxation?

I will be very brief, and I will conclude by asking two questions, both in a very friendly way. The first one, to the hon. mover, as to why, when he introduced what he claimed in April, 1930, to be a scientific tariff in April, 1930, and which he said eliminated all the obscurities of the past, why at that date he could not have manipulated the wine duties in the way he proposes to do to-day? Then, Sir, a bigger question, which I venture, with your permission, Sir, to address to the hon. the Colonial Secretary, in the belief that it is a question that should be answered because it simply gives information that for years we have had when these and similar problems have come before us, and that is: Is this really and truly in its genesis an effort on the part of the Government to balance their Budget, I say, by way of initiative, or is it in fact something they have adopted as a result of representations from Tanganyika and Uganda, representations incidentally which have been inspired by democratic committees examining the finances of their countries, because, if my second supposition is correct, then I suggest there was no need whatever for this debate to have taken place, because they are merely adjusting our Consumption Tax to their own revenue needs, and, what is of very much greater importance, Sir, if the answer follows my supposition, then I suggest that by precedent we are creating something, and agreeing—if we did agree, which apparently we are not going to do—to a new principle imposed upon us from without, and incidentally not a precedent, because one of the biggest controversies we have had in the last two or three years was imposed from without and, in the view of hon. Members on this side of the House, very weakly accepted by Government.

That is all I have to say, beyond reiterating the fact that the people for whom I speak are—I am quite confident, although I have not been able to consult them—not prepared to see a measure of this kind passed through the House.

THE HON. F. O'B. WILSON: Your Excellency, I beg to propose that the House be adjourned in view of the time.

THE HON. W. C. MITCHELL: Your Excellency, I beg to second.

The question was put and carried.

The Council adjourned till 2.30 p.m.

On resuming:

THE RT. HON. LORD DELAMERE: Your Excellency, on a point of explanation, is it an order of Government that none of the hon. Members on the opposite side should take part in the debate, because it is rather difficult for Members on this side to talk into a void without getting any answers from the people who have presumably been advising Government on this question?

HIS EXCELLENCY: Yes; Government will reply.

THE RT. HON. LORD DELAMERE: I do not mean the stereotyped reply which might be given by Government in the ordinary way.

HIS EXCELLENCY: The Colonial Secretary will reply.

THE HON. W. C. MITCHELL: Your Excellency, it seems to me, Sir, that in the present case the imposition of fresh taxation is going to fall, must fall, entirely on one industry of the Colony—the industry of agriculture. And when I refer to agriculture I do not mean necessarily European agriculture, because I feel that the native cultivator, who produces more than the actual requirements of his own family, is also an agricultural producer—

THE RT. HON. LORD DELAMERE: Hear, hear.

THE HON. W. C. MITCHELL: —and the burden of taxation must necessarily fall upon the one main source of wealth of this Colony. The state of agriculture in the Colony needs no amplification. It has been recognised by legislation recently passed in this House authorising subsidies to European agriculture or agriculture generally, and we have on the Order Paper to-day notice of a motion to vote the sum of £20,000 towards famine relief in certain Native Reserves, which is—this fact alone, I think—very eloquent testimony of the condition of agriculture in the country; and it seems to me so terribly inconsistent to be voting subsidies for famine relief on the

one hand and proposing additional taxation on the same industry on the other. I do not wish to traverse or say anything further on the many points that have been raised by hon. Members sitting on this side of the House. With practically the whole of them I am in entire agreement, but there is one small point which I do not think has been mentioned. It is not exactly covered by this Bill, and I trust I shall be in order. In Your Excellency's opening remarks to Council you mentioned the question of an increase in postal rates, but . . .

HIS EXCELLENCY: We are considering this Bill now, which has nothing to do with the postal rates.

THE HON. W. C. MITCHELL: I bow to your ruling, Sir. I would say that in introducing this additional fresh taxation, when we happen to know that after producing it overhead charges are likely to be increased, and comparing also the amount, that the amount involved by the taxation is relatively speaking small in comparison with our needs, I think that it is going to produce a feeling of the utmost irritation in the Colony, which is very much the reverse of the feeling we really want at a time such as the present.

THE HON. F. O'B. WILSON: Your Excellency, I will not go over a lot of ground that was covered this morning about trying to find out the reason for this sudden reversal of policy of the Government. It is a most mystifying thing. In the last six months we have been approaching Government to go into matters from the beginning, and go right into things. We have been told by the Government that they in their wisdom are going into these matters, and that when their wisdom is exhausted there can be no other wisdom left in the country. Well, that went on up to a fortnight ago, when we appealed from this side of the House, again asking that we might have a chance of going into matters connected with the 1931 Budget. Again, we were told there was no wisdom left; it was all used up, and that there was no possible reason for going into these things. Within a fortnight we have extra taxation put on. Why, I fail to discover. There is no reason given by the hon. Member why—no sort of reason that I can see. He merely said that a very limited duty is going on really—a little on wines and champagne, and so on, and that was all there was to it. I thought he might have had the courtesy to say something about it. It is rather an uncommon sort of procedure suddenly to spring extra taxation on people without warning of its coming. There were other things which he said and did not say, and, as far as I can make out from the very stereotyped explanation there was of this Bill, that there will be a loss on whisky, a loss on champagne, by which the revenue will lose—both of them are going to be cheaper—but there was no word as to how much

that loss is going to be. Is the idea that the consuming power of the House will be bigger than it used to be, that they can make up for the loss in revenue? I suppose that is it, as we have no other comments on it. I do think that with the advice you have received, the Government has been most extraordinarily unfortunate.

HON MEMBERS : Hear, hear.

THE HON. F. O'B. WILSON : They have not, most of them, whom we understand advised you—have not been very long in the country. They are not in touch with the general feeling of the country. In fact, Sir, the feeling one has, is that you have been advised by the new boys who have just come. Well, it does not create an awfully good impression on the ones that have been some time longer in the country, when they have a feeling of that kind, Sir, and the advice has been extremely bad.

Another point I should like to raise—it is only a minor point perhaps—but is this Bill in order? We have two directly contrary rulings, as far as I can understand the thing. Immediately after the suspension of Standing Orders was moved, the hon. Member for Plateau South got up and suggested that the Bill was out of order, because it had not been printed in the usual form, and the ruling as I understand it was that the suspension of Standing Orders applied. Shortly afterwards, the question was again raised on this point of order by this side of the House about the same ruling on a point of order that suspension of Standing Orders still applied. We were told that suspension of Standing Orders did not apply. When did they cease? They could not have it both ways, as far as I can understand.

Another point about this thing, Sir, that is causing tremendous resentment in the country and is a thing we feel very strongly : that is, taxes put on by people who have no stake in the country, who are not very long in the country, and who do not propose to remain long in the country. They can make every sort of mistake and "bloomer," but they do not mind—they clear out and draw their pensions. We suffer by the mistakes, and we never have a chance of being consulted or anything else. It is not encouraging to people to give up their time to try and help the Government and the country when their advice is deliberately neglected and refused. It is not much good going on, as I have no doubt that in a few minutes we shall have the gramophones going with the records of "His Master's Voice," and the thing will go on, but I do not think you can be in any two minds, Sir, as to what the feeling as to these two unfortunate proposals is going to be in the country.

CAPT. THE HON. J. L. COTTER : I am opposing this motion because the amount involved to my mind is hopelessly inadequate. I would like to draw Your Excellency's attention again to your speech made on the opening of this Council, when you said :—

“ I have already informed you of the steps which the Government has taken to meet such immediate needs, and unless the revenue position becomes still worse in the next two or three months, I trust that these steps will prove adequate.”

Your Excellency, it is not two or three months yet—only a few days have passed—and we are asked to vote for fresh taxation. There is one other point that comes into this. It has been foreshadowed that the Native Hut Tax, which will shortly have to be collected, will have to be remitted in part or in whole, and, from what I hear, to a large extent in the Kikuyu Reserve. I take it that is £2,000 this Council has to find. It is simply futile to vote an amount which at the outside comes to £14,000. I cannot help thinking that what we really require are drastic remedies, and that the whole position of the conditions, both of leave and salaries, in the Civil Service, requires looking into. That it has to come, and that it will come before this year is out is obvious. I have heard the hon. the Attorney General mention before the contractual obligations. If a firm is bankrupt, there is no question of meeting contractual obligations at all. It is a question of so much in the pound, and it is for those reasons I intend to oppose this measure.

THE HON. THE COLONIAL SECRETARY : Your Excellency, the hour is late, and in view of the anxiety expressed by hon. Members at the last meeting to have fuller information on the subject of the locust menace, in respect of which a notice of motion stands on the Order Paper to-day, which, should Your Excellency think that desirable, by suspension of Standing Orders the necessary matters could be dealt with, and the matter debated still to-day, which I understood from the attitude adopted at our last meeting was the desire of the House ; in fact, the House adjourned because it regarded this matter of such enormous importance—I do not propose to prolong this debate any further than is necessary.

My hon. friend the Commissioner of Customs will, I have no doubt, deal with such points as definitely affect the Bill which is the subject of this debate, but I cannot help feeling that in view of the licence, Sir, which you have given on the subject of this debate, the debate has very largely ranged, not upon the specific point before us, namely, whether or not this particular method of taxation should be introduced, but on larger issues which, in part at least, Sir, I would suggest are

not entirely relevant. I have, Sir, far too much admiration and respect for the statesmanlike knowledge of the Noble Lord the hon. Member for Rift Valley for it to be necessary for me to follow him in his suggestion that, because, at a time when, as already Council are aware, we are confronted with a shortfall in revenue of some £231,000, and because on the expenditure side Government has already on its own initiative made economies to the amount of some £160,000, because such economies have been made by the Government and fully laid before the House, but made at a time when this House was not in session, for that reason hon. Members opposite feel it impossible to co-operate with Government in what is, I suggest, purely a matter of common prudence, namely, if on the revenue side of the account, without prejudice to what may be done even further on the expenditure side, we can add to that revenue by additional sources of taxation which we believe can be shown to inflict a minimum of hardship on the community as a whole.

With the greatest respect I would suggest that hon. Members dealing with this motion have taken to the wider and perhaps the more political issue, and have definitely failed to attack any particularly definite items of taxation which are before them to-day.

I should like to repeat, Sir, that the attitude of Government in this matter is that it is a matter of common prudence, in view of the position which is known to all hon. Members opposite, to explore all possibilities of legitimate additional revenue, quite apart from what further economies it may or may not be possible to make on the expenditure side; and I do suggest, Sir, that the manner in which this Bill should have been examined and treated is on its merits as to whether, as a revenue-producing measure, it is a reasonable one, and unlikely to cause undue hardship which could be avoided.

I do not propose, Sir, to say more, or to follow the hon. Member for Nairobi North into his missionary activities at home, but as he has asked me one question on the subject of the origin of the Bill, I would like to give him that information. As already explained by the Commissioner of Customs, so far as the duties on wines are concerned, in introducing this measure it is not the intention of Government to seek for additional revenue. We are merely in this respect coming into line with other Colonies, who do definitely, in a time like this, despite all that we have heard to the contrary, consider that to put their house in order additional sources of revenue must be explored. On the other hand, Sir, as I have said, this Government considered that it was a matter of common prudence to explore the possibilities of further revenue, and after careful consideration it was thought that the duties on

parts and tyres which it is now proposed to impose would find us a certain amount of revenue, and would, it is believed, cause a minimum of hardship on the persons using such vehicles. To impose that taxation necessitated an amendment of the Ordinance, and therefore opportunity was taken of killing two birds with one stone and laying both the spirits taxation and the motor taxation before you in the form of one comprehensive Bill.

Once more, Sir, I would plead for a greater spirit of reality in considering this motion. What have we got before us? As I have just stated, on figures before Council, we are confronted with a shortfall in revenue of some £231,000. Government has already made cuts in expenditure to the tune of some £160,000, and in mentioning that, Sir, I should like to correct an impression that appears to have been made in the mind of the hon. Member for Plateau South. He gave me credit for stating that when this matter was under consideration on a former occasion I said that no further curtailment of expenditure was possible. I have no recollection, Sir, of making any such statement. What I said was that the economies shown in the statement tabled were economies which had been made. As a matter of fact, Sir, and as you indicated, I think, in your address, the Government and Heads of Departments are continuously considering their expenditure with a view to reducing it as far as possible, and even since that statement was laid further economies to the extent of some £4,000 are likely to be realised. I would therefore suggest again, Sir, that we should come down to facts. We should examine whether or not in this year it is in the interests of the Colony as a whole to get another £9,000 in this manner, and possibly £18,000 in the following year. If we can do so without creating serious hardship on any section of the community, and that the Government should take such action, should take the initiative in this manner, should ask hon. Members opposite to co-operate with them in doing so, I do suggest, Sir, that that is an ordinary action for this Government to take and that it contains no underlying menace to the hon. Members opposite whose assistance, as I have already stated on your behalf, Sir, we cordially expect to receive in the future as we have done in the past.

THE RT. HON. LORD DELAMERE: Your Excellency, I think it is quite time that the question raised by my hon. friend the Member for Ukamba was raised in this House. I think that the whole of this debate is outside the Orders of this Council, and is therefore null and void. It lays down in No. 64 of the Standing Rules and Orders that "a statement of the objects of and reasons for the Bill" should be included in that Bill when it is presented to Council.

Now, Sir, that question was raised earlier in the debate when a point of order was put, and Your Excellency ruled that Standing Rules and Orders had been suspended, and that therefore your ruling was against the question put. Now, Sir, with the greatest possible respect, Sir, His Excellency's ruling cannot naturally stand against a definite Rule of Council, and I submit, Sir, that a later question settled the matter completely to-day, as to whether the suspension of Standing Rules and Orders covered anything except the power to bring in a Bill without proper notice, because when another question was asked as to whether a Member had not the right to bring in a thing twice in six months because Standing Rules and Orders were suspended, Your Excellency ruled against that, quite rightly ruled, I think, Sir, against that.

HIS EXCELLENCY : Which one was that ?

THE HON. THE ATTORNEY GENERAL : No. 34, Sir.

THE RT. HON. LORD DELAMERE : Yes, Sir. The point was that either Standing Rules and Orders are suspended altogether or they are not. Of course they are not. They are only suspended in order to enable a Bill to be introduced without notice. That is the only request made by the mover of the motion for the suspension of Standing Rules and Orders, and that is all that is asked for by him and all that has been passed by this House.

Therefore I suggest that that does not do away with the fact that Government, in presenting this Bill to Council, shall under Rule 64 send to each Member a copy of the Bill, together with a statement of the objects of and reasons for the Bill, and I suggest that that makes the whole of this debate that we have had *ultra vires*, outside the Rules of this House, and null and void, and I challenge my hon. friend the Attorney General to say that that is not the case.

THE HON. THE ATTORNEY GENERAL : Your Excellency, if I may venture to interpose on this point of order, I very gladly accept the Noble Lord's challenge. I would remind him, Sir, that the terms of my motion for the suspension of Standing Rules and Orders were specific, and were limited to the terms of the motion that Standing Rules and Orders should be suspended to an extent sufficient to enable these Bills to be introduced and to be taken through their various stages to-day without due notice.

Now, Sir, the Standing Rule and Order which deals with notice is No. 64, to which the Noble Lord has drawn attention, and it reads thus (I prefer, Sir, to cite the whole of it and not to take an excerpt) :—

“ At least fourteen days prior to the date on which it is proposed to read a Bill for the first time it shall be the duty of the Clerk to send to each Member a copy of

the Bill together with a statement of the objects of and reasons for the Bill and, where a Bill amends the whole or part of a section of an Ordinance already in existence, the whole of such section set out in full, and, if the expenditure of public moneys is involved, an estimate of the probable cost to the Colony that will be caused by such enactment. The Clerk shall at the same time cause the Bill to be published in the Official Gazette."

I would draw attention to this fact: that there is nothing in that Rule, there is nothing whatever in these Standing Rules and Orders, that says that a statement of the Objects and Reasons is a part of the printed Bill at all. It is a statement which has to be sent round by the Clerk of Council at the time when the Bill is published, at the time when notice of the Bill is given. A Bill is sufficient if it is published in the Gazette—that is notice; circulation is notice; a statement of the Objects and Reasons coming from the Clerk of Council to each Member is part of notice; and the financial statement is part of notice. And the motion this morning, Sir, was that Standing Rules and Orders be suspended to such an extent as to enable notice to be waived. I submit that every one of these things is an integral part of notice.

There never was any motion, as was suggested by the hon. Member for Ukamba, that Standing Rules and Orders of the Council be waived. Council cannot, of course, operate without procedure rules. That was never suggested, it was never in the contemplation of anyone, Sir, but so far as notice is concerned, Standing Rules and Orders have been waived by vote of this Council, and what the Noble Lord has drawn attention to, Sir, is, in my submission, an integral part of notice.

THE RT. HON. LORD DELAMERE: Your Excellency, may I be allowed to put forward the point that I am quite certain that when a thing of this sort is laid down by the Legislature it is the intention of the Rule that should be followed, and that it should not be got out of by some quibble as to notice or whatever the thing may be. It has nothing to do with the question of notice. It is that Members should understand while they are reading a Bill or sitting in their places, or the day before, or that morning, or whenever it may be, what the purposes of that Bill are, what the objects and reasons for that Bill are. I submit, Sir, it is straining the Rules, the intention of these Rules, if Your Excellency rules that this Bill is in order. I suggest, Sir, it is not in order. It has not carried out the intention of Rule No. 64.

HIS EXCELLENCY: I have to give a ruling on the matter, and I rule that the Bill was in order.

THE HON. THE COMMISSIONER OF CUSTOMS : Your Excellency, so far as the provisions of this particular Bill are concerned, there seem to be very few points arising out of this debate which I am called upon to answer, but I should like to say, Sir, that I have been accused of discourtesy in not explaining the Bill more fully on its introduction. There was no intention whatsoever of discourtesy, Sir, nor was there any intention whatsoever that any facts should be suppressed. The only thing was that these matters of detail should be discussed in Committee and that matters of principle should be discussed on the second reading.

THE RT. HON. LORD DELAMERE : The hon. Member had no principles in the matter.

THE HON. THE COMMISSIONER OF CUSTOMS : The first argument which was adduced was by the hon. Member for Plateau South, who called it a petty pilfering argument. So far as I am concerned, I am quite unable to answer that argument, because my experience of petty pilfering is entirely at second hand.

THE RT. HON. LORD DELAMERE : On a point of order, Sir, is not that an accusation against my hon. friend?

HIS EXCELLENCY : I hold it is not.

THE HON. T. J. O'SHEA : I am perfectly prepared to accept with regret the very limited experience of the hon. Member in a capacity in which he should be more familiar with petty pilfering.

THE RT. HON. LORD DELAMERE : That is the reason why he is so bad at it now.

HIS EXCELLENCY : Order, order.

THE HON. THE COMMISSIONER OF CUSTOMS : The hon. Member for Plateau South also asked me for an assurance that the estimated amount would be realised. I am quite unable to give that. The only assurance I can give is that in my opinion the small increase entailed will not in any way affect importations and that there will be a *pro rata* increase in revenue according to the amounts imported.

He, Sir, drew attention to the fact that he considered it was entirely wrong to charge the native 20 per cent duty on bicycles. In that connexion I would point out that they are a semi-luxury; that prior to April, 1930, he had always paid 20 per cent on his bicycles, and even at the present time he pays 20 per cent on his loin cloths.

The hon. Member for Kikuyu suggested that the small difference in incidence on taxation of wines would have the effect of reducing the importations from the British Empire.

particularly in regard to sparkling wines other than champagne. I have looked up the figures in that connexion, and the importation of sparkling wines, other than champagne, amount to less than 10 per cent from the British Empire and 90 per cent from foreign countries. He suggested also that Civil Servants were the only persons able to bear additional taxation at the present time. Without agreeing, I would point out that this proposed additional taxation does affect Civil Servants quite as much as any other section of the community.

THE HON. T. J. O'SHEA : How unfortunate.

THE HON. THE COMMISSIONER OF CUSTOMS : The hon. Member for Plateau North mentioned an argument which I had not thought about for discussion in this Council, and that was the first cost of tyres and mileage covered. I suggest, Sir, that it is a perfectly good argument so far as additional taxation goes, the point being of course that the mileage covered by tyres is so great that the additional cost of transport per mile is absolutely infinitesimal, and it cannot hurt anybody to any appreciable extent. It is a very small additional taxation.

THE RT. HON. LORD DELAMERE : In fact, that the manufacturing businesses should take it themselves as quickly as possible.

THE HON. THE COMMISSIONER OF CUSTOMS : The hon. Member for Nairobi North quoted something which I said on the introduction of the Customs Tariff in 1930, when I gave as a reason for a remission of the taxation on motor vehicles that they were almost essential to life in East Africa. In that connexion I would point out that the basic duty under the tariff is 20 per cent. The present intention is to increase the tax on motor vehicles to 15 per cent, and, as I said before, the duty on lain cloths and other absolute necessities is still 20 per cent.

The hon. Member for Nairobi North also claimed that the tariff of 1930 was a scientific instrument and that he thought I might have incorporated some more taxes in that instrument at that time, that is if I understood his argument. In that connexion the Tanganyika Territory and Uganda Governments were not prepared to tax wines and spirits to that extent and therefore it was quite impossible for me to suggest to this particular Government that the tax should be incorporated in a tariff which is common to the three Territories. At the same time it does not alter my suggestion that the tariff is in fact a scientific instrument. I never suggested for one moment that the consumption tax was a scientific instrument.

COL. THE HON. W. K. TUCKER : My suggestion was intended to be this—with the hon. Member's approval—that there should be a big reduction in champagne and a very considerable advance in other liquors and I suggest to him that my point is a very good one and that he might have adjusted it a year ago.

THE HON. THE COMMISSIONER OF CUSTOMS : In my opinion, the taxation under the Customs tariff was always perfectly equitable and the relationship between sparkling wines and champagne, and other sparkling wines and still wines, was quite a common one. The real trouble was that the consumption tax put on the duty of Sh. 15 per gallon on champagne and only Sh. 3 per gallon for all other wines other than champagne. That could not possibly affect the argument as far as the Customs Tariff of 1930 was concerned, because the tax is entirely different and far from it.

The hon. Member for Plateau North said that the incidence of this additional taxation must fall on agriculture. As I have already pointed out, it falls equally on the Civil Servants.

THE HON. T. J. O'SHEA : It is carried by agriculture.

HIS EXCELLENCY : Order, order.

THE HON. THE COMMISSIONER OF CUSTOMS : The hon. Member for Ukamba drew attention to a small reduction in the tax on whisky. It is only a small reduction in the case of bottled whisky, which is under $12\frac{1}{2}$ per cent under proof. A considerable amount of whisky is imported which is stronger than $12\frac{1}{2}$ per cent under proof. If whisky were imported over proof it would still under the Wines and Spirits Consumption Tax Ordinance, pay Sh. 7.50 per gallon. Under the Customs tax it would pay considerably more because duty would be assessed on the basis of strength and not liquid quantity. To amalgamate these two taxes equitably so that there should be no additional taxation on wines and spirits was the difficulty, and of course in this direction one must give particular attention when one is dealing with three Territories and not one.

Those are, I think, Sir, all the points which were raised in this debate.

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

The question was put and carried by 17 votes to 11.

Ayes : Major Brassey-Edwards, Mr. Bruce, Canon Burns, Messrs. Butler, Fitzgerald, Gilbert, Dr. Gilks, Messrs. MacGregor, Martin, Moore, Rushton, Scott, Wade, Walsh, Lt.-Col. Watkins, Messrs. Welby, Wolfe.

THE RT. HON. LORD DELAMERE: On a point of order, is it not an Order that where a Bill amends the whole or part of a section of an Ordinance already in existence the whole of such section shall be set out in full? Now that again, Sir, is a complete violation of Standing Rules and Orders.

HIS EXCELLENCY: It is the same point that I have just ruled on.

THE RT. HON. LORD DELAMERE: On a point of order, that has nothing to do with notice: that is in the Bill as before the House.

HIS EXCELLENCY: I have given a ruling on the same point.

THE RT. HON. LORD DELAMERE: With the greatest respect, Sir, is it the same point?

THE HON. THE ATTORNEY GENERAL: It is the same Standing Order which I read at length, Sir.

THE RT. HON. LORD DELAMERE: Then is it an order that . . . How is this Council to deal with these matters? I do not understand.

THE HON. THE ATTORNEY GENERAL: I would remind hon. Members of what the Commissioner of Customs has just said, Sir. The item number is unchanged; the wording under the heading "Article" is completely unchanged; the notes "Per Imperial gallon," "Per proof gallon," and so on, are quite unchanged. The only change is one of figures, and I have already offered—and I am only too ready, Sir, if hon. Members so desire—to read out as slowly as hon. Members may wish, the figures in the 1930 Ordinance. That is the only change. There is no change of the law otherwise.

THE RT. HON. LORD DELAMERE: May I then ask the hon. mover of the Bill, the Commissioner of Customs, what difference in the question of spirits this amendment of the Bill makes. I understand that it brings down the price of proprietary whiskies and other drinks by something like one shilling, and puts up over-proof things by something like the same amount, or some amount. Would the hon. mover of the Bill tell us first of all whether the amount that is being taken off proprietary brands of whisky will be balanced by the amount put on to over-proof whiskies and other spirits?

THE HON. THE COMMISSIONER OF CUSTOMS: Your Excellency, I did not know we had got quite so far.

THE RT. HON. LORD DELAMERE: I would ask Your Excellency to excuse us if we cannot follow a Bill which is not before us. I was taking No. 2.

HIS EXCELLENCY: What is the point in No. 2? An amendment has been proposed; we must deal with that first.

The amendment is

THE HON. T. J. O'SHEA: Before the amendment is put, may I reply to the offer of the hon. the Attorney General to read out the clause? I should like to emphasise that I am not in any fractious spirit; I am not trying to waste the time of the House—but I do want, by pressing this point to emphasise what a position the House will be in if it is content to accept the hon. the Attorney General's interpretation of the position we are in to-day regarding the suspicious Rule No. 64. If I have brought that home to Your Excellency and to the House, I am quite satisfied to withdraw my point.

HIS EXCELLENCY: You want the Attorney General to read out the clause?

THE HON. T. J. O'SHEA: I wanted to emphasise that without a copy of the Bill or of the clauses that are being amended the House cannot attempt to conduct its business competently. I must press that point. Having done that, I withdraw it.

HIS EXCELLENCY: The question is that the letter " (c) " appearing in line three of the clause after the figure " 49 " be deleted and the letter " (e) " be substituted therefor

The question was put and carried.

THE HON. T. J. O'SHEA: May I suggest that in accordance with Standing Rules and Orders we should proceed paragraph by paragraph, clause by clause.

THE HON. THE ATTORNEY GENERAL: It is all in the same clause, Sir.

HIS EXCELLENCY: The question is that the letter " (c) " appearing on page 2 of the Bill after the figure " 49 " be deleted, and the letter " (e) " be substituted therefor.

THE RT. HON. LORD DELAMERE: In order intelligently to go into any Customs amendment it has been the custom to go through the schedule first—naturally, otherwise nobody knows what the amendment of " deleting Items 27 (b) and (c) " means, or whatever it may be.

We have not got the Principal Ordinance before us, and the point that requires debate, although that does not mean that we agree with the principle, Sir, is the schedule.

THE HON. THE ATTORNEY GENERAL: It is not in the form of a schedule in this case, Sir. That is why the usual practice has not been followed. This is an integral part of clause 2 of the Bill. Where we have it in the form of a schedule, it is taken first. In this case, as the Noble Lord will see, it is an essential part of clause 2 of the Bill which amends the schedule to the Principal Ordinance.

THE RT. HON. LORD DELAMERE: I cannot give any opinion on it; I have not got the Ordinance before me.

THE HON. THE COMMISSIONER OF CUSTOMS: Your Excellency, the particular amendment now before the House . . .

THE HON. THE ATTORNEY GENERAL: All the wording is the same except the figures.

THE HON. THE COMMISSIONER OF CUSTOMS: It is purely a verbal amendment. It so happens that a typewriter makes a " c " and an " e " very much alike, and in carbon copies it is even more alike. Item 49 (e) refers to Bicycles, etc., which is exactly the same as in the Principal Ordinance. Item 49 (c) refers to " Tar and pitch boilers, street-spraying machines, and similar vehicles ordinarily employed in the construction and maintenance of roads." If this were allowed to stand as printed, Sir, the result would be that tar and pitch boilers would be deleted from the Tariff as free imports and would then appear as dutiable at 20 per cent *ad valorem*.

THE RT. HON. LORD DELAMERE: I am very sorry, but I really cannot understand what this amendment to the schedule to the Principal Ordinance, which is No. 2, is. I do not understand what it means at all. It says—I will read it out, as nobody else has:—

" The Schedule to the Principal Ordinance is hereby amended by deleting Items 27 (b) and (c), 29 (a), (b) and (c), 49 (c) and (f), 61 (a), 63 and 121, and substituting therefor the following:—

<i>Item.</i>	<i>Article.</i>	<i>Duty.</i>
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27. Spirits—

(b) Liqueurs, cordials and mixed potable spirits,
exceeding 3 per cent of proof spirit . . ."

and so on.

HIS EXCELLENCY: This is exactly a copy of the schedule.

THE HON. THE ATTORNEY GENERAL: The same items.

THE RT. HON. LORD DELAMERE: I have no idea what it means.

HIS EXCELLENCY: The question is that the letter "(c)" appearing on page 2 of the Bill after the figure "49" be deleted and the letter "(e)" substituted therefor.

The question was put and carried.

HIS EXCELLENCY: The question is that the clause as amended stand part of the Bill.

THE HON. T. J. O'SHEA: That is not covering the schedule of items?

HIS EXCELLENCY: It is all included.

THE RT. HON. LORD DELAMERE: We tried to put one up just now, but we were told we were not dealing with that part of the Bill. The only thing for us to do is to start with something and find out whether we are ruled out of order because we do not know what part of the Bill we are in. The point I want to bring up is this question of champagne.

THE HON. THE ATTORNEY GENERAL: Item 29 (c).

HIS EXCELLENCY: Does any hon. Member want to take it item by item before the Noble Lord proceeds?

HON. MEMBERS: Yes.

HIS EXCELLENCY: I am taking it item by item now; when it comes to the item dealing with champagne the Noble Lord will perhaps draw attention to his point.

Item 27.—Spirits.

THE HON. W. C. MITCHELL: Your Excellency, I should like to move an amendment to clause 27 (c), which changes the duty to "Per Proof gallon ... 48.00" which I should very much like to see made Sh. 57. I myself think this is not the right time to reduce the price of whisky.

THE HON. T. J. O'SHEA: Your Excellency, if I could get an undertaking from Government that reductions would be made in some better way I should have great pleasure in supporting that—reductions in taxation in some other more deserving direction.

THE HON. THE COMMISSIONER OF CUSTOMS: As I thought I had explained, there is not necessarily any reduction in the duty chargeable on whisky except in respect of certain proprietary brands. Under the Wines and Spirits Consumption Tax Ordinance, whisky was chargeable with a tax of Sh. 7/50 per liquid gallon. Under the Customs Tariff Ordinance, whisky is chargeable with duty at Sh. 40 per proof gallon, and that is exactly where the difficulty lay in amalgamating the two. As I have already pointed out, this so-called reduction, which is only 50 cents a gallon, refers to certain proprietary brands of whisky, but not to anything which is over 2½ per cent under proof. There is no reduction in duty at all in regard to proof spirit and over—on the contrary, there is definite increase in duty.

THE HON. W. C. MITCHELL: That is exactly what I understood, Sir—in this particular instance I was not asleep—but I believe 90 per cent of the whisky drunk in the country is brands like *Johnnie Walker, White Horse, Black and White, John Haig*, and so on, and I understand that the whole of these brands of whisky will be subject to a reduction under this altered tariff, and I am entirely against any reduction on that class of whisky at the present time.

THE RT. HON. LORD DELAMERE: On what principle is any reduction being made? After all, we have been told about the desirability of making revenue on this. Everybody has drunk these brands for a great many years at this particular price, and it seems to me a very curious thing that this reduction should have been made, except as a purely purist matter on the part of the hon. the Commissioner of Customs, who wants to bring the thing into line regardless of whether it loses money or not, I understand.

THE HON. THE COMMISSIONER OF CUSTOMS: I can give an assurance that as far as the total duties are concerned I am quite satisfied that the same amount will be forthcoming. This, as I stated in my opening remarks, Sir, is by inter-territorial agreement. The other Territories were prepared . . .

THE RT. HON. LORD DELAMERE: Not Territories; they never heard of it.

THE HON. THE COMMISSIONER OF CUSTOMS: I do not quite follow the argument, Sir.

THE RT. HON. LORD DELAMERE: The argument is this—as we are in Committee, I have the right to speak again—that the Territory has never heard of it; presumably one person or two persons in the Territories did hear of it, but nobody else did.

LT.-COL. THE HON. C. G. DURHAM: May I ask the hon. the Commissioner of Customs to give us the figures for over-proof and under-proof whisky imported, so that we can get these figures for ourselves.

THE HON. THE COMMISSIONER OF CUSTOMS: It is quite impossible to give those figures; we do not keep them.

LT.-COL. THE HON. C. G. DURHAM: Did you work out what you were going to save or lose on it, Sir?

THE HON. THE COMMISSIONER OF CUSTOMS: We do not keep separate statistics on each importation of whisky.

I stand corrected by the hon. Member for the Rift Valley; I referred to the Governments of the two Territories.

THE RT. HON. LORD DELAMERE: Was it even the Governments?

What is the amendment now?

THE HON. THE COMMISSIONER OF CUSTOMS: To Sh. 48 per proof gallon.

THE HON. F. O'B. WILSON: We have not heard what was going to be the loss on this.

HIS EXCELLENCY: Are you dealing with this amendment?

THE HON. F. O'B. WILSON: Yes, Sir. I think it is very pertinent. The object is to find out how much revenue the country will lose by reason of the fact that certain proprietary brands are being charged less. The Commissioner of Customs has been asked that several times, but he always seems to dodge it.

THE HON. THE COMMISSIONER OF CUSTOMS: I have stated that in my opinion no revenue will be lost.

LT.-COL. THE HON. C. G. DURHAM: Then surely he can give us the figures?

THE HON. THE COMMISSIONER OF CUSTOMS: That is my opinion. Under Item 27 (b), "Liqueurs, cordials and mixed potable spirits, exceeding 3 per cent of proof spirit," the proposal is that they should be charged at Sh. 48 per Imperial gallon, the previous charge being Sh. 47/50.

THE RT. HON. LORD DELAMERE: I do think we should press this question. The hon. Member has said that it is his opinion; has he taken a horoscope on it or something of that sort? He should surely, if it is his opinion, have some figures on which to base that opinion. I think hon. Members on this side of the House should have some idea as to what he bases his opinion on. The whole of this trouble is owing to the fact that he based his opinion a very few months ago on something entirely inaccurate, and we are here to-day trying to make up the difference

THE HON. THE COMMISSIONER OF CUSTOMS: I question that remark. A few months ago I was away on leave. I did not base my Estimates on anything at all inaccurate. I always have understood that this Council was prepared to accept my Estimates as a reasonable figure; I am sorry to find that is not the case.

THE RT. HON. LORD DELAMERE: The trouble was that they did, and that is why we are here to-day.

HIS EXCELLENCY: We are dealing with this amendment. What exactly was the amendment?

The amendment is that for the duty of Sh. 48 against Item 27 (c), there be substituted Sh. 57.

THE HON. T. J. O'SHEA: Your Excellency, there is some importance in this issue that has been raised, and I for one want to get to the bottom of it. As far as I can follow the Commissioner of Customs, the total amount that would be secured by Government from the general heading of Wines and Spirits will be approximately the same. That is what he anticipates, although he has definitely refused to give to the House any figures. When one probes into it, one finds that there will be a definite reduction of approximately one shilling per bottle.

THE HON. THE ATTORNEY GENERAL: Per case.

THE HON. T. J. O'SHEA: Per case, on all proprietary brands; that is to say, practically all, if not all, the bottled whisky that is imported into the country. I understand it will be a very big quantity in an average year, and despite the bad time we are going through, I am very much afraid it will continue to be quite a considerable quantity of whisky this year. That being so, Sir, can the hon. Member give us any indication as to what quantity of whisky out of the total of Wines and Spirits is likely to be affected by that definite reduction in the taxation of it?

THE HON. THE COMMISSIONER OF CUSTOMS: I cannot possibly give definite figures, Sir. As anybody who knows anything about trade statistics will understand, importations of spirits are given in terms of "proof gallons total" for a year. It is impossible for me to give a definite figure as to what proportion of that total is 20 per cent under proof and what is 10 per cent under proof, and what is proof spirit. That is an unusual request to make.

THE RT. HON. LORD DELAMERE: Then we have a perfect right to say that there is likely to be a loss in revenue on this particular proposal.

LT.-COL. THE HON. C. G. DURHAM: Has the hon. Member worked out his figures on the basis of last year's importations, and if so, could he give us last year's importations of over-proof and under-proof? He must have some basis for working them out, Sir.

THE RT. HON. LORD DELAMERE: It is purely political.

THE HON. W. C. MITCHELL: As the hon. the Commissioner of Customs apparently does not quite know what the financial implications are likely to be that are involved in this change, I should like to emphasise a point which I failed to make possibly when I moved this amendment. I was not worrying so much about the financial implications as the effect that it will have on the average settler in the country—I mean in towns as well as in the country. They are very much up against it at the moment, and possibly they are not quite as tolerant as they might be at other times, and I think for them to be told that the costs of production, that is to say, tyres, motor cars and accessories, and so on, are going to be increased in price through taxation, but when they go into places in Nairobi or elsewhere in the country and see people better placed with this world's goods . . .

HIS EXCELLENCY: We are in Committee; we are not dealing with the principle of the measure. We are dealing with this item. You have moved an amendment?

THE HON. W. C. MITCHELL: I wanted to emphasise the psychological effect of this change rather than the financial aspect.

HIS EXCELLENCY: Does any other hon. Member wish to speak to this amendment?

The question is that against item 27 (c) the figures "48.00" be amended to "57.00."

The question was put and lost.

HIS EXCELLENCY: The question is that item 27 (c) in clause 2 stand part of the Bill.

THE HON. F. O'B. WILSON: On a point of order, what does "N.E.E." mean?

THE HON. THE ATTORNEY GENERAL: "Not elsewhere enumerated," Sir.

The question was put and carried.

Item 29.—Wines.

THE HON. T. J. O'SHEA: I understood the hon. the Commissioner of Customs to say there was some increase in the duty on wines other than champagnes. I should be glad if he would give us information as to what the increases are on those other wines.

THE HON. THE COMMISSIONER OF CUSTOMS: Yes, Sir. Under item 29 (a) there is no increase. The same remark applies to 29 (b) (I) and 29 (b) (II). So far as item 29 (c) (I) is concerned the proposed duty is Sh. 25, and the original duty was Sh. 12/50, with a consumption tax of Sh. 15. So far as item 29 (c) (II) is concerned, the original Customs duty was Sh. 10, with a consumption tax of Sh. 3, and the proposal is that the consolidated duty shall be Sh. 17/50.

THE RT. HON. LORD DELAMERE: May I ask the hon. Member the Commissioner of Customs what the particular principle involved in that is, or rather what the object of that is? We have had a consumption tax on champagne for a considerable number of years, put on because we considered that people who could afford to pay for champagne could very well help to educate the children of the country, and no objection has ever been made to that that I have ever heard of. Everybody thinks it a luxury: everybody believes that is a proper tax, and for what reason is it proposed that half-a-crown should be taken off each Imperial gallon of champagne, or whatever the amount is?

HIS EXCELLENCY: Do you desire to propose an amendment to this?

THE RT. HON. LORD DELAMERE: Yes, Sir. I move an amendment simply on the grounds that this Government is going to steam-roller this Bill through. On this account I think it is the duty of Members on this side of the House to do their best, if they disagree entirely with the principle of further taxation, to bring this Bill back to something else.

I beg to propose, Sir, that the ratio between champagne and the other sparkling wines remain as it was: that the amount on an Imperial gallon of champagne shall be Sh. 27/50, and that the amount on other sparkling wines shall be Sh. 13, as in the original Bill.

LT.-COL. C. G. DURHAM: I support the amendment, Sir.

THE RT. HON. LORD DELAMERE: The amendment is that the ratio between champagne and sparkling wines should remain as it is to-day in the original Ordinance.

HIS EXCELLENCY: The amendment is that in item 29 (c), the duty against sub-item (I) be amended from "25.00" to "27.50"; and that the duty against sub-item (II) be amended from "17.50" to "13.00."

THE HON. THE ATTORNEY GENERAL: May I point out that would be Sh. 12/50 and Sh. 10; we should be losing a great deal of money.

THE RT. HON. LORD DELAMERE: I said Sh. 27/50, which included the consumption tax, and Sh. 13 for the other wines, which also included consumption tax. I thought I made it quite clear. That does not mean I agree in the least with taking off the consumption tax, which has been put aside for a special purpose, and putting it into general revenue.

THE HON. T. J. O'SHEA: I should like to support the amendment, more particularly that portion of it that asks that the present taxation on champagne shall remain as at present. It seems to me, Sir, that the psychological effect of reducing taxation on such a wine as champagne is likely to be very great. The intention of the hon. the Commissioner of Customs in recommending this change to Government may be of the very best, but I imagine he has left out of consideration altogether the effect that it will have on people who are struggling to get the very necessities of life—to find that those fortunate ones who can afford champagne are actually going to have their champagne made cheaper for them on festive occasions in times such as these. I should like to hear greater justification on Government's part for such an extraordinary change under such extraordinary circumstances, other than the explanation given that it is merely to bring our legislation into line with the legislation of some other Territories with which this House is not concerned.

THE HON. F. O'B. WILSON: I should like to support this amendment, too, Sir. It does seem a most extraordinary idea in times like this to bring down the cost of one of these luxuries of the country, a thing which was put on deliberately with a view to raising a certain amount of money, and now to bring it down at a time like this for no other reason except apparently that one or two people in one or two other Colonies want to be able to get their champagne cheaper, seems most extraordinary. (Hear, hear.)

THE RT. HON. LORD DELAMERE: For no other reason; I do not believe there is any.

THE HON. THE COMMISSIONER OF CUSTOMS: The hon. Member for Ukamba suggested it was because the people in neighbouring Territories wished to get their champagne cheaper. The real fact of the matter is that the Governments of these neighbouring Territories propose to impose additional taxation to the tune of Sh. 12/50 per gallon on their champagne.

THE HON. T. J. O'SHEA: Not having been guilty of a slip that has given the hon. Member the opportunity for a very nice retort, may I point out to him and to the House generally that it seems to me most unfortunate that at a time when the two adjoining Territories are increasing taxation on champagne we should be reducing it.

THE HON. THE COMMISSIONER OF CUSTOMS: That is so long as you have a common tariff. It is absolutely necessary that there shall be a certain amount of give and take if this consumption tax is to be incorporated in the common tariff. It is quite impossible for this Government to expect to impose their will on neighbouring Territories in every possible direction.

THE RT. HON. LORD DELAMERE: No, Sir, but there are certain financial principles on which these things should be judged. One is that a luxury like champagne—surely nobody can bring forward any argument of any kind, sort or description why that should be lowered. I would suggest, Sir, that if that point had ever been put in open assembly where these people from the other Territories had to make their point they would have had to withdraw it on the spot.

HIS EXCELLENCY: The question is that in clause 2, item 29 (c), the duty against sub-item (I) be amended from "25.00" to "27.50"; and that the duty against sub-item (II) be amended from "17.50" to "13.00."

The question was put.

THE HON. T. J. O'SHEA: May I ask whether the "Ayes" have it?

LT.-COL. THE HON. J. G. KIRKWOOD: On a point of information, Sir, would it not save the time of the House if the Official vote was taken *en bloc* and just take the Elected Members separately?

HIS EXCELLENCY: Standing Orders rule otherwise.

The question was put and lost by 11 votes to 17.

Ayes: Sheriff Abdulla bin Salim, Mr. Bemister, Capt. Cotter, Lord Delamere, Lt.-Col. Durham, Lt.-Col. Kirkwood, Messrs. Mitchell, O'Shea, Major Robertson-Eustace, Col. Tucker, Mr. Wilson.

Noes: Major Brassey-Edwards, Mr. Bruce, Canon Burns, Messrs. Butler, Fitzgerald, Gilbert, Dr. Gilks, Messrs. MacGregor, Martin, Moore, Rushton, Scott, Wade, Walsh, Lt.-Col. Watkins, Messrs. Welby, Wolfe.

Item 61.—Motor cars, motor and steam lorries, etc.

THE HON. T. J. O'SHEA: Your Excellency, I should like to move the deletion of the figures "15 per cent" and the substitution therefor of the figures "10 per cent."

I hope, Sir, that Government will see its way to accept that very reasonable amendment, as I am sure they must feel that it would be most inadvisable indeed to increase the taxation on such necessities of life in this country as motor cars and motor cycles, while at the same time reducing the taxation on luxurious liquors. I cannot imagine, Sir, that the Government would wish to increase the cost of such a necessary thing as a motor car at the present time and small motor lorries.

If the broad argument of inconsistency in Government's position does not apply, I do not think there is anything that will be of any use.

HIS EXCELLENCY: The question is that in item 61 the figures "15 per cent" be deleted and the figures "10 per cent" be substituted therefor.

The question was put and lost.

Item 63.—Motor vehicle and motor engine parts and accessories.

THE HON. T. J. O'SHEA: Your Excellency, I beg to move as an amendment that the figures "15 per cent" be deleted and the figures "10 per cent" be substituted therefor.

This item, Sir, covers parts and accessories for motor lorries. The increasing extent to which the motor lorry is being used as one of the means of transport of the country is evidenced by the increasing figure of revenue that Government has been obtaining from this source for some years past. Up till last year, there was no duty whatever either on lorries themselves or on parts and accessories therefor. Last year, for the purpose of removing anomalies in the Customs Tariff and for the purpose, I think, of making it easier for the Commissioner of Customs to carry out that Tariff, it was considered advisable to include the parts for motor lorries in motor parts generally, so that both would be subject to taxation. We were told that in return for that the duty on parts for motor cars had been reduced. I speak from memory—1 may be wrong on that point, but I think it was so. Now, Sir, within twelve months, it is proposed to increase the taxation on the parts necessary for motor lorries, and at a time when agricultural produce generally is being exported at a loss or only a small profit. I think it is most inadvisable that we should increase the cost of the parts necessary for the transport of produce, or very largely responsible for bringing it to the Railway. As a result of the encouragement given to motor transport in recent years, the ox-wagon has very largely disappeared as the mode of conveyance to rail-head, and I think it is most unfair to agriculture that they should have additional taxation of this nature imposed upon them at the present time.

COL. THE HON. W. K. TUCKER: Your Excellency, I beg to support that. Without re-stating the very strong appeal I made this morning on second reading, I should like to express regret that Government in their reply took no notice whatever of that very important issue.

THE HON. THE COMMISSIONER OF CUSTOMS: Your Excellency, the hon. Member for Plateau South is not quite correct in stating that there was no duty chargeable on lorry parts prior to April, 1930. He is probably aware of the fact that if parts were interchangeable—lorry parts with ordinary motor car parts—which could be used for both vehicles—duty was chargeable. As he probably knows, the proportion of parts which are interchangeable is very rapidly increasing, and therefore, prior to April, 1930, one had the anomalous position of being forced to charge 20 per cent duty on a portion of lorry parts and allowing the other parts in free of duty. It was, he will admit, an anomalous position.

HIS EXCELLENCY: The question is that item 63—the figure “15 per cent” be altered to “10 per cent.”

The question was put and lost.

Item 49.—Bicycles, tricycles, rickshaws, and carriages, etc.

THE RT. HON. LORD DELAMERE: Your Excellency, in the past it has always been the custom if something was not mentioned afterwards in Committee to go back to a certain thing.

I would rather like to go back to Item 49, because it appears to me to come under the same heading as these cheaper wines: “Bicycles, tricycles, rickshaws and carriages (not including baby carriages)” — I do not know what part baby carriages are under. It does seem to me that if a motor car is a necessity so, in particular circumstances, is a bicycle. A bicycle may become a sudden necessity, or whatever it may be called. It does seem to me to be more than usually bad in this case to put up the duty on a thing like a bicycle.

HIS EXCELLENCY: Does the Noble Lord put forward another amendment?

THE RT. HON. LORD DELAMERE: Yes, Sir, I should like to put forward an amendment to item 49.

HIS EXCELLENCY: It has been passed; you wish to put forward a further amendment?

THE RT. HON. LORD DELAMERE: The amendment is that the amount should be as before. I quite understand that a very large number of these bicycles probably go to Uganda, and in view of the particular position at the moment, I should rather like to see Uganda pay. On the other hand, these things must be passed on some sort of principle, and it does appear to me that a bicycle is the last thing people can ride when they have sold their motor car or whatever it is. It seems to me it is one of the things in the country, where transport is so expensive for the individual, that should not be taxed.

THE HON. THE ATTORNEY GENERAL: It used to be 15 per cent, Your Excellency.

THE HON. T. J. O'SHEA: That clause also includes baby carriages; that is rather unfortunate.

THE HON. THE ATTORNEY GENERAL: They are not included.

HIS EXCELLENCY: The question is that in item 49 (e) the figure “20 per cent” be altered to “15 per cent.”

The question was put and lost.

Item 121.—Tyres and tubes, rubber, not attached to wheels or vehicles.

THE HON. T. J. O'SHEA: May I have some explanation as to why it is considered advisable to double the duty on motor tyres of all sorts at the present time?

THE HON. THE COMMISSIONER OF CUSTOMS: It is not only motor tyres, as the hon. Member will notice, it is all sorts of "tyres and tubes, rubber, not attached to wheels or vehicles." It relates to all tyres made of rubber not attached to wheels or vehicles, and is not limited to motor vehicles, as suggested by the hon. Member for Plateau South. The first cost of motor tyres, as everyone knows, has decreased tremendously, the mileage has increased enormously. The result of those two factors is that the amount accruing from tyres imported locally is steadily going down and the amount paid per individual using those tyres becomes steadily less. The amount is so extremely small per tyre that it can make no possible difference to the cost of transport. As I quoted this morning, on the most popular tyres it is .000854 of a shilling per tyre per mile.

THE HON. T. J. O'SHEA: That argument in favour of this clause strikes me as a most extraordinary one. In the first place, it suggests that the attitude of Government is that if there is going to be a decrease in the cost of any imported commodities that that in itself is a sufficiently legitimate reason for Government to increase the taxation thereon. In other words, Sir, we are merely sausages to go into the taxation machine if you happen to be a citizen of this country.

THE RT. HON. LORD DELAMERE: Unofficials.

THE HON. T. J. O'SHEA: Again, Sir, it is pointed out that really this tax will not be any burden upon motor transport, as an illustration, because the amount per mile is .000 something of something or other; but may I point out, Sir, that if we are going into minute fractions of that nature we are going to have some extraordinary proposals coming before this House. If we are going to lose sight of the amount of money involved in the thing by cutting it down to such fractions that one would have to be a well-instructed pupil of Einstein to follow the reasoning, why then I do not think there is any place for us in this House. I certainly, for one, cannot attempt to find reasons for or against taxation if I am expected to follow an argument of that nature, but I think it is only being used to disguise what is the effect that it will have on the man in the street who will have to pay this extra taxation, which is being doubled on what it is at the present time. I should like to point out that last year, as a result of the drop in the price of tyres and drop in the price of spare parts and a slight drop in the price of petrol, the transport costs on our crops were smaller than they had ever been before. One of the results of this taxation of vehicles, one of the most obvious, will be to put up the cost of transport next year, even though it may be only .000—or whatever it is—per ton mile. That being so, I think, considering we are reducing the cost of luxurious liquors, that it is most unfair to double that tax at present.

THE RT. HON. LORD DELAMERE: I support what the hon. Member has said. The point is that the actual tax is doubled. A particular argument might be applied, and probably should be applied, in exactly the same way that the cost of living has gone down lately, and therefore that the salaries of Government servants and others should go down. I think it is possible that could be argued, but it is not one, I understand, that Government admits at all. After all, unearned increment certainly should not be taken away from one section of the community. I understood the hon. mover of this Bill to say that this is a sort of unearned increment, that every manufacturer allows on a tyre to go out more cheaply, and that therefore that particular decrease in its price is fair game for Government to take. I would point out that first of all no manufacturer will ever go on doing that, because it does not increase his sales, or do any of the things that a decreased cost is likely to do, if Government takes it off at the other end in taxation. It seems to me quite a false argument, Sir.

HIS EXCELLENCY: Did any hon. Member propose an amendment to that?

THE HON. T. J. O'SHEA: In view of what has already taken place on this Bill it seems it is a waste of my time and that of the House to bring forward any amendment on this clause.

LT.-COL. THE HON. J. G. KIRKWOOD: On a point of explanation, Your Excellency, before this Bill is finally passed, I should like to say that I have not taken any part in this debate because I realise it is absolutely futile. I realise everything will increase the cost of production and cost of living and bank overdrafts.

HIS EXCELLENCY: The question is that clause 2 as amended stand part of the Bill.

The question was put and carried.

Clause 3.—Amendment of the General Notes to the Principal Ordinance.

THE RT. HON. LORD DELAMERE: With regard to that, Sir, it appears to me if one of those experts in England is prepared to advise us apparently why they cannot make a pint a pint, instead of something different under different conditions, that this sort of amendment all over the world would not be necessary. A "reputed pint" presumably means something that has been shown to be there, is supposed to be a pint—is that what it is?

THE HON. THE COMMISSIONER OF CUSTOMS: A "reputed pint" is one-twelfth of a gallon; an "Imperial pint" in one-eighth of a gallon.

THE HON. THE COMMISSIONER OF CUSTOMS: Your Excellency, I beg to move that the Bill as amended be reported to Council.

The question was put and carried.

The Council resumed its sitting.

HIS EXCELLENCY: I have to report that the Customs Tariff (Amendment) Bill has been considered clause by clause by Committee of the whole Council and has been reported to Council with certain amendments.

THIRD READING.

THE CUSTOMS TARIFF (AMENDMENT) BILL.

THE HON. THE COMMISSIONER OF CUSTOMS: Your Excellency, I beg to move that the Customs Tariff (Amendment) Bill be read a third time and passed.

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

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

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I beg to move the rejection of the Bill.

In speaking to my motion I should like to point out that this Bill is not a Bill which has been studied at all by Elected Members or put before the country. We are not in a position to get the opinions of our constituents. It definitely means increasing the cost of living and the cost of production at a time when this country, which is financed by agriculture and the agricultural industry, is in a very critical position. It

seems to bear no relationship whatever to the wishes of anybody whatever in the Colony, and generally has been brought in to stabilise, as it were, legislation that is going through in Tanganyika and Uganda to-day as well as here. We have had rather Gilbertian proposals contained in this Bill—reductions in whisky and champagne, which are both considered luxuries—and yet the Bill is a financial measure to bring in further capital, further revenue.

I consider Government has been very unwisely advised, and has very unwisely taken the advice which has been given. It will lead to a great deal of discontent at a time when we want a good deal of team work in the Colony. This measure to a great extent is going to break up what has been team work in the past, and from the points that were brought out on the second reading I consider it has served no useful purpose. It will not, in my opinion, bring in the revenue forecasted by the hon. the Commissioner of Customs. He has replied and made it perfectly clear that either he is unwilling to take this experience or that he does not understand the situation. Your Excellency, I move that the Bill be rejected.

THE HON. T. J. O'SHEA : Your Excellency, I beg to support the rejection of this Bill.

HIS EXCELLENCY : The question is that this Bill be rejected.

The question was put and lost.

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

The question was put and carried by 17 votes to 8.

Ayes : Sheriff Abdulla bin Salim, Major Brassey-Edwards, Mr. Bruce, Messrs. Butler, Fitzgerald, Gilbert, Dr. Gilks, Messrs. MacGregor, Martin, Moore, Rushton, Scott, Wade, Walsh, Lt.-Col. Watkins, Messrs. Welby, Wolfe.

Noes : Mr. Bemister, Capt. Cotter, Lord Delamere, Lt.-Col. Kirkwood, Mr. O'Shea, Major Robertson-Eustace, Col. Tucker, Mr. Wilson.

The Bill was read a third time and passed.

FIRST READING.

THE WINES AND SPIRITS CONSUMPTION TAX (REPEAL) BILL.

On motion of the hon. the Attorney General the Wines and Spirits Consumption Tax (Repeal) Bill was read a first time.

SECOND READING.

THE WINES AND SPIRITS CONSUMPTION TAX (REPEAL) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that this Bill be read a second time. It was, I think, made abundantly clear, in the course of the somewhat protracted previous debate, that it was an essential part of that legislation that the tax on wines and spirits under the Consumption Tax Ordinance of 1926 should be added as an integral part of our tariff and that this Ordinance consequently should be repealed. That has been done as an essential part in the second clause of the Bill which has just been passed, and it is therefore, in my submission, Sir, a natural corollary to the third reading of that Bill that this Bill should pass through its other stages.

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

HIS EXCELLENCY: The question is that the Wines and Spirits Consumption Tax (Repeal) Bill be read a second time.

THE HON. T. J. O'SHEA: Your Excellency, I can quite understand that the repeal of this Ordinance is a necessary corollary of the act, of the regrettable act, that has been committed by Government in passing the last Bill. But, Sir, I am more than surprised and disappointed that in moving the repeal of this Ordinance no reference was made to the circumstances under which it was passed and to the purpose for which it was passed. Am I to assume, Your Excellency, that your advisers failed to advise you of the circumstances under which the Bill was passed? Must I also assume that they failed to advise you that the purpose for which the revenue from that particular form of taxation was, so far as the country was concerned, I understood, to cover certain specific purposes? If so, Sir, I am sorry I must take up the time of this House, even at this late hour, in reviewing the circumstances in which the Bill was proposed to be passed and the purpose for which it was passed.

For a number of years there was considerable difficulty in finding the money from year to year to satisfy the educational demands of the different sections of the community which this Government governs, and it was eventually decided that some means should be found by which the native, the Asiatic and the European communities should get ahead with their educational requirements on a basis which permitted them to contribute directly for their educational facilities. We have been told for a number of years that the Colony was getting its education at the expense of the native community. We have had considerable difficulty but such was certainly not the case,

and again we had difficulty in satisfying people that the Asiatic people in this Territory were getting educational facilities far in excess of what their contributions to general revenue clearly entitled them to. And so, Sir, it was decided in 1926 to draw a line; to say that out of general revenue Government would bear certain representative costs common to the different communities, but beyond that point the different communities must, through some form of taxation, find the necessary revenue with which to develop those facilities. And so, Sir, this consumption tax came into being. Sir, I readily admit that this consumption tax was not the best possible way in which to meet the requirements of the case, and some very arbitrary opinions have been formed as to the source from which the revenue was derived, but in spite of that drawback, it has served a very useful purpose, and I cannot understand why Government should attempt to repeal it without offering some explanation as to how it is going to deal with the things for which it was introduced. Therefore, Sir, I must press that Government will extend that courtesy to the House; that it will discharge its obligation to the public and communicate how it does propose to deal with the situation which will be created by the repeal of this Ordinance.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, in rising to a point of order again, I would point out that this Bill does not conform with the Standing Rules and Orders of the Council. It is not accompanied by any Objects and Reasons, neither does it state the financial implications of the Bill, the effect on the Colony's finances. I suggest, Sir, you will have no alternative but to rule that this Bill is *ultra vires*.

THE HON. THE ATTORNEY GENERAL: On a point of order, may I remind the hon. Member that my motion this morning for the suspension of Standing Orders was in respect of both Bills. They were both specifically mentioned.

THE HON. T. J. O'SHEA: In view of the importance of this ruling to the House, may I tender notice that I shall move a motion asking Council to discuss this very important question at a later date in the session.

HIS EXCELLENCY: Will you hand in a notice of motion?

THE HON. F. O'B. WILSON: On a point of order, are we going to have any explanation, as requested? I suggest this before the end of the debate because we should like to know, and it depends entirely, what we are going to say, upon the explanation we may get from the other side of the House.

HIS EXCELLENCY: Perhaps the Director of Education will speak on the subject.

THE HON. THE DIRECTOR OF EDUCATION (MR. H. S. SCOTT) : I think perhaps I might allay the fears of the hon. Members for Plateau South and Ukamba. The removal of this Ordinance from the Statute Book need not necessarily have any effect whatever in regard to the utilisation of the revenues hitherto derived from the Consumption Ordinance, because I have the assurance—I think I am right in saying—that the Commissioner of Customs can give the same statistics in regard to the revenues now to be derived from the new tariff that he has given in the past under the Consumption Ordinance. Perhaps it might not be inopportune to say just one word further, and that is that the whole question of this educational revenue is a very complicated one, and it will not be affected one way or the other by the removal of this Ordinance. I do not think the hon. Members need have any anxiety in regard to the question of educational revenue in so far as that Consumption Tax is applied or applicable. There are other difficulties which I do not wish to waste the time of the House with to-day, but there are real difficulties in regard to educational revenue, to which I shall refer later in another place, and which I think will come before the notice of this House in due course.

THE HON. F. O'B. WILSON : Your Excellency, it appears that we shall have to pass this Bill. It is a corollary to what has already been rolled over us this morning. If we do not agree it does impose extra taxation.

I must say I was a little in the dark when the hon. the Director of Education referred to the statistics of the hon. the Commissioner of Customs. We have never had any. He could never tell us anything the whole time. Every question we asked him as to the effect on revenue, detailed questions, he had to beg. We are still just as much in the dark about these questions as to how much these alterations in the cost of whisky will affect the general revenue as we were this morning.

I do want to make it quite clear that although one may have to support this Bill one objects most strongly to the whole principle of everything that has been done behind it.

THE RT. HON. LORD DELAMERE : The principle of the amendment of this Bill, the doing away of this Bill, is one that nobody could support. It is against all the rules under which the House has ever worked, that a policy or a Bill should be done away with during the Budget discussions and in the same sort of way as we have done to-day. The way that a principle which has nothing to do with revenue or finance is being abolished through a finance Bill is against all the customs, as far as I know them, of any House, certainly of this one. I do think, Sir, that we want in return, if this Bill is to

be passed, we do want an undertaking from Government that this Bill will have nothing to do with the education of our own people. In some ways I am rather glad this Bill is being repealed—I say in some ways, because it was an effort and a gesture towards the Secretary of State and towards the other people of the country. Instead of fighting out the position that we, whose people are accustomed every one of them in their own country to proper education, and should therefore have it here, we allowed it to go by the board in order to make things easier for the Government. We shall now take up, of course, the other position, that our own children, being accustomed every one of them to education in their own country are entitled to it in the best possible way in this country, and to the greatest extent, and that people coming from other countries, who are one per cent of the population, are in that proportion entitled to education, and so on. That is the position we shall now take up. Our gesture has been thrown back at us without even a debate in this House on the principle of the Bill; it has been put into a financial measure. To my mind that is a very wrong method of dealing with a Bill of this sort.

THE HON. THE DIRECTOR OF EDUCATION : On a point of explanation, Your Excellency, I am sorry I misled the Noble Lord. I meant to say that the Commissioner of Customs had given the assurance that it was quite possible for him to give statistics in regard to the new tariff showing what amount would have been obtained if the consumption tax had not been repealed; that is to say, there would be no difference in regard to the amount of revenue which would be obtained or would be accounted for.

THE RT. HON. LORD DELAMERE : If this Bill is repealed, we are plainly removing ourselves from that bond altogether, and the money which was put aside for this particular purpose in the past presumably will be withdrawn by Government from the purpose of education. It therefore appears to me that we are on different ground altogether. Is not that so? It appears to me it is so. We shall try to uphold it as best we can.

LT.-COL. THE HON. J. G. KIRKWOOD : Your Excellency, I should just like to express my opinion on this Bill. I realise it is a natural corollary of the Bill that has just been passed. It will have to be passed, otherwise we are putting increased taxation on Kenya as against the other Territories. These measures have gone through by agreement with Tanganyika and Uganda. It is the advance of Closer Union that has been secured within the last twenty-four hours.

Notwithstanding the expression of opinion by the hon. the Attorney General, I still maintain that this Bill is absolutely contrary to the rules of Standing Order No. 64. Rule 64 is perfectly clear, and lays down what is to be done when a Bill is presented.

THE HON. THE ATTORNEY GENERAL : On a point of order, surely Your Excellency ruled on that point, and a ruling from the Chair is final.

THE RT. HON. LORD DELAMERE : On a point of order, is the ruling of the Chair final if it is against a Rule of the House?

HIS EXCELLENCY : The Chair interprets the Rules of the House, and the ruling is final.

THE RT. HON. LORD DELAMERE : I understand my hon. friend the Member for Plateau South will raise this matter in a motion, so I will not proceed with it now.

THE HON. T. J. O'SHEA : Seeking information, I take it that your ruling is for the purposes of this sitting of Council only?

HIS EXCELLENCY : In connexion with these two Bills.

THE HON. T. J. O'SHEA : That is as I understand it, Sir.

LT.-COL. THE HON. J. G. KIRKWOOD : I should like to say, before sitting down, that this Bill, in conjunction with the other one, has left a very bad impression on my mind. I think it will have a very bad effect right throughout the country. I think, rightly so, you will find in the next few weeks that that opinion will be very strongly expressed.

I cannot vote against it for the reasons already expressed.

THE HON. THE COMMISSIONER OF CUSTOMS : Your Excellency, I should like to confirm the statement made by the hon. the Director of Education. It is quite easy to obtain statistics of the liquid quantity of wines and spirits imported into Kenya and Uganda and the quantity retained for consumption in Kenya. It is equally easy to say what the amount of revenue collected in respect of that quantity of wines and spirits is, and, of course, it is precisely the same thing whether it is under the consumption tax or the Customs duty in the matter of earmarking. It always has gone into general revenue and the Customs revenue also goes to general revenue. If it is decided that a portion of the Customs revenue should be earmarked for a particular purpose, it will be exactly the same thing as if we called it a consumption tax.

THE RT. HON. LORD DELAMERE : I entirely controvert those statements, Sir.

HIS EXCELLENCY : The Noble Lord has already spoken.

THE RT. HON. LORD DELAMERE : I can speak as many times as I like—we are in Committee.

THE HON. THE ATTORNEY GENERAL : We are not in Committee.

THE RT. HON. LORD DELAMERE : I withdraw that, Sir. On a point of order, he is wrong all the same.

THE HON. THE ATTORNEY GENERAL : My hon friends, the Director of Education and the Commissioner of Customs, have dealt so fully with what really was the major point made, I think, in the course of this short debate, Sir, that there is little or nothing to say, but there is one matter I should like to deal specifically with. That was the matter raised, if I correctly understood him, by the Noble Lord in his speech a few moments ago. It seemed to me that that speech did contain the definite suggestion that, by the repeal of this Ordinance, we were going back on a principle, the principle that certain revenues from certain sources were earmarked for education. I would remind the Noble Lord that right through the 1926 Ordinance, which we are repealing, the word " education " is never mentioned. I would remind him, further, Sir, that the repeal of this measure at this moment is a natural corollary to the legislation which we have just passed, and I will go further and say, and say emphatically, that no principle is impaired in any way, that the principle which is so dear to him still remains

THE RT. HON. LORD DELAMERE : I did not say anything ; I said the opposite.

THE HON. THE ATTORNEY GENERAL : . . . is not interfered with in the slightest by this legislation, Sir.

I would say one word more. In 1926, when this means of raising money specifically for education was introduced, the hon. Member for Plateau South said :—

“ I regard these proposals as of a purely temporary nature. They seem to me to have so many shortcomings that they will not stand the test of time.”

Experience has to a very large extent proved that. We are now making it scientific. We are embodying it in the tariff, and hon. Members have already had the assurance that it is easy to arrive at the figure.

THE HON. T. J. O'SHEA : On a point of order, is the hon. Member replying to the debate or adducing fresh arguments?

THE HON. THE ATTORNEY GENERAL : I have always understood that I had the right to reply.

THE HON. T. J. O'SHEA : I do not challenge that right for one moment, but I understood the right of reply was merely to reply to the debate, not to introduce fresh arguments.

HIS EXCELLENCY : What fresh arguments are there?

THE HON. T. J. O'SHEA : I ask your ruling as to whether the hon. Member is not abusing his right of reply to the debate by introducing fresh arguments.

THE HON. THE ATTORNEY GENERAL : I was not aware I had done so. I was addressing myself to the point made by the hon. Member for Ukamba that we would not be able to ascertain where this money was. On that, Sir, as I said, we had put this very temporary and unscientific basis on to a scientific basis, and that it would be very much easier to ascertain exactly what the additional revenue was.

THE RT. HON. LORD DELAMERE : A scientific basis by which the poor pay. I do not understand that.

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

The question was put and carried.

THE HON. THE ATTORNEY GENERAL : Your Excellency, I beg to move that the Council resolve itself into a Committee of the whole Council to consider the Wines and Spirits Consumption Tax (Repeal) Bill clause by clause.

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

The question was put and carried.

The Council went into Committee.

In Committee :

THE WINES AND SPIRITS CONSUMPTION TAX (REPEAL) BILL.
The Bill was considered clause by clause.

THE HON. THE ATTORNEY GENERAL : Your Excellency, I beg to move that the Wines and Spirits Consumption Tax (Repeal) Bill be reported to Council without amendment.

The question was put and carried.

The Council resumed its sitting.

HIS EXCELLENCY : I have to report that the Wines and Spirits Consumption Tax (Repeal) Bill has been considered clause by clause in Committee of the whole Council and has been reported to Council without amendment.

THIRD READING.

THE WINES AND SPIRITS CONSUMPTION TAX (REPEAL) BILL.

THE HON. THE ATTORNEY GENERAL : Your Excellency, I beg to move that the Wines and Spirits Consumption Tax (Repeal) Bill be read a third time and passed.

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

The question was put and carried.

The Bill was read a third time and passed.

FIRST READINGS.

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

The Co-operative Societies (Registration) Bill,

The Carriage of Goods by Motor (Control) Bill,

The Local Government (District Councils) (Amendment) Bill,

The Local Government (Municipalities) (Amendment) Bill,

The Local Government (Eldoret European Hospital Rate) Bill,

The Nursing Sisters (Retiring Allowances) Bill.

Notice was given to move the second readings of each of the above Bills at a later stage of the session.

*The Council adjourned till 10 a.m. on Wednesday,
the 17th June, 1931.*

WEDNESDAY, 17th JUNE, 1931

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Wednesday, the 17th June, 1931, His Excellency the Governor (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 16th June, 1931, were confirmed.

PAPERS LAID ON THE TABLE.

The following paper was laid on the table:—

By THE HON. THE TREASURER (MR. H. H. RUSHTON):

Colonial Loan Statement No. XVIII, June, 1931.

NOTICE OF MOTION.

THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MACGREGOR, K.C.): Your Excellency, I beg to give notice that at a subsequent stage of this session I propose to move that the Report of the Select Committee of this Council on the provisions of a Bill to Provide for the Imposition of a Levy upon Butter be adopted.

ORAL ANSWERS TO QUESTIONS.

MAIZE STOCKS.

THE HON. T. J. O'SHEA (on behalf of the Hon. Conway Harvey) asked:—

“(a) Will Government be pleased to state what stocks of maize are available in Kenya?

(b) Is it anticipated that existing stocks will meet normal requirements until the next crop is available?

(c) What are the prospects of the coming crop?”

THE HON. THE ACTING DIRECTOR OF AGRICULTURE (MR. H. WOLFE): (a) The stocks of maize available in Kenya on the 10th June were estimated to be 400,000 bags of 200 lb. each.

(b) It is anticipated that this stock will meet normal requirements until the next crop is available. Abnormal requirements will not be so met.

(c) It is not possible as yet to estimate the prospects of the coming crop, but it is certain that the crop will be substantially reduced because of destruction by locusts.

KEDOWA-KERICHO ROAD.

THE HON. T. J. O'SHEA (on behalf of the Hon. Conway Harvey) asked :—

“ In view of the fact that a sum of £5,752 has been spent in constructing the Kedowa-Kericho Road, and that the expenditure of an additional small sum would enable this important route to be used, will Government seriously consider the advisability of authorising the completion of this road on a temporary basis if funds are not available for completion to the high standard originally contemplated? ”

THE HON. THE DIRECTOR OF PUBLIC WORKS (MR. H. L. SIKES) : Government is advised that the completion of this road to the cheapest standard which is considered safe and economic will cost £1,500. The provision of this sum is under consideration.

MOTIONS.

FAMINE RELIEF.

THE HON. THE ACTING CHIEF NATIVE COMMISSIONER (MR. A. DE V. WADE) : Your Excellency, the immediate necessity for this motion, the first standing in my name on the Supplementary Order of the Day, is dictated by a combination of adverse conditions which has caused a shortage of food over a large area in the South Kavirondo District of the Nyanza Province. The area concerned, Sir, is the low-lying area between the Kisii Highlands and the Lake shore, and the population affected is in the neighbourhood of 200,000. I do not wish it to be understood that these 200,000 are destitute. They are not destitute. They have certain resources; they have a large number of stock; they can get a certain amount of fish from the Lake; and they have certain supplies in the way of potatoes and muhogo and a few bananas; but they are already beginning to feel a certain shortage, and that shortage must develop into famine unless the Government comes to their assistance, and assistance is asked for them to be met from the sum of £20,000 for which we are asking to meet such general distress as may result in any of the communities of Kenya from this locust infestation.

The conditions which have led to this situation in South Kavirondo are, quite briefly, four. The first is bad harvests; the second is that there is no demand for the Kavirondo labour, or very little; the third is that they get a very poor price for their stock; and the fourth is destruction by locusts.

As to their harvests, it is normal in this part of the world for the people to be short of grain food at this particular time. The rainfall in this low-lying land is spasmodic and unreliable,

and the crops are therefore usually precarious, and at this particular time the situation is rather worse than usual. Curiously enough, the result is not so much from lack of rain in 1930 as from excess at the beginning of the year, which washed away the first plantings; the second plantings did not get the amount of rainfall that they really should have had, and the result is that they are rather shorter of grain food at this time of the year than they usually are.

Now, Sir, the assets of these people in times like these, which enable them to supplement their depleted resources, are their labour and their stock. They send in to the labour fields a very large number of men indeed to all parts of the Colony. Normally the output from Kisii station in a month is from 600 to 700 contracted labourers; in the month of May, only 19 were contracted at Kisii; and in the month of June, which is the peak month of the year, there was no single labourer signed on at Kisii during the first ten days. On the 1st of June, outside the marine yards at Kisumu, there was a queue of 200 natives asking for work, and no work could be given to them. Your Excellency will easily see they have not the cash which they normally use to buy grain from their neighbours in the Kisii Highlands. The Kisii Highlands are blessed with an abundant rainfall and plentiful crops, and their surplus crops normally go to feed and make up the deficiencies among their Kavirondo neighbours. The Kisii crops were very good this year, but unfortunately they have suffered from an infestation of locusts. Their crops are not by any means totally destroyed, but possibly 50 per cent of some of the richest locations have been consumed. The local wimbe crop has been almost entirely consumed; there is still a large amount of mtama and a very good maize crop, but a lot of maize will not come to maturity. The Kisii have good reserves of food from their last harvest, which they would have been perfectly prepared to sell to the Kavirondo, but owing to the fact that their resources have been depleted by locusts they are not in a position now to sell as they usually do.

The fourth of these conditions that I have mentioned is locusts, as they apply to these people of South Kavirondo. Their new harvest would have been just about on the point of being reaped—it was just reaching maturity—when it was completely destroyed by locusts. There was a swarm of locusts, I am told, stretching on a front of three miles to a depth of fifteen miles, and that swarm defeated every human endeavour, and devoured all the crops in that locality.

To come to the assistance of these people immediately, Sir, we are asking for a vote of £20,000. It is not, of course, intended that from that sum anyone is to be fed for nothing if he can afford to pay for it, or if he can work for it. In the

interests of their own self-respect no less than in the interests of the Colony's revenue, I should be the very last person to advocate the free distribution of food if it can possibly be avoided, but, as in every community, some are poorer than others, some of these 200,000 will be able to get money somehow, a good many of them already have money; but there are the aged, there are some who have no crops, who have no resources, and there are the women and children. Unfortunately, native communities do not always realise the necessity of feeding the aged and the women and the children before they feed their own able-bodied, and it is chiefly for them that this Government assistance is asked. It is, of course, intended to institute famine relief works on which the able-bodied can work in order to earn the money to pay for their food or that they may be paid in kind. The district, Sir, for which we are particularly appealing for this help at the present time is one which has deserved particularly well of the State in the past. Its war record is magnificent. Its roll of honour has established a debt of gratitude which certainly every Member of this House will be proud to acknowledge. Its inhabitants have regularly for years paid into central revenue a direct tax to the extent of £65,000 per annum; in addition to that they have contributed largely to the Colony's revenue by paying Customs duty on imported goods. They have sent to all parts of the Colony very large numbers of labourers, thereby promoting the commercial and the agricultural development of this country. In that particular direction they have played their part particularly well, and now that they are faced with this crisis they have done what they could. The Council which controls the finances, the local finances, of this particular area has immediately placed at the disposal of Government for famine relief almost its entire surplus balance; it has handed to the District Commissioner £5,000 to relieve distress. The Kisii Council, which has not yet been so badly harmed by locusts, has supplemented this by a vote of £2,350. With that money we have immediately ordered 1,000 tons of maize food—500 tons from Kisumu and 500 tons from the Kenya Farmers' Association at Nakuru. The 500 tons has, I hope, already been landed at the ports of Kendu, Karungu and Homa Bay, and is probably already being distributed. The other 500 tons are expected to arrive there in ten days or a fortnight.

Without wishing to appear to be unduly optimistic, so far as can be foreseen at present I cannot see any other area in any Native Reserve that is likely to be in the immediate need of such assistance. In the North Kavirondo Reserve the crops are unusually magnificent. The District Commissioner estimates that possibly locusts have destroyed about 10 per cent of those crops, but as they are far more than 10 per cent above the normal he estimates that he ought to be able to

reap a better crop than usual, in spite of what the locusts have done, and unless some very grave disaster happens within the next few days, that one district alone should be able to provide enough food to feed the whole of the Nyanza Province. In addition to that, that district has large reserves in its grain stores. It has good supplies of potatoes, muhogo and bananas, and it is impossible to conceive of any disaster that would not give us two or three months in which to make preparations for relief if any such relief should be necessary. As a matter of fact, every day of respite brings us a day of great relief. These flying swarms in Nyanza which were expected—they were certainly feared—about a fortnight ago, have not yet materialised except in a very few scattered swarms. Every day that we wake up and find that there is no telegram to say that these vast hordes of locusts have come to destroy that Kavirondo food is a day of great relief.

In Central Kavirondo the situation is very much the same. The crops are good and the destruction by locusts is less than in North Kavirondo. One part of that area, the Samia District—the cotton part of the district—has certainly suffered, but there again it is hardly possible to see that any food will be necessary in that district. The Kericho District has almost entirely escaped. The Nandi District has suffered—it has suffered possibly to the extent of one-eighth of its crops; there is danger there, and the situation is being very carefully watched. They have dealt with the hoppers with all the energy at their command, and when I was there a few days ago they were so optimistic as to say that not one hopper would escape. The Nandi Council, too, has, as a precautionary measure, handed to the District Commissioner the sum of £250 to use in case of necessity. The population of that district, Sir, numbers only 37,000. It does not cause us such grave anxiety as the three large Kavirondo districts, whose populations number 300,000 each. Moreover, the Nandi are pastorally inclined, and do not suffer to the extent the agricultural tribes do when their grain supplies are destroyed. I do not think there is any cause for real anxiety in the Nandi District.

In the Kisumu-Londiani District, I have learned that the damage has been really terrible. I am told that between Kibos and Muhoroni 80 per cent of the standing crops have gone. One consideration there is that all the squatters' crops went too. This is a possibility that we have to consider that these squatters may have to leave their farms and go to the Reserves to find their food. Marakwet Reserve has so far escaped. In the Baringo Reserve there is a serious infestation. At the south, in the neighbourhood of Solai, there the natives and the farmers are co-operating and working together to destroy

these hoppers with all the energy at their command. I do not say there is no danger from there, but the danger is being met so far as is humanly possible. There is a grave danger on the Laikipia-Samburu boundary. The Provincial Commissioner of the Northern Frontier Province told me yesterday—he had just travelled the whole province—that there are hoppers to be found from Wajir to Moyale. There are hoppers along the Uaso-Nyiro Valley and in the Laikipia District. The grave danger from these is the possibility of their flying into the Kikuyu country, which at present holds our reserve of food, if these hoppers come to maturity. They are being dealt with by the Director of Agriculture at the present time. (Hear, hear.)

But I repeat, that as far as I am able to see, the only immediate necessity for famine relief is in the South Kavirondo District, although I am not wishing to suggest that we should live in a fool's paradise pretending that we are safe everywhere else.

Your Excellency, I beg formally to move the motion standing in my name :—

“Whereas owing to damage done or likely to be done by locusts, there is grave danger that a food shortage will exist in certain parts of the Colony :

“And whereas it may become necessary at short notice to incur expenditure on famine relief measures :

“This Council hereby authorises the Governor to advance from the revenue and other funds of the Colony such sums, not exceeding in the aggregate twenty thousand pounds, as in the opinion of the Governor may be required for famine relief purposes, it being understood that Government will make every endeavour to recover as far as possible from the persons to whom famine relief is granted the cost of foodstuffs supplied to such persons.

“And this Council further agrees at a later date to approve of the appropriation of such net expenditure as may be irrecoverable when famine relief measures are concluded as a charge against the revenue and other funds of the Colony.”

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

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

THE RT. HON. LORD DELAMERE: Your Excellency, I am speaking for myself in this matter, because, after the very long day we had yesterday, we have had no chance of going into the work to-day beforehand. First of all, may I be allowed to congratulate the hon. the Acting Chief Native Commissioner on his statement. I am going to support this motion, Sir, because if Government makes a statement in Council that famine relief is required, then I feel it is the bounden duty of hon. Members on this side of the House to support it, unless they are able to put forward arguments to show that it can be met in other ways, or that it is unnecessary. Of course, I have not sufficient knowledge of the facts, but I am myself willing to believe the statement put forward on this particular question, and so far as that is concerned, I support this measure from that point of view. From the other point of view, I am not in full support, but I do support it up to a certain point.

Now we have heard from the hon. the Chief Native Commissioner—and it is quite evident to a certain extent, I think—that this is not like an ordinary drought famine, where, taken as a whole, the grain crops have been eaten by locusts. They still remain, quite a lot of the root crops and other things, and it is not a complete famine in the ordinary way of the drought famine, and for that reason I think Government should be very careful in the way that relief is given; but the chief point I have got is this: that we are told that in South Kavirondo, and I think Kisii, if I understood the hon. gentleman aright, there are large numbers of natives who presumably will have to be fed under this relief and presumably will find difficulty in paying for it if they are not in work.

Now, Sir, it does appear to me—and I am speaking, as I say, for myself—that instead—if people cannot pay for food at all, and the Government has got to advance it, surely it would be very much cheaper for the country and better as a whole if the money was applied to keep going in certain ways that have been put forward by such an industry as the sisal industry, which does employ, I think, something like 18,000 natives during the year—at any one time, I suppose that is. Yes, I think so. I see, Sir, that 600 to 700 a month of these men in one of those areas—I think South Kavirondo and probably Kisii as well—generally come out to work. I understand that in the month of May there were only 19, and in June in the first ten days there were none. Now, Sir, I do not think we want, if we can help it in this country, to start paying people to do nothing, if we can find some indirect method which probably would not be very much more expensive and which could keep an industry going which would give these people sufficient work to pay for this food and to pay for the feeding

of their wives and children. I feel very strongly about this. I stress the sisal industry, because the opinion of the Committee which was appointed by your acting predecessor showed that it would be of advantage to this country that that industry should be kept going by loans made by the Government, and one of the points made by the Government was that it would give employment to a very large number of people. I think, Sir, in any case we have people trying to get money to buy food and if they cannot get it in another way for buying their food than by selling their stock to pay it back, surely it must be better indirectly to advance money which you expect to get back and which is made in the form of an advance on loan to keep these people in work, so that they can pay for their food and incidentally help to keep going an industry which provides very large sums from year to year both to the Government and the Railway. We heard yesterday from an hon. Member on this side of the House that that industry was closing down—I know quite a few that have closed down—and it was the opinion of the Committee which sat on that subject that if they closed down it meant that the rotation crops which are planted every year would be missing in one year at least, and that some of the older plants which were ready for poling would be lost, and that there would be, in fact, a large loss of revenue to the country at some period or other, either to-day or in the future. It was also a curious thing about that—the opinion of that Committee that that particular trade was passing from Mexico to East Africa and, I think, the Dutch East Indies. And that actually the amount grown in these countries was an increasing quantity over the last few years. I feel strongly about that point, Sir. I am one of the people who do believe in the dole, provided it is just enough to keep people's heads above water while work cannot be found, but I do not think that ought to excuse Government going in every possible way into the practicability, as has been put before them, of giving all these people work through other indirect methods which will enable them to pay for this grain. I hope, Sir, that every effort will be made to conserve this money as far as possible.

Now, Sir, with regard to the locusts, I suppose we are going to have another debate on that later on. I did not quite understand the hon. gentleman who moved this motion. He said that a three by fifteen miles swarm had destroyed a district, I think it was. I did not understand what region.

THE HON. THE ACTING CHIEF NATIVE COMMISSIONER :
On a point of explanation, Sir, I merely said the land destroyed—the crops in this area which is the land affected; not the whole of the South Kavirondo District.

THE RT. HON. LORD DELAMERE : I quite see. I am not cavilling at anything he said. I simply did not understand it. I am quite sure that hon. Members will feel that steps have to be taken in this matter, and also that the large sums of money are not thrown away by feeding people who can pay, or where they have other means to pay for things, such as roots and fish and their own stocks. I think we all ought to congratulate those natives on the Native Councils on the amount of money they have put forward for their own help. I only hope, Sir, that the hon. gentleman who has just spoken—and I think we can leave that better to the next motion—is right in his optimism over these locusts. I am quite certain that when he and the Agricultural Officer in charge of the locust district went up the other day they brought back what they believed was an entirely accurate account of what was happening, and I hope that—I sincerely hope that things are not worse than that. In fact, they appear to have got worse in the last few days, and I hope when the debate comes we shall probably get some information about this.

There was one point made in the hon. gentleman's speech which I was very pleased to see—that it was recognised by Government that means should be taken to help in case of distress resulting to any of the communities in Kavirondo, and I suggest, Sir, that locusts are not the only form of distress, and there are methods of helping one or two of the industries in this country still and, as far as I personally am concerned, I believe if we keep certainly one or two of these industries going at the present time it will pay us a hundred times over.

I have nothing more to say. I am afraid I know nothing of the position up there at the moment at all; I am sure there are many Members on this side of the House who know a great deal more.

THE REV. CANON THE HON. G. BURNS : Your Excellency, I should like to associate myself entirely with the Noble Lord's remarks in congratulating the hon. the Acting Chief Native Commissioner on the clear and concise report he has brought back to this Council after his journey into the afflicted district. It is not necessary, I am sure, for anyone to attempt or to try to convince this Council to enable them to vote this sum to-day—we are Britishers, and we cannot see women and children suffer without trying to the very best of our ability to relieve that suffering in time of famine. Some of us passed through the 1890-91 famine, and we know what it means to the women and children at such a time. Therefore to try and persuade people to vote for this grant would be almost an impertinence on my part; there will be no question from anyone's point of view.

With regard to the means by which such relief can be given, that is an entirely different question. I am in entire agreement that the able-bodied natives of this district should not be given food—I was going to say, *burre*—without their doing something to earn that food. They should be given some relief work; work should be organised, as the Noble Lord has suggested, Sir, either relief work on railways or anything else, but that, I think, should be kept as a distinct issue apart from the granting of this sum to the relief of these people. I think that should be a distinct issue by itself. This Council should, without a moment's hesitation, set aside that sum of £20,000 so as to enable those who have the burden of dealing with this thing to be in a position to relieve that suffering at once, if possible.

I have very much pleasure in supporting such a motion as this, Sir.

THE HON. T. J. O'SHEA: Your Excellency, I am at one with the last speaker in agreeing that there can be no question of this motion having the unanimous approval of the House, but I am not so sure it is because we are all Britishers as for other reasons, but I will let that pass.

Sir, everybody being so sure on that issue, I rather regret that the otherwise admirable statement of the hon. mover was spoiled by the introduction of such specious arguments as that these unfortunate natives were deserving of support when in a state of famine because they had an admirable war record. Even if they had not, Sir, I should have thought they were still entitled to the same consideration from this House. I should have thought they were also entitled to it even if they had not been particularly large contributors of revenue in the form of taxation or contributors of revenue in the form of Customs duty. They would also have been entitled to it even if they had not supplied an appreciable part of the labour requirements of the Colony outside the Native Reserves. In that connexion, Sir, I should like to point out that they contribute to the labour supply not from any sentimental motives but because they find it is of considerable economic advantage to give their labour in return for a fair wage.

I think it is also of interest, Sir, that it should be brought out so clearly from the Government side of the House that these natives are in the unfortunate position they are to-day very largely because of the breakdown of European agriculture; that they would not be in the position of having to look for relief funds were it not that their labour is no longer required outside the Reserves. In view of the criticism that takes place on that aspect of our national life, I think it is just as well, and not a waste of time, to emphasise that important point—the interdependence of native and European agriculture.

I should also like to add my tribute to the Native Councils in the adjoining areas for their contributions to those relief funds, and I hope it will not mar the spirit in which I pay that tribute, if I point out that the North Kavirondo Native Council has a surplus balance at the present time of £21,000 and, according to the report of the hon. the Acting Chief Native Commissioner, they are in the very fortunate position of having ample food supplies for their requirements at present and have every prospect of reaping crops above the average.

That being the case, Sir, and seeing the Kavirondo is a native who has had expended upon him most of the missionary efforts in this country, I think it is an admirable occasion upon which not only the Government but the missionaries might do something to emphasise the necessity of looking after their own aged and poor. I might not have gone out of my way to mention that had not the hon. mover reminded us that, unfortunately, these people, despite the missionary efforts expended upon them in the last thirty years, have not yet begun to realise their responsibilities to their aged and poor. I suggest, Sir, in all seriousness that the present is an admirable opportunity for emphasising the need of change in that respect.

Lastly, Sir, I should like to draw Government's attention to the final clause of this resolution, with which I cannot agree. It asks the House to pledge itself in advance to approve of the appropriation of such net expenditure as may be irrecoverable when famine relief measures are concluded. I would suggest, Your Excellency, that it is entirely unnecessary to introduce that clause in the present resolution. The Government can rest assured that if they pay out money in famine relief, and it comes back to this House with a case for remitting some proportion of that amount because it has been given, and had to be given, to individuals who were not in a position to repay it or will not be in a position to repay it, why then I feel certain Government can rely upon the House agreeing to its action; but, Sir, to ask us to pledge ourselves in advance is, I submit, unnecessary and not quite fair. It deprives us of the opportunity of reviewing Government's actions in connexion with the expenditure of this money at a later date. It may not be strictly correct to say it will deprive us of the opportunity of considering the Government's action, but it certainly would have tied us up in advance if we had given Government a blank cheque in this way. I would therefore ask Government favourably to consider the deletion of this clause in the resolution.

LT.-COL. THE HON. C. G. DURHAM: Your Excellency, I also would like to congratulate the hon. the Acting Chief Native Commissioner on his most excellent speech.

Sir, I cannot agree with the hon. Member on my right (the hon. Member for Plateau South) when he does not consider that past war services should count. More than anybody in this House, I think, I know what those fellows went through, and when you realise that they did it from the volunteer point of view—the fight had nothing to do with them, they came up voluntarily—I think they are deserving of the consideration of their country.

With regard to the suggested grant for famine relief, I also should like to support the Noble Lord when he suggested that they should do a certain amount of work for the *posho* they get, but I do not suggest that they should be sent down to private enterprise or work for public companies. I rather commend to Government the making of public roads with that labour for the benefit of the whole country. I am all at one in voting for this money for the feeding of the women and children, but I think, where the able-bodied man is concerned, he should go out to work for the food he is going to get. After all, he has to work to-day for a few pence a month plus his food, and there are many Europeans doing the same, and I can see no hardship in an able-bodied Kavirondo doing likewise. I support the motion.

CAPT. THE HON. J. L. COTTER : Your Excellency, I support the previous speaker in congratulating the hon. the Acting Chief Native Commissioner on his magnificent speech, but I cannot agree with the previous speaker as to the war record of this particular tribe. I may say that at the beginning of the war the whole tribe was in open rebellion. They burnt Homa Bay and Kendu; they ransacked stores all over the country they raided—I never heard such extreme statements in my life. This is a fact; I happened to be there. I regret I have no other remarks to make, but this is a fact, Sir.

LT.-COL. THE HON. J. G. KIRKWOOD : Your Excellency, I have much pleasure in supporting the motion before the House, and also the eloquence on this side of the House, but I think it is an opportune moment to point out some of the results—some of them were disastrous results—of the bad judgment and bad management of the previous famine relief, with a view that, should the present conditions become worse, as I have every reason to believe myself that they will, they will take advantage of our past experience. One thing, Sir, that happened last time—the contract for the shifting of the food to the natives concerned was let out at Sh. 1/50 per ton mile, but there were scores of Europeans willing to take on that work at Sh. 1 per ton mile, but they could not get it. They were not offered it. It was a deliberate waste of public money.

Another very serious thing that happened was that the Government decided to import 30,000 bags of maize. They did so, and they lost somewhere about £8,000 in round figures. The most serious aspect of that was, Sir, that there was still a large quantity of maize available in the Colony, and the imported maize was brought in to compete against the maize that was still available for famine relief.

Another point which rather upset me, and I thought it very unfair, was that the Food Control Board declined to buy maize and *posho* for famine relief on the Kitale Branch Line at a matter of 25 cents per bag extra.

Those, Sir, are a few points, a few things, that happened in the past, and there is no reason why they should not happen again if the same bad judgment is used. I would suggest that Government give every consideration, should the situation develop, to the opening of relief works. I think it is much preferable to allow the natives to work, not only for their *posho*, but for wages, than to do anything in any shape or form which might tend to pauperise them. We have before us this morning a reference to the Kericho-Kedowa Road; in the answer to that question the hon. the Director of Public Works stated that something in the region of £1,500 was required to finish that road. That is somewhere in the vicinity of the present distress, and I suggest either on that road or on some other road the employment of these natives to advantage might be considered.

THE RT. HON. LORD DELAMERE: Your Excellency, I should like to propose that the last portion of this motion be deleted.

THE HON. THE COLONIAL SECRETARY (MR. H. M.-M. MOORE): On a point of order, I think the Right Hon. Noble Lord has already addressed this House on this question.

THE RT. HON. LORD DELAMERE: I think I am free to do that.

HIS EXCELLENCY: I am sure the Noble Lord can be met by some other hon. Member.

THE RT. HON. LORD DELAMERE: Quite so, Sir, but on this question it is an entirely new thing.

HIS EXCELLENCY: You are only permitted to speak once.

THE RT. HON. LORD DELAMERE: That is perfectly true, Sir, but in moving the old Rules . . .

HIS EXCELLENCY: My reading of this rule is that you are only allowed to speak once.

THE HON. THE ATTORNEY GENERAL: If an amendment were moved, the Noble Lord would be entitled to speak to the amendment, but not in speaking on the debate in question.

THE HON. THE COLONIAL SECRETARY: To clear up the position, if it was the intention of the Noble Lord to suggest, as put forward by the hon. Member for Plateau South, that this motion should be amended by the deletion of the last paragraph, I should like to say, on behalf of Government, we shall be glad to accept that on behalf of Government, and I put it now formally.

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

HIS EXCELLENCY: The question is that the motion be amended by the deletion of the last paragraph of the motion.

The amendment was put and carried.

COL. THE HON. W. K. TUCKER: I merely rise to ask the hon. mover of the motion for three assurances, which I feel sure he will be able, on behalf of Government, to give, judging by his sympathetic support and general grasp of the problem. This assurance bears to some extent on the speech just made by the hon. Member for Plateau North. Two or three years ago, Sir, when we had an emergency of a similar nature, it is true that there was a Food Control Board in existence, which I am sure we all hope will never exist again, at all events in so far as its main functions are concerned in controlling, not merely the distribution, but the price of maize throughout the country, but I am conscious of this, Sir, that as a subsidiary duty that Food Control Board was able to advise the Provincial Commissioners with regard to certain aspects of the work done in the Native Reserves. In some cases, perhaps, there was a little justification for what the hon. Member for Plateau North just said, but broadly it only amounted to friendly criticism of what they proposed to do and how they proposed to do it, particularly the criticism from a batch of business men who in respect of that work possibly were able to render very useful advice and assistance. Therefore, Sir, I would like to ask the hon. mover whether he is quite satisfied that with his own organisation he can always buy to the best advantage, that he can always transport and generally distribute the supplies to the best advantage, because, if not, it would appear to me he would not be inconsistent in seeking a certain amount of lay opinion in dealing with what is, after all, an unprecedented task—not unprecedented—a very unusual task for his own officers to be called upon to perform.

The second assurance I would like is—and unfortunately I do not know the district too well—I would like to be assured that there are no pastoral tribes throughout that area who are hoarding up unnecessary stocks of cattle, or in fact other assets, which, at a time like this, should be more freely placed upon the market.

And finally, Sir, I would revert to one of the strong recommendations of the Agricultural Commission two years ago, and ask the hon. mover whether in fact the staffs of the Provincial and District Commissioners and so on, are in fact making greater use of the Agricultural Officers and the Agricultural Officers' knowledge where they are. Is it the policy to see that the junior administrative officers are better equipped than they were in the past with agricultural knowledge with the specific object of encouraging natives to grow alternative crops which are far less susceptible to the locust menace than those crops which it was habitual to grow in the past?

HIS EXCELLENCY: I call upon the mover of the motion.

THE HON. THE ACTING CHIEF NATIVE COMMISSIONER: Your Excellency, may I say to start with that I myself am in complete agreement with the remarks of the Noble Lord, and go so far as to say that I would very gladly indeed welcome any private employment that was found for these native peoples. They want it themselves, and he is perfectly right in saying that these conditions have come about because they have been unable to find it. Naturally they would be better off. Government famine relief works in the past have not always been too successful. It would be better if they could find private employment, but, Sir, there are difficulties in that—when that able-bodied population is wanted to cultivate the land and plant crops to take the place of those that have been destroyed, they are right away from their homes. That is one difficulty that always confronts us in cases of this nature, Sir.

As to my perhaps unfortunate remark about the war record, I do wish to make that a little bit plainer. I do not in the least adduce that as an argument for the House to approve this motion. I never had any doubts about the House approving the motion, but I did think that it might be of some interest to the House to know that it was not asked to throw away its money on a lot of wastrels. I thought it was valuable information that they had played their part in the country. I know that in the early days of the war they did play up, but later, during the last four years of the war, they did send their thousands to the fight and they left their thousands on the battlefield, and if anyone wants a real

opinion as to the value of the Kavirondo in the war, let him ask anyone who had under him Kavirondo machine gun porters.

The suggestion has been made by the hon. Member for Plateau South that the neighbouring Councils should contribute famine relief. As a matter of fact, I do not think this possible. The Councils are trustees of the money collected by their own people, and are only authorised to spend those sums on the betterment of their own people. I think that the position would be much the same as if this Council were asked to vote famine relief in some other country. I do not think that could be done. It could be done by private subscription, but I do not think it could be done by resolution of Council. The same hon. Member also charged me with saying that the natives concerned had not begun to realise their obligations towards their women and children. As a matter of fact, I was rather . . .

THE HON. T. J. O'SHEA : On a point of explanation, I believe that you said for the aged and poor, quoting the hon. Member's own words from his own statement.

THE HON. THE ACTING CHIEF NATIVE COMMISSIONER : I accept that, Sir. He said they had not begun to realise. What I said was that they did not always realise, because I do appreciate the fact that many of the natives have been trained by those missions to which the hon. Member referred, and have begun to observe such ideas of altruism as we observe ourselves, but it still is true that they do not always observe them.

The hon. Member for Nairobi North asked for three assurances. The first was whether I am satisfied that the administrative organisation is such that we are able to buy to the best advantage and transport to the best advantage. I could not, of course, give such an assurance as that, but I can assure him that we are doing all we can to take lay opinion in this matter. We received the very greatest assistance from the Kenya Farmers' Association. The Deputy Director of Agriculture had an hour's talk with Col. Griffiths at Nakuru, and he is doing everything he can to help us in this difficult matter, which I know perfectly well we are quite incompetent to understand ourselves.

The second assurance for which I was asked was that pastoral tribes are not hoarding their stocks and assets. I could not give that assurance of any pastoral tribe, but there are no really definitely pastoral tribes in this area to which I was referring. The Kavirondo have a lot of stock, and they

usually are prepared to sell to the Kisii, but the price of a bull is only Sh. 12 to Sh. 20, and the price of a heifer is only about Sh. 20. There is no demand for that stock now.

The third assurance in regard to the use of Agricultural Officers—about that I can give the most emphatic assurance. The Agricultural Officers have proved their value over and over again. They are working hand in hand with the District Officers, and without their work we should certainly be in a very much worse position than we are now. He also asked if every effort was being made to encourage the cultivation of other crops, and to that, Sir, I can give a most firm assurance. Not only Agricultural Officers but District Officers are making every effort to increase such crops as sweet potatoes and beans and other crops.

HIS EXCELLENCY : The question is :—

“ Whereas owing to damage done or likely to be done by locusts, there is grave danger that a food shortage will exist in certain parts of the Colony :

And whereas it may become necessary at short notice to incur expenditure on famine relief measures :

This Council hereby authorises the Governor to advance from the revenue and other funds of the Colony such sums, not exceeding in the aggregate twenty thousand pounds, as in the opinion of the Governor may be required for famine relief purposes, it being understood that Government will make every endeavour to recover as far as possible from the persons to whom famine relief is granted the cost of foodstuffs supplied to such persons.”

The question was put and carried.

LOCUST DESTRUCTION.

THE HON. THE ACTING CHIEF NATIVE COMMISSIONER : Your Excellency, the second motion standing in my name is one to ask authority to spend £10,000 on locust destruction. That authority was asked for to cover the £5,000 already spent and for authority to incur a like expenditure on the prosecution of the campaign. I know, Sir, that it has been argued that money spent on the destruction of hoppers is money wasted, because it is argued we are merely protecting crops in order that they may be destroyed by the flying locusts. That argument, Sir, assumes that those crops will be destroyed. It is indeed a counsel of despair, and it does not seem to me at present that the situation is quite so bad as to warrant that definite counsel of despair.

I lately had an opportunity of talking to some of the farmers at Eldoret who have been engaged on this campaign of destroying hoppers. Incidentally, it is quite evident that the enterprise and enthusiasm and the organising ability that those farmers have thrown into that work is beyond all praise, and they themselves are satisfied that their tremendous efforts have met with corresponding success. They are very, very reluctant indeed to be relieved for even one day of this extremely arduous work. They believe that they have achieved a very great deal, and have saved a very great deal of the crops. That conviction, Sir, is entirely shared by the Government officer who is in charge of the locust campaign there, Mr. Sinclair, who is working with those farmers. They were all united in imploring us to do what we could to secure that this campaign should be prosecuted until it could attain the end which they believed to be in sight.

From there we went to the Kavirondo Districts, and the District Commissioner, North Kavirondo, told me that he and his officers, the missionaries, the Agricultural Officer and the natives, for the last month or two had done nothing whatever but destroy hoppers. They were equally insistent that they should be allowed to continue to do this. He believed that in a large part of the area of his district that was affected he had saved twenty-five per cent of those magnificent crops to which I referred just now, and he believed that this salvation extended to the amount of ten per cent when taken over his whole large district. He is perfectly convinced that he has saved by this destruction of hoppers far more than that destruction cost, quite apart from the perfectly appalling potentialities of the future if those enormous hordes of hoppers were allowed to grow to maturity.

From there we went to Nandi, and I found the District Commissioner there had precisely the same views. He and his Assistant District Commissioner and his natives have been doing little but destroy hoppers, and they too were convinced that they owe the salvation of their district, and possibly some of their neighbours' crops, to that effort.

The same kind of effort is being undertaken in the neighbourhood of Solai, where the settlers and the natives are working together to resist this common danger.

We are having rather a new peril up in the Laikipia District, and it is for this particular new peril that the sum is especially asked and to which, as I understand it, it is to be particularly devoted. The danger from this new invasion of hoppers in the Laikipia District is, I am told, very real to the Kikuyu Reserve, and it is in the Kikuyu Reserve our main

reserves are at present situated. The reserves are very considerable indeed, and the crop that is nearing maturity is a good one. If that crop is devoured by locusts our situation will be indeed deplorable.

Sir, it seems worth while, as conditions are at present, to continue this campaign against the hoppers. As I said at the beginning, to abandon it would be a counsel of despair which I do not think is warranted, and so, Sir, I ask for authority for £10,000, to cover the £5,000 already spent and to provide another £5,000, on the grounds that the £5,000 spent has been well spent, and that the results of that expenditure warrant incurring a similar sum in the prosecution of similar efforts.

I beg, Sir, formally to move :—

“ That this Council approves the expenditure of a sum of £10,000 upon the purpose specified in the Schedule hereto as a charge against the revenue and other funds of the Colony.

Schedule.

Expenses in connexion with Locust	
Destruction	£10,000.”

THE HON. THE TREASURER : Your Excellency, I beg to second.

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

THE RT. HON. LORD DELAMERE : Your Excellency, I am very pleased to support this. I am one of those people who has always believed that the destruction of locusts, properly carried out, was first of all a possibility and secondly an economic possibility.

First of all, I should like to say that it is very pleasant, to me at any rate, to hear that behind this movement, as far as it concerns especially the Native Reserves and the natives of the country generally, we have somebody like the mover of this motion, who is not a defeatist in this matter. It has been common enough to hear in the past, not only from people on this side of the House or from the Official side, but also from people all over the country that it did not pay in the last outbreak of locusts, and that it was a waste of money and so on. I would say I think that was particularly prevalent among people who had not met this particular plague.

Well, Sir, as far as I am concerned it seems to me, from the economic point of view, to spend, as we did on our last invasion, £80,000 in the country, a very small proportion of which was paid for goods outside the Colony, is a great deal

better than having to do what we did the year before, I think it was, which was to pay something like £60,000, one way and another, for famine relief and other things—not quite the same purpose, Sir, but the same result would accrue; you would get the famine if you did not keep down the locusts, and there is no doubt that the pity of this campaign has been, not that it was done, but that it was not started quite early enough, and because the variety of locust and other things was not quite understood. More than all that, Uganda did not take its place properly in this particular campaign. There is no doubt that if the hoppers in the Kingdom of Uganda, with its dense population, had been properly tackled from the beginning—and I myself saw them there when I went up to Railway Council on all the roads and railways and so on—on such railways as they have in Uganda—if that campaign had been properly undertaken then I am quite certain we should not be in the position we are to-day over locusts.

I am afraid the thing has in some ways got a little bit out of hand, and we only hope they will keep on at the hoppers to prevent entire flying swarms coming over, and we hope that these flying swarms will settle on grass land—I am not necessarily suggesting dairy land or things of that sort—and eat that in preference to the crops of the country until such time as they themselves breed, after which the hoppers will again have to be taken in hand. That seems to me the right and the civilised method adopted all over the world of dealing with locusts and destroying them, and I am sorry that Uganda in this matter—I am not speaking against the wishes of the people of Uganda, because as far as I know the Chamber of Commerce in Kampala passed a very strong resolution with regard to the fact that their Government had not taken steps earlier to deal with this particular thing—I think it was probably when they marched through the town, but still—may I withdraw that? It is probably quite untrue—the Chamber of Commerce put it up quite genuinely that they thought that this menace should have been dealt with, and I think, Sir, that is at the bottom of most of our troubles, and, if I may say so, Sir, if the time that was taken up in investigating taxes, such as were dealt with lately between the three Governments, had been taken up in going into the question of the locust campaign, and getting the support of the Secretary of State in a matter of that sort, of dealing with what I may call the recalcitrant Governments, I think it would have been a great deal better, with the greatest respect.

THE REV. CANON THE HON. G. BURNS : Your Excellency, I feel very strongly indeed that this branch of this vote should be passed from the economic point of view, for if the hoppers now in the Laikipia District take to the wing and come down

over the Kikuyu country, the country where the reserves of food supplies are hoped for, and destroy the food supply in that country, it would not be a matter of asking this Government to vote £10,000 but £10,000 multiplied very considerably if they came there. So I think, from the economic point of view, it is saving the country and saving very very great possibilities of famine in the Kikuyu country if this House will vote that £10,000. I have pleasure in supporting the motion.

CAPT. THE HON. J. L. COTTER: Your Excellency, I rise to support this motion. As far as the locusts in Laikipia are concerned, I hear that they are already on the wing. In fact, over my own place, there are three swarms of some considerable extent. I feel myself, however, that it has been known for a considerable time that hoppers have been actually in Laikipia, in that tremendous promised land. The fact that hoppers have been there has been very well known to the Government and the only complaint I have to make in the matter is that the steps to be taken are so late. There is one thing about it: I do not know whether it would interest this House to hear that despite three swarms coming due south over my place, which is sixty miles north of Nyeri, I can get no news as to what has become of those three swarms. I saw altogether three flying swarms covering forty to fifty square miles. I have heard they should be in Nyeri by now, but I have not heard definitely; I do not know if the hon. the Director of Agriculture has heard anything more.

THE HON. THE ACTING DIRECTOR OF AGRICULTURE: Your Excellency, I do not know what has happened to those three swarms any more than the hon. Member opposite. Had they reached the Kikuyu Reserve I think we should certainly have been informed. We know that there is a threat to the Kikuyu Reserve, not only from that direction but also from just below the Escarpment. There is a small swarm there, but we feel they will not be able to climb the Escarpment. It is true that these flying swarms are spreading rather more in the last few days, but the position is by no means serious in regard to flying swarms. We feel in the Department now—the news that has been coming through lately has begun to make us feel that we shall escape a great deal of damage. The flying swarms are not doing the damage they were expected to do. Moreover, there are not the same number of them. I learn from Uganda that in the Eastern Province, instead of flying eastwards as expected, they are going back on their tracks and flying westwards. We also learn that in two or three different parts of this country the flying swarms are infested with thread-worms which have destroyed them. The hopper campaign is almost over. I may say the Department had no

knowledge whatever of the infestation of hoppers in the area which the hon. Member has mentioned until I think about ten days ago. Perhaps that is the earliest. It has proved to be a completely new invasion of which we have no knowledge whatever. We have not been informed of all the egg-laying which we were expecting to have been informed of.

I should like to say, Sir, that the chief reason for asking for the further prosecution of the campaign—a week ago I was sufficiently pessimistic to believe that it was rather useless going on with the destruction of hoppers, because flying swarms were spreading so much, and the invasion anticipated from Uganda seemed to be so imminent—I thought what the hoppers did not get the flying swarms would, but in the last few days we have begun to feel, especially since the hon. the Acting Chief Native Commissioner and the Deputy Director had their trip up-country, that the flying swarms are not doing very much damage just now. Here and there, perhaps, but it almost looks as if the invasion had reached the crest of the tide and was turning back. That being the case, we do feel that the destruction of hoppers should be prosecuted until it is completed so that the flying swarms will not get the crops which are left from the destruction by hoppers. I do not like to be too optimistic. The position may change again quite easily, so I do not like to sound too strong a note of optimism, but I myself begin to feel that, as in the other invasions of locusts, they do come to an end, as everything must come to an end, and I believe this invasion is approaching its end.

LT.-COL. THE HON. J. G. KIRKWOOD : Your Excellency, I am in support of this, and I should like to ask for some details or accounts of what money has been spent, and what amount of money is necessary. I would also like to query the necessity—I stand to support the motion—whether it is not in conflict with what Your Excellency said on the opening of Council, that no further assistance should be given to agriculture. That was the intention of the Secretary of State—that no further assistance should be given. I maintain, Sir, that famine relief, as already passed, is some assistance to native agriculturists, and consequently this assistance is to agriculture, but legislation for the protection of crops is also assistance to agriculture. I should like Your Excellency's opinion on that, Sir—whether we are not going contrary to the *Bwana Mkubwa* at home.

THE HON. THE ACTING CHIEF NATIVE COMMISSIONER : I have very little more to say, Sir. I am afraid I cannot supply the details asked for, beyond saying that £5,000 has been spent at present, and £5,000 is asked for, which it is believed will be more than sufficient.

HIS EXCELLENCY: The question is that this motion be approved.

The question was put and carried.

Council adjourned for the usual interval.

On resuming:

BILL.

SECOND READING.

THE CO-OPERATIVE SOCIETIES (REGISTRATION) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to Provide for the Registration of Co-operative Societies be read a second time.

Ever since at least 1924, Sir, possibly even earlier, there has been a steady and, of recent years, quite considerably increasing insistence on the advantages which the agricultural industry in this Colony would gain from legalised co-operation. There has quite clearly been evidence of that feeling, certainly in the case of two of the very large industries—the cereal industry and the butter industry—and a form of co-operation exists in both of those industries. In the one case, the Kenya Farmers' Association, Ltd., and in the other, what is now the Kenya Co-operative Dairies, Ltd. But, Sir, although there is a very considerable measure of co-operation in the case of both of these limited companies, there is no real legal co-operation, because it is impossible, Sir, under the provisions of the Companies Ordinance—which both those bodies have very properly invoked—there is under that Ordinance no power whatever to make the by-laws of such a Society binding upon each and every one of the members of the Society. That position has been realised, Sir, for a considerable period, and I think that it is because of the realisation of that defect in the existing organisation that there has been the insistence on the necessity of going the one step further, and legalising co-operation. Just recently, Sir, the position has become more acute, because, not only has such a society no power to make its by-laws binding upon a member, but in a recent case, the details of which are probably well known to most hon. Members of Council, the Courts have held that certain of the by-laws, which are in the view of the Directors of these Societies essential for the proper control of their activities, the trade interests of their members, are *ultra vires* on the ground that they constitute a contract in restraint of trade. These are the two major issues involved, Sir, in the agitation for legislation such as that which is now in the hands of hon. Members in this Bill.

The difficulty under the present circumstances can be put very simply indeed. It is an honourable understanding between the Society and each of its members that the members shall market their agricultural produce through the Society, and in anticipation of the honourable culmination of that understanding, the Society is entitled in the ordinary commercial way to make forward contracts for the sale of their produce. But there is nothing, Sir, except the possibility of expulsion from the Society, there is nothing to force any one member actually to supply the whole or any part of his produce to a limited liability company when the time for supply comes. He may have had advances against it, but that makes no difference. If, when he has reaped his crop, and the crop is ready for marketing, he can find a better and more advantageous market through channels other than those of the Society to which he belongs, he is, as the law now stands, at liberty to take advantage of that better market, even though the consequence may be that the Society is unable, by reason of his default in supply, to fill a forward contract. That is the position which, I repeat, Sir, has recently actually been decided in the Courts of the Colony, and the answer which the Courts have given is, I repeat, two-fold. Firstly, there is no legal binding force in the by-laws, and, secondly, even if there were, these by-laws form a contract in restraint of trade and would not therefore be enforced through the medium of the Courts of the Colony. In the Bill which hon. Members have before them, Sir, express provision is made in regard to both of those points. It is a provision, Sir, which is not revolutionary. It is a provision which, so far as my researches into this somewhat abstruse subject have led me, is invariably incorporated in all such legislation. It is a provision that when a person becomes a member of a Co-operative Society he does so with a realisation that that membership involves on him the obligation directly to obey the by-laws of his Society and the regulations of his Society. It is, further, Sir, an admission by him that not only will he obey those by-laws but that he is debarred, by the fact of joining the Society, from pleading in Court or before an arbitrator that any of those regulations form a contract in restraint of trade.

Now, Sir, what is co-operation? On that point, Sir, I would invite the attention of hon. Members to the definition of a Co-operative Society in the second clause of the draft Bill. It is limited, Sir, for the purposes of this Colony, to agriculture. A Co-operative Society is defined as "a society or association of producers of agricultural products," but it does go further, it covers the various commercial processes through

which that produce naturally goes. The marketing of agricultural products, the processing, warehousing, manufacturing, and storage. And the definition, as hon. Members will see, goes further—it includes the co-operative purchase of farm supplies, credit, financing, insurance or other co-operative activities.

I would, if I may, Sir, digress for a moment, and invite particular attention to the inclusion in this definition of "credit" and "finance." As Your Excellency stated at the opening of this Session, the question of further agricultural credits is one of the major problems of the Colony. There is nothing of this sort in English legislation. In this it differs from every other instance of corresponding legislation. In South Africa there is nothing in this legislation dealing directly with agricultural co-operative credit, but the insertion of those words "credit" and "finance" in the definition in this short Bill, which deals only with registration and the consequences of registration, will be that if and when a system of co-operative agricultural credit for the Colony is evolved, those words will form the necessary nexus between that subsequent legislation and the activities of existing societies which may choose to register under this legislation. There must be a liaison and the object of these two words is merely to supply that liaison, if and when circumstances warrant its formation.

The Bill itself, Sir, does not, I hope, call for any very lengthy explanation. If one omits for the moment the Schedule, which consists of a set of model regulations for the guidance of those who wish to form Co-operative Societies, it consists of merely eight pages, Sir, and it is, I think, still less incumbent on me to weary hon. Members with a detailed explanation of the provisions of this legislation, because I have Your Excellency's authority for saying that it is your intention to refer this Bill for consideration in detail to a Select Committee of this Council.

The first part deals with registration and the formalities of registration. A Society may be formed of seven or more adult persons in the Colony, always, of course, assuming that their activities are such as to come within the scope of the definition of co-operation. Any seven or more persons may on application be registered as a Co-operative Society. Any company which consists of seven or more members may, in the same way, on application, be registered as a Co-operative Society, with the two necessary conditions that there must be firstly, in the Memorandum and Articles of Association of that company, power to engage in co-operative activities, and, secondly, and equally essentially, there must be a resolution of

the company resolving to form itself into a registered co-operative Society. Given those two pre-requisites, Sir, a company is in exactly the same position as any individual, always assuming that it is not a private company, that is to say, that it is a company which has at least seven members who can join in subscribing to the application for registration. Assuming that such application has been made, Sir, the next question is the regulations of the Society. Draft model regulations will be found by hon. Members in the Schedule. There is no obligation strictly to follow them—they are there for guidance; they do not incorporate anything, so far as the limited knowledge which any of us have of the subject, Sir, but what we have been able to see is necessary and advisable. They do incorporate the necessary essentials which such regulations should have.

Assuming, Sir, that these regulations are followed with sufficient closeness, or are not too drastically and radically departed from, they will be approved by the Registrar, and the Society becomes a Registered Co-operative Society in accordance with this legislation.

The obligation to submit for the approval of the Registrar the regulations of the Society necessarily connotes the obligation to submit through the same channel any alteration in those regulations, and that obligation, Sir, is set out in clause 8 of the Bill.

Clause 9 is an obvious and, I think, not unreasonable one, Sir, that the Society will not be registered if it takes the name of a Society which is already registered. To that there can be no exception, Sir.

While I am on the subject of name, there is one word that I think I might say, Sir, to forestall possible criticism. There is no provision in this legislation that the word "Co-operative" should necessarily be a part of the title of the Society. Nowhere throughout the various clauses of the Bill is any such provision made, but in the schedule, Sir, the schedule of model regulations, the first regulation is that the name of the Society is "The _____ Co-operative Society." The reason why it is done in that way, Sir, and not by an express provision in the legislation, is that there is nothing racial in the legislation at all, Sir. It is equally competent for the Indians or the natives to form themselves into Co-operative Societies under this legislation, and once that is conceded, Sir, I am sure that hon. Members will go further and agree with me in conceding the point that it is infinitely preferable that in such cases the vernacular language should be available for use. A Co-operative Society is a society of persons who are voluntarily combining for their

joint and several advantage, and it is very important indeed that every member of that Society should be able to understand just what is going on. It is, I submit, and I submit with all confidence, Sir, very much better, for instance, for the regulations of an Indian society to be in Gujrati or Urdu; that the regulations of every native society should either be in Swahili or in the vernacular, so that every member can see exactly where he stands and what he is undertaking at the time when he elects to become a member of that society. Because of that, Sir, it was considered preferable that the word "Co-operative" should not be compulsory in the case of these Societies—they will probably use a word which, in the language in which they are writing and thinking, will convey to their members and to other members of that community exactly the same impression.

The power to change a name, Sir, is naturally subject to the same restrictions as the power to change a regulation; inasmuch as a company is empowered under this legislation to do certain acts, inasmuch as certain obligations are imposed on the members as soon as a certain name is registered, a change of name has also got to be approved in exactly the same way as a change in regulation.

Clause 11, Sir, calls for no comment. It is merely in the interests of the Society and to save expense that the certificate of registration is to be deemed to be conclusive evidence that the Society has been registered. It is merely for the purpose, as hon. Members will see, of possible action in the Court.

Then we come to the duties of registered Societies. They are to have a registered address, to keep a copy of the Ordinance, the Rules and Regulations, at that registered address, open to the inspection of every member. That is merely an amplification and elaboration of the point that I have just endeavoured to make about the use of the word "Co-operative"; and, lastly, that their accounts are to be subject to audit at least once a year. That is an obvious provision, Sir, in the interests of the members.

I have dealt with their duties, Sir, and I come now to their privileges. The act of registration makes a Society a body corporate, gives it power to hold land, and gives it certain advantages, which hon. Members will find in clause 19, over, for instance, limited liability companies and other corporations in respect of the making, variation and discharge of contracts. It is in this part, Sir, that hon. Members will find the provisions about the legality and the legal binding effect of by-laws—it is in clause 16. The obvious corollary to making the regulations of a Society binding on its members, obviously, is

to give the Society certain penal privileges in respect of the breach of those regulations, and so, Sir, in clause 17 power is given to a Society to impose fines upon its members for breach of the by-laws.

Clause 18 is one which I hope many Societies will find useful, Sir. It gives the power, by embodying that power in the regulations, to have all matters of dispute between members of the Society or between the Society and any member settled by arbitration instead of by the more lengthy and expensive process of going through the Courts, but there is nothing there in that clause, Sir, that ousts the Courts at all—it is merely a permissive power, and it is for members to decide whether, in their best interests, they prefer the machinery of the Courts or the shorter and less expensive machinery of arbitration.

Clauses 21, 22 and 23, Sir, deal with the same subject—the liability of past members, the liability of the estate of a deceased member, for the possible debts of the Society; and clause 23 is a natural addition to that, for the reason that limited liability companies may register as Co-operative Societies under this Bill. The liability of a past member of a limited liability company or of a deceased member is, of course, governed, and must continue to be governed, by the provisions of the Companies Ordinance, and so there is a saving in respect of members of limited liability companies of the obligations which this legislation imposes on past members or on the estates of deceased members of Societies which are not limited liability companies.

The other portions of that part, Sir—the register of members, and the proof of entries in the Society's books—are, like the clause to which I have already drawn attention earlier in the Bill, merely in for the convenient and cheap administration of disputes. They are deemed to prove themselves unless the contrary is proved. There will be no obligation to go to the Registrar in every case either to prove the fact that a member is registered or the fact of an entry in the Society's books.

The next part deals with dissolution and, I think, calls for no comment at all. A registered Society may either be dissolved voluntarily by resolution or on an order of the Court. Voluntary dissolution entails a majority of two-thirds, a majority vote of two-thirds of the members of the Society. The part necessarily proceeds to outline the effects of that resolution.

When we come to the miscellaneous part, there is, I think, only one clause to which attention need be drawn, and that is the power which is given to the Governor to cancel

the registration of a Co-operative Society. That power may be exercised, Sir, if it is proved to his satisfaction that any condition of the registration has been broken, that any provision of the Ordinance has been contravened, or if he is satisfied that a Society is, in fact, not being conducted in the interests of the members or in accordance with co-operative principles. These may appear somewhat drastic powers, Sir, but I am sure, on consideration, hon. Members will see that if real co-operation is to be protected in the interests of the members it is not unreasonable that non-co-operation under the veil of co-operation should be prohibited. We are out here for one object, and one object only—it is the object and the interest of every member of a Society, every Society, which is formed, whether under Articles of Association, or under regulations which *ex facie* are in the interests of members, and if that Society is conducted in a way which clearly is inimical to those interests, then the only course to take is to dissolve the Society and cancel the registration of the Society.

The use of the word “ Co-operative ” is prohibited to anyone who is not registered under the provisions of this Ordinance.

To the Schedule I have already drawn attention, Sir, and in view of the fact that this Bill will be referred to a Select Committee, Sir, I do not imagine that it is necessary for me to go into more detail at this moment, and I shall content myself by moving the second reading.

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

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

THE RT. HON. LORD DELAMERE : Your Excellency, I am not going to take up the time of the House over a Bill of this kind. It has been very fully explained, and it is going to a Select Committee of this House.

There are one or two points I should like to have an assurance about, that they are not looked upon as part of the principle of the Bill. The first one is the question of the Schedule being in different languages. I was not quite clear about that, and I have not had time to think it out. It is an unusual provision to have an agreement of that sort, I should have thought, in different languages, for the purpose of going to the Registrar. Other people may understand it better. I do not understand how the man who cannot read or write can understand anything, but I imagine some must under the

circumstances put forward by the hon. mover. It may create quite a difficulty, I should have thought, on the part of the Registrar. The word "Co-operative" in languages of that sort is presumably not—I do not know the word—it may be difficult to express it, and the terms of the agreement in other languages, but, Sir, I have no particular knowledge of the effects of that. I simply hope that these sort of things will be left to the Select Committee to go into.

In the same way, Sir, No. 31—the fact that the Governor may cancel registration. I should have preferred myself that that should be a matter only to be done by a Court, or something of that sort. It is easy for Governors to see, perhaps, and only hear one side of a case, but it is more difficult perhaps to hear the whole of a case in a secluded way, and I cannot help feeling myself—and this is only a personal opinion, just looking at the Bill—that it might be better that it should only be possible to cancel a Co-operative Society of this sort by a Court.

Having said that, Sir, I congratulate the Government on having brought in this Bill, and I am sorry it was impossible at the present time to go into the question of agricultural co-operative credits, but it is quite evident to everybody that that is not ready yet to be put in. As the hon. mover said, he has put in some "nexuses" and "liaisons" and different things, which enable it to be linked up with this Bill, when the new Bill is brought in. That is all I have got to say, Sir, as it is going to a Select Committee as Your Excellency has decided.

THE HON. T. J. O'SHEA: Your Excellency, so little of the legislative proposals introduced by Government of late have had my approval that I think it is only right I should congratulate Government on being able to find time, with so many other pressing duties, to introduce a measure that has been demanded by the country for the last seven years. Government is, I think, to be congratulated on at last introducing this proposal. I am one of those who feel very strongly indeed that the future of the agricultural industry in Kenya is very largely dependent upon the success of the co-operative idea, and consequently this Bill, in principle, has my whole-hearted support. But I would like to draw attention to what I regard as some of its shortcomings. Unquestionably, the Bill has the mark of certain influences. It is, I think, pretty obvious that those who are concerned with the control of Co-operative Societies have played a part in the drafting of this Bill. That is the only way in which I can account for the fact that although everything possible has been done to include in the Bill protection for the Society against a member,

there is very little in the Bill to protect a member against the Society or to protect the public against the Society. I do hope that before this Bill emerges from the Select Committee to which it will go, that previous to this the necessary provisions will be included.

The hon. mover in his very complete statement of the purposes and intentions of the Bill, made it very clear that a member of one of these Societies would be very closely bound. Indeed, he has made it clear that these Societies will have very far-reaching powers, and that these powers in the hands of a small number of people will have the force of law. They will in effect be the prescribers and the judges. They may have some experience, but I am not sure that one can depend upon their having that judicial experience to enable them to be fair to the Society and to the individual members. I think it is very necessary indeed that the members should be protected—that is, protected in the Bill, as it stands, seeing that not only are they bound by the rules of the Association during their lifetime, but for some period after they pass over into the next world. I should have thought, Sir, that it was absolutely essential to include provision for ensuring that no by-laws which were going to have the effect of law would be passed without the express consent of a majority of the members. I notice that the consent of 75 per cent of the members is necessary to wind up on dissolution; that being so, I suppose consideration will be given that the consent of 75 per cent of the members should be necessary to the passing of by-laws, which by-laws may have the effect of binding these people very severely indeed.

There is one portion of the Bill I regard with some seriousness from the point of view of the general public. It says that no by-law passed by the Society shall be regarded by members of the Society as a restraint upon trade. Now there may be justification for that—I do not say there is not—but I should like to know whether there is any specific Ordinance in operation that would protect the public against any by-laws that were passed as a restriction of trade. What I envisage is this: The cereal industry, as an illustration, is on the way to being fairly well organised, and I perceive circumstances arising in this country which might result in the rest of the community being held up to ruin if that industry, well organised, decided to fix a price for its commodities. I should like to ask the hon. the Attorney General therefore whether the public at large is definitely protected in this Bill, or in any Ordinance now in operation, against these Co-operative Societies imposing restrictions that would amount to restraints upon trade, detrimental to the public interest.

Again, in clause 17, there is what I regard as a rather pernicious principle. Directors of the Society are given the power to impose fines for a breach of the rules. That, Sir, is perfectly right, but further on they may impose fines, and the onus of proof lies upon the unfortunate member. I do not think that is justified. I question the justice of that, and I also question whether it is the right procedure, and without further justification for it, I certainly am inclined strongly to oppose the incorporation of such a principle. Also, Sir, because I am really so keen on seeing the co-operative principle more generally adopted in Kenya in connexion with the agricultural industry, I stress the danger of going too far in giving the Societies power to be autocratic in dealings with their members. From a cursory study of the Bill, I am inclined to think that it is going so far that instead of it resulting in a larger membership of Co-operative Societies, it may, possibly will, have the effect of frightening people from going into such organisations. That is one more reason, Sir, why I think it necessary that the Bill should incorporate to a greater extent than it does at present, protection for the member against the Society, seeing that it has gone so far in protecting the Society against the member.

Lastly, I would ask whether I am right in understanding the Bill to mean that, so far as its ability to sell goes, it is confined to the sale of the agricultural products of its members, and so far as buying power goes, those powers are confined to the purchase of legitimate farm supplies for its members. And, Sir, in giving an answer to that, whether the hon. the Attorney General is satisfied that the term " farm supplies " is sufficiently definite for the purpose.

I have much pleasure in supporting the Bill.

LT.-COL. THE HON. C. G. DURHAM: Your Excellency, I also rise to support the Bill. There is only one thing I would ask and that is, in view of the fact that a Society can be formed by so few in number, whether Government will reconsider the question of registration being such as is applied to Companies to-day, and make the fee for registering Co-operative Societies simply a nominal one.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I rise to support the general principles in the Bill, and I do think that it is essential that the Bill should go to a Select Committee. There are many details that require investigation and understanding. I am in accord with every word of my hon. colleague in his speech. I want to see that the members, especially of existing societies, are protected, but it is not clear to me whether the clause states that seven form a society.

By that I mean, that a Society of seven directors could be made. In other words, I want to be absolutely assured that a Society will either go into liquidation, and the position would then be quite clear, but otherwise that members will be given ample notice, and to come under the operation of the Bill a reasonable proportion of the members should be in agreement.

I cannot understand why vital principles are embodied in the Schedule and not in the Bill. No doubt it is worked out right but why that has been done I am not sure. I cannot realise why power has been given to these Societies to impose a death duty. That is what happens under one clause of the Schedule—a deceased member's executor can only take out 75 per cent; in other words, 25 per cent goes to the co-operation as additional death duty imposed by the State. I think also the term of two years which is required for a member to be relieved of his liability to the Society after having resigned appears to be unduly long, and I should have thought a period of twelve or six months would have been sufficient, provided that at the time of his resignation the Society was solvent and consequently he had no liabilities in the country.

It must be remembered by hon. Members that in South Africa during the war, as a result of very heavy buying by the Imperial Authorities the by-laws were not legalised to protect the Society but really to protect the Government, the Government having committed themselves to a large loan to the various Societies in South Africa for the purpose of holding stocks for the important buyers—for the purpose of convenience they found it essential to legalise the by-laws to get joint and several responsibility. During its operation I never have in my practical experience found it necessary to have the by-laws legalised, provided you admit that the directors and the company exist for the benefit of its members, as against the fact that members exist for the benefit of the company.

The Plateau Maize Growers' Association allowed its members to contract out, provided they gave written notice, and they were subject to a contribution—we did not call it a fine—of 25 cents per bag. It did not interfere with forward sales, as suggested by the hon. the Attorney General. Having notified the Society of what they wished to contract out, and having got permission, the Directors knew exactly where they stood. It satisfied the members of that Society. No one had ever experienced any difficulty in dealing with forward sales by allowing members to contract out.

I am not going to argue for or against; I have stated my position, that I will vote for this measure. I am a co-operator, but I want the Government's assurance that every opportunity will be given for members of existing Societies to

realise what legalising by-laws means. This Bill is for legalising—stabilising, you might say, Sir—Co-operative Societies now existing and to exist, but it can and probably will, unless it is carefully drafted, become a very great hardship under certain conditions on the commercial community. I am thinking of the clause “constitutes a contract in restraint of trade”; as mentioned by the hon. the Attorney General, a case was tested, and a certain Co-operative Company got the verdict; the judgment on appeal was reversed; the decision of the High Court was that their by-laws were arbitrary and were in restraint of trade and against the common law.

I know, as a co-operator, that it is a great help to Societies if they can have a large measure of control over their members. Things are happening at the moment that would illustrate that, and the Co-operative Companies might suffer. Maize, for instance, is more or less doubled in value; at least, it has gone up fifty per cent. Some people—members of Societies—have a thousand or two thousand bags, but they are under contract to deliver that to the Society with the possibility of receiving a maximum of Sh. 6; they can sell it outside at Sh. 10 to Sh. 11. That is a great temptation, and I know members of Societies who are resigning to get the difference of £400 to £500 to themselves, which, from their view, is very vital. The Society is losing a member, but the member, instead of putting £400 or £500 into the Society's pool to be spread over the whole year and divided up into a matter of cents per bag, was getting a very direct benefit of money—hundreds of pounds; but if I was in that Co-operative Society's position I should not allow him to resign; I should allow him to sell his maize and continue as a member. It is not going to interfere with the Society's future prosperity or finance.

THE RT. HON. LORD DELAMERE: Question.

LT.-COL. THE HON. J. G. KIRKWOOD: I am speaking from many years of experience, not only in this Colony, but elsewhere; I know the present condition, and I still, in answer to the question, retain my view.

There is a clause—No. 18, I think, Your Excellency—in reference to arbitration. It is quite obvious that an arbitrator should be appointed under the Bill, but I do not agree at the moment that the Registrar is the ideal arbitrator. To my mind, it wants a substantial person, a responsible person, etc., who should not be a co-operator. I do not see why it should be thrust upon the Registrar in this particular case.

Other clauses deal with " farm requirements " and " farm requisites." I think those two terms—and " supplies "—the three of them, want qualifying. If the Co-operative Society is put in the position of having to legalise their by-laws to get over the present law in restraint of trade, to restrict their members from buying anything from a needle to an anchor—I hope it is not intended it should go so far as that.

In reference to fines, I think I am right in stating that the maximum amount is £10. That seems to me inadequate. If these by-laws are legalised, £10 will not cover the requirements of the Society under the Act. I have just quoted you a case of one instance where I know it would have made a difference of £400 or £500 to the member; if he can sell outside by breaking the by-laws and gets out of it with a £10 fine, that particular part of the Ordinance would not be of much use.

In reference to that Schedule again, I think all transactions are to be for cash. I cannot understand that. I do not know what that means. It is an astounding proposition to me that a Co-operative Society has got to carry on its business on a cash basis. I should say it would be an impossibility, Your Excellency, to carry on any existing Society, or any Society that I can visualise, on a cash basis. I think there is also a clause in the Schedule limiting the amount to £100. It seems to be a very small amount. I may not have it quite clear. On page 20, under the heading " General "—" All transactions of the Society shall be for cash." I may have got it wrong; I do not understand it. The Kenya Farmers' Association or the Co-operative Dairies could not carry on their business on a cash basis. For maize they have got to pay cash; it is a different thing when they go and trade between here and London and other foreign markets—they need facilities for credit.

Those are the main points—several of the points—that strike me. I confess I have not had time to give any very great study to this matter, to this particular Bill. The Elected Members themselves, I regret, have not discussed it, but I am satisfied if this matter is sent to a Select Committee.

COL. THE HON. W. K. TUCKER: Your Excellency, I rise merely to support the appeal of the Noble Lord and also his assumption that in a Bill of this nature the question of principle on the second reading can be confined to the question of registration plus legalisation of Co-operative Societies, so that those of us who have the honour to sit on the Select Committee will be free from beginning to end to discuss the text

of the Bill. Otherwise, Sir, after many years' close connexion with the biggest Co-operative Society in this country, I would have much to say which I very much prefer to defer.

The only other point I desire to ask the hon. mover is to make it clear in his reply—I feel sure it is so—that the Schedule to this Bill differs from the Schedule to many Ordinances passed by this House, where every letter of the Schedule forms part of the Bill. This, as I understand it, is merely by way of suggestion, in the same way that you get Table A in the Companies Acts of England. It is merely a helpful suggestion, or rather a series of alternative suggestions, and therefore does not require the detailed study, word by word, of the House, or at any rate of the Members on this side, in the same way that the main clauses of the Bill do.

THE HON. THE ATTORNEY GENERAL: Your Excellency, it is in any case gratifying—particularly so in view of the state of the clock—to find that the principle, a principle which has been so aptly and shortly stated by the hon. Member for Nairobi North, has met with general acceptance. Most of the comments and suggestions which have been made in the course of the last half-hour's debate have been directed entirely to matters of detail, and those are essentially matters for consideration in Select Committee, a Committee which will begin its deliberations fortified by the knowledge that the principles inherent in the Bill have met with acceptance.

There are, however, one or two points, Sir, which I would still like specifically to refer to, chiefly for the reason that every hon. Member of this House cannot be a member of the Select Committee. The Noble Lord who spoke first will, I know, accept what I have just said, that the two points made by him are essentially matters of detail, but I am grateful to him for voicing them here, Sir, and they will be borne in mind when the Select Committee begins and goes through its task.

The hon. Member for Plateau South has made what I think is rather an unfair attack on the Bill from a very important point of view. He began with the assumption that the preparation of this Bill had been guided by persons in the Colony engaged in co-operation, and that certain of its provisions only too clearly indicated that guidance. On that I would only say two things, Sir. The assumption is quite unwarranted, and I only wish that I had had the assistance of those who have been actively engaged in co-operation in the Colony, who know far more about the subject than I do, and who could probably have produced a very much better measure than this is. It was not until the Bill was practically in its final form that occasion arose to consult those engaged in co-operation. Their criticisms, if I may say so, were kindly; and there was certainly no principle suggested by them which

was not embodied in the Bill, nor did they take exception to any of the provisions which had been included in the Bill. For the shortcomings which the hon. Member has found in it, I must take the sole responsibility; but I do not, I cannot, agree, Sir, that there is in this Bill any unfair discrimination against the members of a Society or against the public. In that part of his argument, I think the hon. Member rather misread, misconceived, the exact effect of this draft Bill. The regulations of a Society are only binding as between the Society and the member. The provision of restraint of trade is a question only binding in an issue between those parties. So far as the public are affected, the by-laws have no bearing on any member of the public, nor is it competent to a Society in a dispute with a member of the public to claim that the by-laws are statutorily protected on the issue of restraint of trade. That arises only as between the members of the Society and the Society.

When it comes, Sir, to the non-protection of a member as against the Society, I would remind hon. Members of what the course must be. A number of persons decide to form a Co-operative Society. Before they can do that and register, they must submit their regulations, and those regulations will deal with such matters as the matter specifically referred to by the hon. Member for Plateau North, as to whether one can contract out or not. Those regulations must be settled by the members of the Society, and it is up to anyone, before subscribing to a resolution to register as a Co-operative Society, to see that he is not being prejudicially affected by any of the regulations. When it comes to alteration of the regulations, Sir, if hon. Members will look at the top of page 17 of the draft they will find that an alteration can only be made in general meeting and that it must have the support of a two-thirds majority of the members present. If it is, in the view of hon. Members, preferable that the majority should be 75 per cent, then that is a matter of detail which most certainly we will examine, and examine closely and carefully, in Select Committee, but I do not honestly think, Sir, that the provisions of this Bill lend any support to the view that the legislation is inspired in the interests of the Society, of those who direct the Society, as against the interests of the members, still less has it any adverse reflection on any member of the public.

I was asked specifically whether there was any legislation in the country that prevented a Co-operative Society becoming so powerful in its particular industry as to enable it to inflate prices and keep them at an artificially inflated figure. There is the Customs Tariff Ordinance, which naturally and necessarily imposes a limit above which prices legally cannot be inflated and kept within the limits imposed by the revenue of

THE HON. THE ATTORNEY GENERAL : Well, Sir, I think we are not quite so much at variance as I thought we were. I will pass on.

If there is anything in the Schedule which should be more properly in the Bill, the Select Committee will deal with that also. On the question of the maize growers allowing their members to contract out, I think the hon. Member was a little confused. If the Kenya maize growers want to allow their members to contract out, they will say so in their regulations, and those regulations will be legalised, and they will be at perfect liberty to contract out. Where a regulation says you must not contract out, you promise to keep it, and when things are attractive the member makes a default. Equally, Sir, the analogy of maize at Sh. 6 to the Society and at Sh. 11 in an outside market is, I think, a foolish one. If hon. Members will turn to that portion of the Schedule, on page 18, which deals with payment to members, they will see that a Co-operative Society does not pay a price for the produce to the members. They take their produce, sell it as best they can in the interests of the members, making advances meantime, and after having deducted all expenses and provided for depreciation and contingencies and for a reserve fund, the surplus shall be distributed among the members in the proportions of the deliveries of each member during the financial year. That is what we are aiming at in this measure.

There is one small point. It was suggested that the Registrar was the wrong person to appoint as arbitrator. On that I have a perfectly open mind. Someone has to appoint an arbitrator. The only object of the provision here is simplification, and envisages a sole arbitrator instead of the more common provision for three arbitrators. It is a matter which the Select Committee will consider.

The provision about dealings in cash is one that should bear no comment incidentally by the hon. Member for Plateau North. It is embodied in a set of model regulations which the Ordinance says quite clearly may or may not be adopted in whole or in part. There is no obligation on them to pay in cash.

HIS EXCELLENCY : The question is that the Co-operative Societies (Registration) Bill be read a second time.

The question was put and carried.

*The Council adjourned till 10 a.m. on Thursday,
the 18th June, 1931.*

THURSDAY, 18th JUNE, 1931

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Thursday, the 18th June, 1931, His Excellency the Governor (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 17th June, 1931, were confirmed.

ORAL ANSWERS TO QUESTIONS.

LT.-COL. THE HON. C. G. DURHAM: Your Excellency, I beg to ask when I may anticipate answers to a number of questions put to Government.

THE HON. THE COLONIAL SECRETARY (MR. H. M.-M. MOORE): The hon. Member has put in a large number of questions which have already been answered, and further answers, as far as I know, are in course of preparation. I will endeavour to have them by to-morrow, or, failing that, they will be sent to him in writing.

NOTICE OF MOTION.

THE HON. W. C. MITCHELL: Your Excellency, I beg to give notice to move:—

“ That this House does not approve of the proposed increases in postal rates.”

MOTION.

RAILWAY RATING POLICY.

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

“ That in the opinion of this House the Report of the General Manager of the Kenya and Uganda Railways and Harbours Administration for 1930 does not justify any change in rating policy, but does emphasise the necessity of effecting economies in the costs of administration and of stimulating development and closer settlement.”

By way of introduction, Sir, I should like to make it plain that it would not be possible for me to move this motion were it not for the very admirable Report produced by the hon. the General Manager for 1930. In whatever respects the Rail-

way may be short of the maximum of efficiency, there is certainly no ground to complain as regards the work of the literary side of its statistical department. The Report is an admirable one in every way, and, unlike most Government reports, does provide the students of railway affairs with an immense amount of detail that enables one really to see what the Railway is doing and what it is costing to do it. I should also like to pay a tribute to the hon. Member for the very friendly assistance he has given me in the preparation of my case in support of this motion.

May I also forestall criticism, not only here but possibly elsewhere, by saying that if, in the course of my address, I appear to overlook the part Uganda plays and that native development plays in the finances of the Railway, that that is more a manner of speaking than a way of thinking. I appreciate to the full that Uganda is just as much interested in this question of Railway policy and plays a very large part in providing the finances of the Railway, and if I appear to have in mind entirely European agricultural development, it is not so; native agricultural development is equally involved.

Lastly, Sir, so far as my introductory remarks are concerned, may I take what would perhaps appear as the somewhat extraordinary course of appealing to Your Excellency for a free debate by the whole House on this motion. My reason for making that request, Sir, is that this is a matter of vital importance to Kenya; it is a matter upon which Your Excellency should have the best advice possible and advice from every possible source likely to be of value. That being so, Sir, seeing that to-day advice from this side of the House is at a very heavy discount, I think it is all the more necessary that you should have the free and unfettered advice of Members on the other side. So, while it may not be possible for you to admit of a free vote on this motion, I do suggest that it would be wise at least to allow a free debate.

From the terms of the motion it will be obvious that it is called for by the very strong expressions of opinion by the hon. the General Manager in his Report on the necessity for a revision of the Railway's rating policy. Now, Sir, it might not have been necessary to take that very seriously or to regard it as urgent were it not that it is common knowledge that the hon. Member is most certainly pressing with all his influence for a revision of that policy. That being the case, Sir, I think it is very necessary to emphasise that this is not merely a question of Railway administration. If it were, I would agree that the opinion of the hon. Member on the question should have attached to it very considerable importance. But it is not merely a question of Railway administration. There are very much larger issues, involved issues,

that, with all respect to the hon. Member, are possibly not issues upon which he is the most competent to judge. For the hon. Member as a railway engineer I have the greatest possible respect—not that I am competent to judge the merits of a railway engineer, but because by those who are competent to judge he is regarded as such. I have also considerable respect for him as a railway administrator, although I think it only right to say that he has yet to prove that he is a great railway administrator. If he has not yet proved it, it may not be because of any shortcomings on his part, but because he has not yet had the opportunity; but as an economist, or as one competent to decide the bigger economic issues of this country, I question his right, and therefore I think it is as well to recognise at the outset that Government should not be and cannot be entirely decided in this matter by the advice of the hon. Member.

To appreciate the value to Kenya and the adjoining Territory of the present rating policy, it is necessary to consider the circumstances under which that rating policy was introduced and the conditions that prevailed prior to its introduction. That necessitates a brief, a very brief, history of the Uganda Railway. It was built, Sir, as a strategic Railway; that is to say, it was built for the purpose of carrying officials from the Coast into the interior. At a subsequent date, because perhaps of the arrival at the Coast of the Rt. Hon. Member for the Rift Valley, it became necessary to fix passenger fares; and perhaps because of his surplus of luggage it became necessary to fix luggage rates; possibly he was followed by a quantity of freight, which necessitated the drawing up of goods rates; and at some subsequent period some of the unwelcome settlers in the adjoining country asked the Railway to carry produce downwards, and so it became necessary to fix produce rates towards the Coast. But even up to the time of the outbreak of the Great War, the Railway was not seriously regarded as an instrument serving the economic development of the country. It was primarily an administrative Railway, by which I mean a Railway built to facilitate the administration of these Territories. When war broke out, its strategic value became very obvious, and on the physical side it was used as a Military Railway. On the economic side it was used as an instrument for the collection of Government revenue. In consequence of those two things, Sir, when the war terminated this country was handed back, the civil administration was handed back, a Railway which was very well described as a heap of scrap iron. On the physical side and on the economic side the Railway was bankrupt.

Shortly after the war we had an economic collapse in this country, and in consequence we had to reconstruct our economic system. Arising out of that, Sir, came the present rating policy. Now I would emphasise that before that policy was introduced, the Railway was not of any appreciable value to the economic development of Kenya, that it has only been since the introduction of that policy that it has served its proper function outside the administrative sphere. To make that clear, it is necessary we should ask what exactly is that rating policy? To state it very briefly, Sir, and somewhat in the terms of the Railway Ordinance—I am speaking from memory; I have not seen that Ordinance since it was passed some years ago—that policy is one of using the Railway for the economic development of these Territories. It does that by fixing its rates on the ability of the product to pay rather than upon the ability of the Railway Administration to squeeze revenue out of that commodity. There is a very great distinction between those two ways of looking at rates. The policy, as it has been developed by the genius of the late Sir Christian Felling—one of the very few men of outstanding genius that this country has had the benefit of and one of the men who has done most for the development of these Territories—under his guiding influence that policy was developed in such a way as to bring this Railway from the state of bankruptcy and financial collapse and economic collapse in which he found it on his arrival here to a stage of development that has been the comment of the world, of the British world, for some years past.

Now, Sir, we have got to ask ourselves: Has that policy been a success or has it been a failure? If it can be shown to have failed to any considerable extent, then I frankly acknowledge there is justification for the campaign being carried on by the hon. Member for changing his policy. On the other hand, if it can be shown that that policy, when all the circumstances have been taken into consideration, has been a considerable success, then I contend there is no justification for its alteration and that there is no substance behind the efforts being made by the hon. Member to have it altered.

There are two points of view from which it can be regarded as a success or a failure, and I say definitely that from either or both points of view it has been an unqualified success. I have taken the figures of the last eight years on which to base my case. The new policy began to have its effect about 1923, and I studied its working from that time up to the latest figures available. Doing that, one is struck immediately by this outstanding fact that in those eight years—several of them very difficult years, several of them years of drought, one of them a year of locust destruction, two of them years of

economic depression throughout the world—that in those eight years, seven of them were an overwhelming success from a Railway point of view, and only one has been a failure, and that only a very partial failure.

In seven of the eight years the Railway earned most handsome profits, and in only one has it incurred a loss, and a partial loss by comparison. In the eight years from 1923 to 1930, the Railway has earned an excess of revenue over working expenditure of £6,688,000—a not inconsiderable sum, I suggest. It has provided out of that sum no less than £1,776,000 for renewals; in other words, to make good depreciation. It has provided £1,951,000 for the betterment of that Railway, and perhaps it will give a better understanding of the significance of those figures if I quote the hon. Member's Report (page 3), in which he is good enough to let us know that during the past eight years the Railway has, out of revenue, contributed £2,895,000 to capital expenditure, and that Railway was taken over only eight or nine years ago—a scrap heap and bankrupt.

THE RT. HON. LORD DELAMERE: Hear, hear.

THE HON. T. J. O'SHEA: During that period of eight years it has earned sufficient to pay no less than £2,614,000 in interest to bondholders, and I think, in considering that sum, we should also bear in mind that the cost of floating the loans on which this interest is paid necessitated the expenditure of about another half-million pounds in flotation charges. I suggest that these figures will satisfy anyone that, among other things, we have not been ungenerous to those financiers who have supplied the money for the development that has taken place on the Railway in recent years. Along with that, we have already provided £287,000 for a sinking fund toward the liquidation of those bonds. In that connexion, I would like to draw the attention of the House to the fact that not only are we, out of revenue, under this rating policy, maintaining to the full our original assets, and not only are we adding to the value of those assets out of revenue expenditure, and not only are we paying a high rate of interest for our borrowings, but we are also taking out of revenue a sinking fund that will liquidate those borrowings in, I understand, approximately 40 years, so that in fact we shall hand over to the next generation a well-equipped, well-maintained Railway, practically free of capital cost. A rating policy under which these things are possible, I contend, cannot be a wrong policy, and I would like the hon. Member to elaborate to this House any other policy under which these things would have been possible.

THE RT. HON. LORD DELAMERE: Hear, hear.

THE HON. T. J. O'SHEA : I think it is necessary also to draw the attention of the House to some of the things that have been achieved by the Railway during recent years. Seeing that we are being told that the policy under which our exports are carried at comparatively nominal rates, that that policy is responsible for present difficulties, it is necessary to emphasise that during the last two years—only two years—we have spent nearly half a million pounds upon buildings not directly connected with railway working. We have spent £140,000 on most palatial Railway Offices. I am not saying that we should not do so—I am merely pointing out that the present policy is able to carry that burden—and in addition we have spent in those two years over £400,000 on residential quarters for the European, Asian and African staffs. The hon. General Manager justifies that heavy expenditure on the ground that it is cheaper than paying housing allowances. Very true. I suggest to him that the explanation of that is that the rates for housing allowances are excessive, and that they themselves constitute a burden upon the rates that he would have off. I think it is also necessary to emphasise that under that rating policy it has been possible to remunerate very adequately—I should say very handsomely, generously—all who are associated with the Railway Administration, from the High Commissioner downwards; the payments of the allowances are at rates that nobody drawing them can complain of. If it were possible for the hon. Member to show that, in order to maintain these rates, it was necessary to remunerate at less than they were worth those who are carrying on the work, I would say he had some argument, but those who are paying these rates are in a position justly to claim that they pay well for the services rendered.

THE RT. HON. LORD DELAMERE : Hear, hear.

THE HON. T. J. O'SHEA : That is, I hope, conclusive evidence that, from a Railway point of view, this rating policy has completely justified itself; but seeing, Sir, that the Railway is merely an instrument for the economic and social development of these Territories, I think it is also necessary to show that that policy has been an unqualified success in enabling the Railway to play its part in that sphere. When that policy was inaugurated, this country had a Railway of about 800 miles—to-day, it has a railway system nearly double that length. These extensions have opened up immense stretches of territory in this and the adjoining Territory—country that could never possibly have been developed without that Railway development—and even though the General Manager may not be satisfied with the trade he is getting from these opened-up areas, I suggest he has got to take

into consideration the great amount of revenue that Government is getting in from this newly developed territory. This policy has made possible the opening up of the Kenya district, of the Laikipia, of the Uasin Gishu, and of the Trans Nzoia districts. I say you will find development has taken place—look at the effect it has had upon the development of Kitale, Eldoret, Nakuru, at Nairobi, and upon Mombasa. Then I say, from an economic point of view, the Railway has justified itself one hundred per cent. Also I think there should be taken into consideration the results of this policy: the immense benefits that it has been to Great Britain, not only in the amount that we send there every year for payment of interest on the Railway and other loans, but also the immense benefits being given to that country by the development of our export and our import trade. That is a consideration that I think is very often lost sight of, not only by public speakers but by the people in this country; and also I think there is a certain amount of value to these Territories in the fact that the Railway has under this policy built itself up as a great industry. The spending power of the Railway in the country is itself a factor that should be taken into consideration. It is unfortunate that that spending power is to some extent reduced by the terms of service under which the Railway Administration work. Nevertheless, the national revenue of the country is appreciably increased by the building up of that Railway industry.

Now, Sir, I should like to ask what exactly is it that the hon. General Manager has to complain of in connexion with that policy? I have followed very closely his reasoning in this admirable Report. I have listened with attention to him on occasions in private conversation, and I have followed his public utterances whenever possible. Boiled down, they come to this: that the rate on maize for export is not profitable; he has also a lurking doubt about the rate on cotton seed; he is very emphatic that the export of maize is not profitable from the Railway point of view.

Now, Sir, let us examine that. Until a year ago, that was not his emphatic opinion. He may then have had a lurking doubt about the subject, as he now has about Uganda cotton seed; but from utterances of his in Uganda some twelve or eighteen months ago under criticism by the Kampala Chamber of Commerce, he was certainly not definitely of the opinion that the maize rate was an unprofitable one. He certainly was at that time conscious of the indirect benefits of the maize rate. But this year, under the stress of his difficulties, and his inability to foresee the future, he is very emphatic that the maize rate is unprofitable. And why? Because last year he exported at this low rate an amount of

maize out of all proportion to what he had exported in previous years, taking into consideration the return traffic. Now it is largely because of his failure to analyse last year and this year's situation properly that the hon. Member is condemned as an economist worthy of consideration. He has failed entirely to appreciate that that large amount of maize exported last year was exported at an uneconomic price, that it did not return to the grower an amount of money that enabled him do any more than pay some of the costs of producing it and interest charges on his capital loans. In consequence, there was not that large amount of profitable return revenue that would otherwise have compensated for the large amount of low-priced traffic on the down rail. That, Sir, is an important factor in to-day's situation that it is necessary, not only for the Railway Administration, but also for the Government to appreciate. Great play has been made of the fact that last year they exported a volume of commodities considerably in excess of previous years, but it has not been taken into consideration that the prices obtained by the producer for those commodities were comparatively so low that there was not the margin of profit left that was available in previous years and contributed to the progress of each subsequent year.

In addition, Sir, the hon. Member, in attributing his difficulties to the low maize rate, has left out of consideration several other very important factors which influence the present difficult position, factors that to my inexperienced opinion are more largely responsible for his difficulties to-day than is the low export maize rate.

He has been good enough to supply me with the figure representing his loss on passenger traffic last year, and that figure is no less than £169,000. Now I do not see how it is possible in fairness to blame the maize export rate for the somewhat difficult position of the Railway when the amount lost on it, according to the hon. Member's figures, is little more than half the amount that was lost on the passenger traffic. The loss on that traffic was no less than £169,000, and in that connexion I should like to say that that loss on the passenger traffic could have been foreseen, and it could have been avoided, and if it had been avoided we would not have the present talk about rating policy. It is some time since I heard a responsible member of the Railway Administration acknowledge that the passenger traffic was producing a considerable loss month by month, and I say in all seriousness it was up to the Railway Administration twelve or fifteen months ago to have curtailed that traffic and to have saved that loss.

In addition, I think we should take into consideration the fact that the Railway lost last year something in the neighbourhood of £70,000 through its high-rated import traffic being carried by motor lorries. Those two figures taken together minimise the direct loss on the maize export trade, and in my opinion cut the ground from underneath the feet of the hon. Member in his condemnation of the present rating policy.

My motion also, in addition to claiming that the present rating policy is justified, does emphasise the necessity of effecting economies in the cost of administration. It is not my intention to deal at any length with that aspect of my motion, because I am anxious to avoid, at this stage at any rate, anything that would appear as unfair criticism of the Railway Administration. Admittedly I have not the expert knowledge that would enable me to analyse the cost of administration, and without that expert knowledge I hesitate to enter into a controversy with the expert, but I think it will be obvious to all that things are not at their best on the Railway at the present time. One cannot travel about on it and one cannot come in touch with those who are associated with its working without realising that things are not as they might be, as possibly they could be. My opinion is that to be fair to the Administration it would be necessary to have more expert knowledge than I have to deal with its administrative cost. I could, of course, draw attention to a number of minor matters, but in the aggregate they would not affect the cost of administering the Railway very much, and possibly other Members on this side of the House are in a better position to deal with that aspect of the motion than I am, but I should, Sir, like to take up a little more of the time of the House in dealing with the last portion of my motion, that in which I say that the necessity is also emphasised of stimulating development and closer settlement.

I should like to stress, seeing that so many of the members of the inner circles of Government are comparative newcomers to this country, that the great Railway development that has taken place in the last eight years was not an isolated thing. It was part and parcel of a development policy, that parallel with this Railway development it was intended that there should be corresponding development in other spheres. As evidence of that I would refer to speeches made by the late Sir Robert Coryndon in the early days of this era of progress through which we have passed; I would refer to statements made by the late Sir Christian Felling in some of his annual Reports and in some of his utterances in this House; I would also refer to readily available speeches of our late Governor, Sir Edward Grigg. I think it is necessary to appreciate that

the present difficulties of the Railway are to a very large extent due to the failure to continue that policy. That policy was inspired, Sir, by what came to be known as the Dual Policy, the only big idea of permanent value that has been evolved out of the welter of argument and discussion on Eastern Africa in the last ten years. If that Dual Policy had been carried out in the last three or four years, even despite the present world-wide economic depression, the position of this country and the position of the Railway would not be anything like as bad as they are to-day. That policy, Sir, expressed itself to some extent in the raising of loans for development works, and some of its fruits are shown in increasing revenue from year to year during the period I have covered by my figures.

Now, Sir, seeing that the value of advice from this side of the House is at a discount just now, it is only right I should point out that it was very largely because the advice of this side of the House was not followed that the country has not continued to make the progress it was making, and it was the interference from over the water in the carrying out of the Dual Policy that caused the present mental depression which is making the situation more difficult than it might otherwise have been. It was against the advice of this side of the House that such a large proportion of those loan funds and such a large amount of our increased revenue was spent upon unproductive works. We urged time after time that a proper balance should be kept between the amount spent on unproductive works and the amount spent on projects that would stimulate the economic development of the country.

Very largely because that advice was refused the economic development was not as great as it would otherwise have been, and so to-day the Railway is suffering. We urged that in the native sphere less should be spent upon developing over-rapidly the social services and more should be spent upon developing the native in the economic sphere. I say again it was very largely because our advice was ignored and because in response to demands from overseas that social services should be the first consideration of the Native Reserves, that the economic development of those Reserves in the last few years has not been as great as it would otherwise have been. We were in a very difficult position, Sir. It was urged that if we persevered in our objections to those too actively pressed proposals for social services in the Native Reserves our attitude would be misunderstood, and I acknowledge frankly that we lacked the moral courage to persevere in our attitude.

Furthermore, Sir, the last expenditure on the Railway necessitating the excessive charges which are now proving such a hurden was intended as part of a policy under which white settlement was to be stimulated.

THE RT. HON. LORD DELAMERE : Hear, hear.

THE HON. T. J. O'SHEA : That Dual Policy was one under which, not only should development take place in the Native Reserves, but the large areas that had already been alienated were to be more thickly populated and further areas made available for white settlement, but under the influence of His Majesty's present Government in England, those undertakings have not been carried out. White settlement, instead of being advanced, has been deliberately baulked, and the consequence of that is that the position of the Railway to-day is as bad as it is, and I say that the position of the Railway is not likely to be very much better until a frank recognition of the Dual Policy is again recognised, and is again carried out, not only in the native, but also in the colonisation sphere. Closer settlement and more intensive development are necessary equally to the Government finances and to the Railway finances of the country. The present hurden of overheads, both in the Railway and Government sphere, is out of all proportion to what it should be because of the thinness of the population in the colonised areas, and because of the smaller ratio of developed to undeveloped land, and I say, Sir, that until and unless the Government is prepared to carry out the second side of the Dual Policy the recovery of this country and the Railway finances is impossible.

Your Excellency, I feel in some ways that I should apologise to the House for taking up so much of its time on this motion. On the other hand, the matter is one of the very greatest importance to the development of this and the adjoining Territory in every way, and so perhaps no apology is due.

I asked for the motion to be taken on its merits by the whole House in the belief that the case in its favour was an unanswerable one, but I recognise my own shortcomings and my inability to prepare it, as well as I should like to have prepared it, because of other matters being on my mind, have not enabled me to make out the case as well as it might have been made out, but I hope I have done sufficient to justify my conscience that the motion will meet with the approval of the House and that hon. Members, both on this and the other side of the House, will make good my shortcomings and prove that the motion is one that should find general acceptance.

I beg to move the motion, Sir.

HIS EXCELLENCY : Has the motion been seconded?

THE RT. HON. LORD DELAMERE : Your Excellency, I am going to second this, although I am in a very peculiar position; but on the other hand in many cases in this country one has to act as Dr. Jekyll one day and Mr. Hyde the next, and in this particular case, having read this resolution very carefully, it does not appear to me to be a vote of censure on anybody. It is simply a difference of opinion between hon. Members on this side of the House, or the hon. gentleman who has moved this motion, on certain things which have been laid down in the Report of the General Manager for 1930. Now, Sir, I should hesitate very much to take any part in this debate as a Railway Councillor—certainly in the way that I am doing—if it had not been that on the other side, the Report that we are speaking about undoubtedly did put forward propaganda to a point of view which, as far as I know, has never been put forward to the Railway Council, and which I know is the opinion of the General Manager who wrote the Report. In the ordinary way, that would come up to the Railway Council, but the present time appears to me so serious from that particular point of view of anti-settlement and anti-European production propaganda, that I do think it is advisable that when a policy is laid down in an annual Report on the Railway that that policy should be gone into in this House. I would suggest, Sir, that this House can get to the bottom of the figures, and I am going to suggest, if I may, that Government should put on, as one of the three Colonies interested in this Railway, a committee to get those figures agreed on this side of the House, so that this Colony may know what part to take.

Now I entirely agree with the hon. Member who said that the Railway was a bankrupt scrap heap—there is no doubt about that. It had lost money on its actual working costs. Before the time of Sir Christian Felling, the Railway lost money on the actual working, and in two years from his arrival in this Colony and after the Economic and Finance Committee of 1922 had sat on the rates, and I pointed out what was done not only by the Railway but by the Economic and Finance Committee at this time, the Railway was making a profit on working costs of over one million. That is my recollection of the figures. Now, Sir, that change, in my opinion, was made by the alteration in the rates from another policy to the rating policy of the present day. The old policy was that you take your costs in the same sort of way that they are taken at the present day, which is to divide the whole of the stuff carried by the Railway into the whole cost of running the Railway, and to work that out at 5½ cents working costs, not counting depreciation, and to say that anything

that does not fetch that 5½ cents is being carried at a loss. I am not going to contradict that, but in the meanwhile that is a statement on my part that I imagine was the method by which the original old rating policy was agreed. At any rate, when the Economic and Finance Committee sat in 1922, it was found that large quantities of stuff in the country were unable to be exported. To take one thing which affected Uganda and ourselves—the hide trade. It was found that only the better classes of hide could possibly be exported because of the very high rates at that time, and the whole of the rest of the hides, a very large proportion of the hides of the country—which was then, I think, our highest export, over £100,000—the rest of those hides were being turned into that very valuable commodity which an old friend of mine, Major Grogan, called “beetle-dung”—it was eaten by the beetles lying on the ground. Another thing, Sir, in the same way, was cotton seed, which could not be exported from Uganda at that time, or only in very favourable years.

Sir, the whole of the argument in favour of the alteration in rating that is now being put forward, and which, in my opinion, is to carry us back to the old method of rating that took place before this improvement on the Railway, is based on the fact that nothing paid its cost unless it fetched 5½ cents per ton mile. It is a very curious thing that that should be the case. We have it at the present time, I am told. I just give one general argument to support that. At the present time you are supposed to be losing £80,000 to £100,000 on the maize traffic. Now in 1925, when the Government stopped paying the subsidy to the Railway, the Colonial Secretary of the day announced that this cutting of the subsidy would mean a loss to the Railway of £7,000. That, Sir, can be looked up in Hansard. Now that, of course, was a loss to the Railway on the direct maize traffic, not counting the incoming traffic, of £7,000 to the Railway. That was put down by the Colonial Secretary of the day. The crop at that time—I have not got the figures, as I did not expect this debate to-day—but the crop at that time was not more than half of what it was last year. So you have the curious position that the Colonial Secretary at that time said that the Railway was losing by this cutting of this subsidy, was losing £7,000, and that the crop has doubled since that day. That would give you a sort of general figure of £14,000 on the maize crop of last year. Everybody recognises that the crop has moved up the line. If you like, double it again; but we have got £14,000. It may be said that it was only said by the Colonial Secretary of the day, who may not have known anything about Railway affairs, but of course he got it from the Railway. I may say that I have in my possession a letter from the hon. General Manager which says that the loss in 1925, I think it was, was £6,000

to the Railway. On the figures of the General Manager himself in this Report for 1930, from the maize traffic you get in what—£20,000, £25,000? And those figures go to show undoubtedly that there is no loss but a slight gain, not very much, to the Railway in running this maize traffic. It will be said that those figures that were taken at that time were false figures. At least, that is the only imaginable thing I can think of which may make a case from the other point of view. I knew Sir Christian Felling a good many years, and I never found myself that when he was dealing with Government that the Government got the best of the bargain.

There is another point: I imagine that he took what I think anybody else would take in getting at these figures, he took the actual working cost of running the maize traffic, not counting overhead charges and adding to those working costs depreciation on the actual carriage, engines and rolling stock required. I imagine that would be the way he would get at his cost, and in that way I think you get somewhere between 2 and 2½ cents instead of this 5½ cents we are talking about.

There is another reason why I am quite sure that was fixed on something like that basis at that time, and that is this, that the Railway charges for its own construction to the Government, we will say, of Uganda, or whatever it was, was 2 cents per ton mile and not 5½ cents per ton mile. To tell me that Sir Christian Felling based that on something out of the blue, that had nothing to do with the facts—I do not believe it, Sir. Nothing will make me believe it. I am perfectly confident myself that that was something like the cost of carrying that traffic at that time. In these 5½ cents per ton mile figures are included upkeep of stations, overhead charges and every other sort of imaginable thing that the Railway has to pay out during the year. If you were to take off the whole of the maize traffic to-morrow, I challenge the hon. the General Manager to show that the Railway would not lose money by doing so, or at any rate the difference would be so slight that it would have no effect whatever on the Railway. That is including the £20,000 or whatever it may be that you took on the very low value of maize last year for the incoming traffic which comes in instead of it.

Now, Sir, supposing we say, as a matter of argument for the moment, that the maize traffic does not cost the Railway anything—I suggest, Sir, that even in last year you could work out from the figures quite clearly that if you cut out the whole maize traffic from last year's figures that the Railway would have been worse off than it was. But supposing—we will take it as a matter of argument—that the Railway does not make anything in a bad year like last year when maize is very low and when naturally the amount of imports coming

in is not the same as it would be when the cost of maize was very high—now apart altogether from that, Sir, I think the figure given us the other day at some conference or other by the hon. the Commissioner of Customs was that on the export—I will ask him to correct me if I am wrong, because I should like to get this figure—on the export of maize last year the value was £500,000; that on any export of that sort he calculated that the Government would get 20 per cent of 80 per cent of that value. Was not that the figure he gave us the other day on the incoming Customs duty? Well, I will ask the hon. Member to give the figure, because that is the figure that I recollect. But shall we take it another way, that if you are going to have a balance of trade in the country of this sort, and £500,000 goes out of the country, a very large proportion of that comes back in imports, and that on that Government gets something like an average of 20 per cent. I understood the hon. gentleman to say that not very long ago with regard to these imports. If you take it at 40 per cent or 50 per cent or anything you like, the Government must lose anything between £10,000, £15,000 or £20,000 alone from its revenue, or something of that sort. I am quite certain from the general figures given us—I am not attempting to make a figure, I am simply giving what I consider to be support to the hon. Member who has just spoken by saying that in my opinion a very great deal has got to be done before anybody will admit that the present rating policy is the cause of the trouble in the Railway, such trouble as there is—I do not know what it is really.

Again, Sir, if you did away with the maize industry tomorrow, as I have said, I believe you would lose money on the Railway, in the actual costs of carriage and on the returns from it. I still believe that, and I believe I can prove it absolutely by figures. You would lose the import duties on the value of the imports coming in in return for that traffic; you would lose incomes and the capital brought in by the people engaged in that industry; you would lose the money paid, the amount of money spent, in the ordinary way by the Railway people running the trains, and looking after that industry in different ways; and on the top of that, of course, you would lose what is perhaps most important of all, you would lose the chance of mixed farming and other industries which are being built up, as they have to be built up in the early days of every Colony, on these large area single crop farms. After all, it is well known that in the Trans Nzoia the people started with maize; it has been attempted to grow coffee, which has been grown as a result of those farms being there. In the same way we hope, all of us, to introduce mixed farming, and dairying perhaps, into this country. That again was built up on that one crop industry.

Even supposing it was losing money to the Railway, I suggest that before even imagining or putting on a piece of paper for the encouragement of people who still do believe in the settlement policy, before that is even thought of, I mean publicly produced—I say, Sir, that as a whole those figures should be gone into, not only by the Railway but by the Government, which governs policy, and, Sir, I say again, that the best way to do that is what we have said for a long time, which is to take these different things on which there is great argument, and to which, of course, there are two sides, and put them before a strong committee, where every argument can be brought forward, and get the hon. the Colonial Secretary, or somebody like him, in the chair, and get an agreed figure as to the facts—agreed facts and agreed figures—so that you can then base your policy on something that is really a fact. I suggest, Sir, that at the present moment all of us, because we have not been able to do that in the last few years, are like blind puppies; we have no idea what we are doing. I feel this very strongly. I believe we have had a lot of propaganda whenever things are done in a country like this which depends on agriculture. You get some people who say, as I think Sir Edward Grigg also said, that it was almost impossible to do these things without minerals. I am entirely in agreement that if we could get minerals that would solve many of the problems which we have got to-day to solve, but to say that a country cannot get on without minerals is to my mind an entirely wrong statement. It is rather a serious statement. You hear in England that agricultural lands are worth much more than stock lands; anybody who knows anything about it knows that an acre of land that will feed a bullock in Leicestershire fetches a higher price than any agricultural land in the country, except market gardens, and in the same way the dairying country in certain parts of England does the same, except in the case of one or two special crops and market gardens. Those sort of things grow up and people get wrong ideas. I imagine that this idea that the country is being run on an uneconomic basis comes from statements of that sort, and I do say, and I have said so before, and I shall say so again, that I believe in all of these things it is necessary to get down to the facts before we start arguing about policy. Those facts can be proved, and then of course, once you have got them, you can see where you are. At the present moment, I challenge the statement that there is any loss on the carrying of maize at the present time.

Now, Sir, as I said at the beginning, naturally anybody who has anything to do with the Railway must carry their responsibility for, we will say, the loss of last year, which was, I think, £83,000, or something of that sort. Now I think we are all agreed, and the hon. the General Manager has

said as much in his yearly Report, and I am quite willing to take my proportion of that responsibility, that we did not recognise quite soon enough, and get down to savings quite soon enough in the year.

Another thing I make out on the figures is that a very large amount of that loss on the Railway last year of £83,000 would have been covered if this question of lorry competition had been gone into earlier. It has been hanging fire for something like two years, but that was a matter for the Government. I am not at present going to go into any arguments, because this matter is coming up to-day in a Bill to deal with that.

Then there is the question of the loss on the passenger traffic. I would not like to say what basis those figures are taken on. The only thing I have to say is that in a hard time the Railway have done what they could, which is to say that instead of having a carriage entirely to yourself that attempts should be made to put a few more people in each carriage, and so on.

In the year 1930, the chief reason of the loss was undoubtedly the Uganda cotton crop. Early in the year, as far as I remember, it was shown to us that instead of the estimates being what they were expected to be—that instead of 200,000 bales of cotton, there would be something like 100,000 bales. On that 100,000 bales of cotton there was a direct loss of revenue to the Railway of, I think, £140,000. It was a very large sum, and I think the figure given as the loss on the return traffic at the time was £100,000—I can turn up those figures—that is a quarter of a million pounds. Naturally, Sir, a thing like that does mean an enormous loss to a Railway.

Now, Sir, my suggestion is that it has nothing to do with this rating policy. The rating policy has been a very very great success. If it had not been or if the policy had been a dangerous one, it is a little difficult to understand how in the last three years the Railway Administration have found it possible or thought it good policy to return £300,000 a year in rates. I am not saying that is a bad thing; I think it is a good thing. Now, if you take off what you can from the rates, it puts further pressure on the Railway to make money, and so on, and it certainly brings down the cost of living to a very large extent. If the Railway believed in ordinary times when things are right, that this was a precarious position with regard to these rates, then surely that is a very large amount to return in rates—£300,000 every year. We are paying for the same amount of traffic as we were three years ago.

Now, Sir, there is another point in that Report which I am going to touch on. I have not got any of the figures yet. There is no doubt when one of these things begins to arise it becomes a public idea. It has got to be dealt with. The other question is branch lines. There again, I think very great care should be taken with the actual facts as to the losses on branch lines, for the same reason that I have given in the case of maize. What are the facts about branch lines? The facts are these : that it was agreed by this country several years ago that it was clear, that if a line was put down for an economic purpose outside of the Railway, or for a political—no, I do not call it political—for the sake of settlement to open up the country, then it was clear that the particular Colony that got that advantage should carry the loss, and in fact whenever a new branch line is brought up the Railway is asked what they will do about it, and they give their opinion that they can carry this branch if Government finds the necessary sinking fund or places a certain amount every year to cover possible losses. I suggest nothing could be fairer than that, and if there have been mistakes in the past, and I think there probably have been, then after all it is very difficult to estimate these things exactly, and that is probably the reason. At any rate, the reason is estimation. It has nothing to do with this country. This country has always very wisely paid the difference or not paid it. Again, in these branch lines I should like to work out the exact basis of those losses that are supposed to be carried on those lines. There are a great many reasons why these losses appear to be very high, but I have not been into the figures. Well, I am not going to bring that question up.

I must apologise for saying so much on this subject and for taking up a rather peculiar position, but in a sort of way I am afraid I have taken the words out of the mouths of some of the people who look upon this as a vote of censure. I have probably made it difficult for them. I do not mean it that way. We should not worry about those sort of things at this moment. The General Manager has put up certain reasons why he believes certain changes should be made. I think every step should be taken to find out how far they are true, and in those circumstances I think it would be wrong not to put the matter up.

I did not quite understand one remark of the hon. mover, to whose speech I listened with great pleasure, that the Railway was built to bring officials into the interior. Actually it was built to get to the higher waters of the Nile when the French were at Fashoda, and so on ; but perhaps I had better not go into that.

Sir, I hope the General Manager is going to forgive me for the part I have taken this morning, but I am quite certain that he, like all of us, is anxious to get to the facts, and a different way of accounting and a method of arriving at what does pay and what does not pay costs. That appears to be the position. What I would like to propose, if my hon. friend will accept, is that Government be asked to appoint a small committee to go into one or two questions of this sort, and prove the facts of these figures, so that when Government is approving the policy and the public taking part in the discussions, for them to have some accurate method of arriving at what the facts are. On the method of costing the maize traffic that the General Manager has put forward there is a loss of course I know. On the other hand, I suggest if you take off the maize traffic to-morrow that the figures will prove the Railway would be the loser and not the gainer, and if that is the case in the whole naturally it is also a case in the part.

HIS EXCELLENCY: The question is :—

“ That in the opinion of this House the Report of the General Manager of the Kenya and Uganda Railways and Harbours Administration for 1930 does not justify any change in rating policy, but does emphasise the necessity of effecting economies in the costs of administration, and of stimulating development and closer settlement.”

Council adjourned for the usual interval.

On resuming :

APPOINTMENT OF SELECT COMMITTEE.

THE CO-OPERATIVE SOCIETIES (REGISTRATION) BILL.

HIS EXCELLENCY: Before we go on, there is the Select Committee on the Co-operative Societies (Registration) Bill :—

The Hon. the Attorney General (Chairman),
 The Hon. the Acting Chief Native Commissioner,
 The Hon. the Acting Director of Agriculture,
 The Hon. Elected Member for Kikuyu,
 The Hon. Elected Member for Plateau North,
 The Hon. Elected Member for Nairobi South,
 The Hon. Elected Member for Nairobi North,
 The Hon. Elected Member for Ukamba.

MOTION.

RAILWAY RATING POLICY.

LT.-COL. THE HON. J. G. KIRKWOOD : Your Excellency, might I preface my remarks by stating that I visualise this is not in any way a censure on the General Manager of the Railway. For the purpose of my discussion, I can compare the Railway with a tree that has roots well down, a trunk very well grown, and has thrown out many branches, with the result that we have the trunk stretching from Mombasa to Kampala, and branches out in many directions, which we call branch lines. It has produced some wonderful fruit in its time—some wonderful conundrums also, and I propose to propound a few this morning. I do not propose to take up a critical attitude, but there are points I should like to take this opportunity of presenting to the House. It is not the Kenya Railway, but the Kenya and Uganda Railway, and I refer to Kenya and Uganda—I know comparison is somewhat odious, and it is not in an antagonistic spirit, but simply as I have found it.

It has been stated many times, and it seems to get more numerous from reiteration lately, and I have rather gathered, like others, that the General Manager is heading towards a revision of Railway rates. I should like to point out that the losses—the total losses—are not peculiar to Kenya only. We know that the bulk of the traffic from Uganda is cotton and cotton seed. That is what has been stated in this House and outside, but the Railway relies upon other traffic as justification for travelling so far north. Now, Sir, the loss on Uganda cotton seed for 1930 was £79,903; the profit on Uganda cotton was £13,397, making a total loss on cotton seed and cotton—the bulk traffic I understand from Uganda—of £66,506. It would seem from these figures, Sir—I may be wrong—that the cotton is the bulk of the trade on which we have made a definite loss on the traffic into Uganda. It has been pointed out that there is a very large loss on passenger traffic, and in other directions, by the hon. mover, and I am going to try and take a course of different hurdles from what he has kept, so as not to reiterate any statement he has made. I revert to branch lines, Sir. You probably know, notwithstanding what we understand are geographically in Uganda, there are such things as branch lines, but they have been designated main lines, and consequently if you take the Mbali line, and ask what is the loss on the Mbali line, they tell you that they cannot separate the figures, but I definitely state that there has been a loss on that line ever since it was constructed, and I presume that this loss has been carried by the main line. In Kenya, we have six branch lines, according to the General Manager all making a loss, and, in passing, I should like the

General Manager to state, when he replies, what is the loss on the Magadi line. I understand there is a definite loss on that line and the Company that is operating as a result of the construction of that line is also making a loss to some extent, and is in considerable difficulties. If you take the Kitale line—I simply take it, of course, on general principles—what is applicable to the Kitale line is applicable to all branch lines, and it saves me taking the figures over the whole or separately and individually. I find on investigation that in 1930 the tonnage carried over the Kitale line was 79,721 tons; the loss on the line was £96,464. In passing, I should like to say that these figures do not quite agree with the General Manager's Bulletin No. 1, but they do agree with his Report on the year's work. In 1929, Sir, the tonnage carried over the Kitale line was 58,407 tons; the loss for that year £31,468. Those seem to be rather astounding figures. When you subtract the loss for 1929 from 1930 you get a total of £64,996 as excess of 1930 over 1929; the excess in tonnage is only 21,314 tons. Otherwise, the answer to a part of that riddle is the last 21,000 tons cost £3 a ton. It does seem to be a conundrum, and I do not propose to find the answer. It is also well known that the branch lines pay Sh. 1/25 as against the main line Sh. 1. I submit, Sir, that the reason—one of the main reasons for this tremendous loss against the branch lines is the question of accountancy and principle. If all the branch lines pay 25 cents more than the main line, and if the accountancy of the line was restricted to the main line only, those losses as shown in the figures I have quoted would be enormously increased.

It has been impossible for me to get an answer to what appears to me a straight question, and that is, what is the loss on the main line as a result of the traffic coming from the branch lines—I am referring to the Kitale line. I am told it is impossible to get an answer in pounds, shillings and pence, but I can put it another way. The charges on traffic on the main line, as a result of the branch line traffic from Kitale, is stated to be £155,962; the charges on traffic against the branch line is £36,246; which comes to a difference of £119,716. To summarise those figures, it means that the Kitale branch line is carrying the main line to the extent of £119,000 odd, and I submit again that that is a conundrum, but there is an answer to it. I think anybody could answer that; it is obvious that the branch line should not be asked to carry the main line to any extent whatever—it is a small line of 41 miles, and it is carrying the main line to the extent of over £119,000 for 1930. The answer is to restrict all the accountancy of the branch lines to the branch lines only, and not to do juggling tricks by telling the branch line that you will give all the profit accruing from that traffic over a main

line when you also give the credit accruing from that traffic. The hon. the General Manager will tell you there are no credits coming, so why talk about them? If those figures were readjusted, you would get £119,000—you would get the enormous reduction of the £96,000 to put in the loss against the Kitale branch line. You also would find that on the general principles the other branch lines are carrying the same principle, only the figures would be different. After all, the Kitale line is only 41 miles, and from Kitale to Mombasa I am told it is 628 miles, which gives a main line haul of 587 miles, and the whole of the loss, or assumed loss, on that 587 miles is charged up against the 41 miles.

One matter has not been referred to, and that is that the Railway carry their own material, it is stated in the Report, on somewhat similar rates as are charged on the freight rates, otherwise it is charged on a considerable loss; according to the hon. the General Manager's argument that would be at an approximate rate. There is also the question of Government traffic on the Railway—that is allowed a 15 per cent discount. Whether that is right or wrong is not for me to say. I do not wish to dwell unnecessarily on the first half of the motion.

As regards the second part dealing with settlement, I am firmly of opinion that we require in this Colony a large increase in our European population. The hon. the General Manager himself complains of the want of density as being one of the factors tending to the present results on the Railway. I quite agree with him. I know in my own district, if we could only double the population, say another thousand, we could more than double, perhaps treble, our output, not necessarily on the same lines of production as now. The district is endeavouring very hard to turn over to mixed farming. That will take some time, but I believe they will succeed, and eventually the branch line will pay. That would greatly help the Railway; it would help us all. We know, from the settlement point of view, that there is a large amount, a large acreage, available in that area. As far as that branch line is concerned, I suggest there are 200,000 acres of first-class land that is available by sub-division, but it is a question of finding ways and means to finance it; I suggest an approved loan by Government to new settlers on to sub-divisions, to fit in, in some shape or form, with the Land Bank. I believe such a scheme can be evolved, and I think it will be of value, and I put it to Government for approval.

There are many other directions that would help settlement, and in helping settlement we would be helping the Railway out of its difficulties. There is the immediate starting of the Land Bank, which has been delayed now for over three

years. The functioning of the Land Bank will help any reasonable settlement scheme that was built up on that Land Bank. That will help settlement generally whichever form it takes. Whatever assistance or encouragement it may get from the Government will help to put lands into cultivation, and take advantage of the fertility that we have.

I trust Your Excellency will agree to the appointment of a small committee to go into the various questions that have been raised, and I believe if that were appointed, we might be able to find a solution of some of the difficulties of the moment. I appreciate the difficulties the hon. the General Manager has to contend with. His greatest trouble over this last twelve months has been caused by matters that are absolutely beyond his control; they are caused by a fall in the price of primary products. Take maize, for instance; we are getting in this last year Sh. 6 per bag, including the subsidy, against Sh. 12/40, which was paid out by the Kenya Farmers' Association in 1929. It means in a small district like the Trans Nzoia somewhere between £100,000 and £150,000 of money came in in 1929 that is not coming in in the following years. That reflects very heavily indeed on the Railway. Then it also has a direct reference in regard to the incoming traffic to Customs and to the Railway in the Colony.

Your Excellency, I trust that this discussion will lead, if only in some small measure, towards solving the difficulties of the Railway, and that no hasty action will be taken to force any alteration of rates on to this country.

CAPT. THE HON. J. L. COTTER: Your Excellency, I am in general agreement with the motion, but I should be a good deal more easy if it read, ". . . does not justify any present change in rating policy . . ." My reason for saying that is that after listening to the arguments of the hon. mover and the Noble Lord, I can see a very great danger in some of them. It leads one to believe that if there were no maize grown up in those maize areas that no other crop would be grown. I think it is one of the biggest fallacies in political economy that I have ever listened to. If the encouragement of capital and industry to come into an industry which would not have come in of its own accord is the argument, it is against the first idea of political economy. In this particular line we have maize which is carried, which has a bounty on the Railway—there is no question about it, it has a bounty—and it was encouraged some years ago, in 1923. The industry round Nakuru and Uasin Gishu and Kitale and other large maize-growing districts has done a great business for many years, but in spite of this subsidy on the Railway, and in spite of the Sh. 2 export subsidy on every bag of maize, we are faced

to-day with the fact that that community is as hard hit as any in the country. It is the maize farmer who is hit harder than anybody else. What I am trying to get at is that the past policy has not been the correct one. That it should be altered now when things are right down and everybody is feeling down, I am the last to suggest, but as a policy for the future it is very incorrect. If half the hon. mover's ideas were brought down and reduced *ad absurdum*, we should eventually get to the state when it actually paid to carry traffic for nothing to the Coast, because if you could carry it at a loss there is nothing to stop you carrying it for nothing. It comes to this, that it is the very policy that in another way the hon. mover objected to the other day with regard to taxation. If an industry such as the coffee industry can afford to pay a high rate on the Railway, then you must charge coffee up to the hilt in order to bolster up industries that can only bear a low rate. I submit, Your Excellency, that is economics gone mad. If anybody thinks at the present moment I suggest we should alter those rates from what they are at present, that is not the case; I am not suggesting that at all, but as a policy for the future I am afraid I cannot quite agree with the hon. mover of this motion.

COL. THE HON. W. K. TUCKER: Your Excellency, my remarks on this motion will be the shorter because the Rt. Hon. the Member for the Rift Valley has taken so many words out of my mouth. I must say it demonstrates a unanimity of thought on the part of your Railway Councillors, and I share with him also the view expressed that there is nothing inconsistent with our Railway duties in supporting broadly the terms of this motion.

The hon. mover has described the Report as an admirable one. To that I subscribe, but while it is not the prerogative certainly of the Railway Council to challenge what or what not the General Manager puts into that Report, yet seeing that in particular the issue stressed so much this morning has been and is definitely controversial within Railway circles, I do express definite regret that he has enlarged upon it so much, particularly because of the repercussions. We found quite a number of witnesses before the Joint Committee in London referring to these unremunerative rates. We have got later this morning to consider a Bill based upon the Report of a Committee, a Report containing a very long minority report, based to a very great extent on the uninformed atmosphere that has been created in this country in the last few months challenging this question of what we call the low-rated commodities.

Very briefly, Sir, I should like to say this: the facts as I see them are, firstly, the Railway is unable for want of traffic to work to its full capacity. That is at the bottom of the whole thing, and that capacity, Sir, was created in years gone by—three, four, five years ago—when all of us, including the Administration of the Railway, had the best reasons for believing that year by year we were advancing on a definite figure of from 12 to 14 per cent. In stating that figure, I am not referring to production but to revenue. That is a figure which has fluctuated very slightly, and has been the main reason why quite a number of our overheads are where they are to-day. Our equipment would not be so big, our building programmes would not have been so heavy, but for the confident belief, a belief which we all hold, in regard to the ultimate future, which is being checked temporarily owing to the world-wide crisis.

That is one reason. The second may be this, to some extent: I think if we had known two or three years ago what we know to-day, we should have moved a little more slowly in the reduction of £332,000 per annum which we have made mainly on imported goods. I do not believe the ratio has ever been thoroughly realised until now, the ratio affected by the constant increase in the production of what are called low-rated goods.

The third point, Sir, and an important one, is that when laying down our programme four or five years ago, it was the confident belief that the Dual Policy, to which the hon. mover has referred so much this morning, would take practical effect. One of our witnesses before the Joint Committee only the other day stressed a view which I strongly hold, and which I believe hon. Members on this side hold, that if only the European people in this country were allowed to take a little more interest and exercise a little more influence in the development of native production, there would be a very marked reflection in the tonnage of traffic produced by natives and handed to the Railway.

The fourth item affecting this position is undoubtedly the position of renewals. This Railway, handling as it does very large figures, its results are obviously affected quite a good deal by orders which are received from home, which affect us to the tune of £60,000 for every half per cent of depreciation that is shown. £60,000 has been in the melting-pot backwards and forwards several times in the last couple of years, and a mean has been adopted in the course of the past year of $2\frac{1}{2}$ per cent. We have hanging over our heads a definitely clear instruction from the financial headquarters in London, who control us, that however little we thought it necessary, we have to add another £60,000 to the debit side of

our Profit and Loss Account. That is to depreciate up to 2½ or 3 per cent many assets which a departmental committee, which spent many months on the subject, regarded as having a life of 100 years.

And fifthly, Sir, I would confirm the view expressed by the Noble Lord that the failure not merely this year, the failure over the last three or four years, of Uganda to realise her expectations with regard to the rapid and constant growth of the cotton industry is one of the biggest factors responsible for the position in which the Railway finance finds itself to-day.

Now I want to say one word with regard to the low-rated traffic. The General Manager will admit that the basis upon which he puts his arguments is being challenged and is being challenged for all we are worth to-day. He admits, in paragraph 180 of his Report, that his calculations are admittedly based on average costs. Now, Sir, first of all, I have complained, I have represented, that it should be no more difficult to tell us the actual cost of running a train than it is for an engineering shop to calculate the absolute cost of a given article, no matter how many processes that article goes through. And it is the fact, as I understand it, that this figure upon which nine-tenths of the hon. General Manager's arguments are based in this Report, this figure includes in its averages, consignments, many of them of low-rated articles, i.e. that go from station to station involving terminal charges, shunting, and so on, out of all proportion to this bulk traffic which it is being compared with.

I figured out this morning, Sir, what I calculated to be the cost, on the hon. General Manager's basis, of conveying one train load of maize—many of which pass in the season—from Nakuru to the Coast. On his figures, I make the amount come to £600 a train load of 300 tons of maize, or £2 per ton. Now, Sir, it is incredible that a train, where the loading is done by the senders, where there is absolutely no shunting, no terminal charges, once a train is started—it seems to me incredible that an important document like this should be based on such a fallacious figure. And then, Sir, if that argument is right, we come with even more force to the point raised by the last speaker, and that is its effect on the branch lines, or rather not on the branch lines, but on the figures produced showing the profit or loss on the branch lines. If the basic figure on which the Administration show their costs is entirely fallacious in respect of traffic on the main line, then it stands to reason that the loss is magnified tremendously when that is applied to branch lines. I will put it in a simple way. If all the traffic now coming from the branch

lines were put on to the main line by road transport, as it had to be only two or three years ago, then, on his basis of accounting, I suggest that the main line would be carrying that burden and not the branch lines at all.

Sir, referring to this particular document, I cannot close without recognising the appreciation the hon. General Manager has shown of the work of the Railway Council, both to the people in this country and the members who come from elsewhere, and in return—not in return necessarily—to show him how greatly we respect him and how greatly we desire to co-operate with him in advancing the interests of the Railway placed in his charge.

LT.-COL. THE HON. C. G. DURHAM: Your Excellency, the Railway scalp has been so thoroughly cleaned that we can find no hair left to work upon. I support what has been said by other speakers.

THE HON. F. A. BEMISTER: Your Excellency, I am in a very very great difficulty. Over forty years ago a book was handed to me called *Alice in Wonderland*, and it is a book, Sir, that I have studied very much. The chief character in that book which puzzles me is the Mad Hatter, and I have never found the why and the wherefore of his reasonings, and I am completely in the same position at the present moment. Here we have the results to-day of the most irresponsible act that any legislature could undertake a few years ago in handing over this great Railway asset to a Board over which we have no control. We, to-day, Sir, are in the position of disgruntled shareholders who have not the right even to attend the general meeting and criticise. Half our Board belongs to another Colony; half our management belongs to another Colony; and that part of the management have no chance to come here to reply to any criticism on them. Sir, I know we have the worst Railway in the world, and the same can be said of every Railway in the world by disgruntled shareholders. I have never been to a Railway meeting in my life. There is one report I read the other day, where Sir Josiah Stamp was criticised over his management of the Railway, and when it was found who the gentleman was who was criticising him, I think it was a sweetstuff shopkeeper or oil-seller, who had never seen a Railway except when he bought a ticket. Criticism of an industry of this kind must come from experts, and I contend, Sir, that we have absolutely no right, either constitutionally or logically, to criticise the management of the Railway. I hold no brief for the management of the Railway, but I contend, Sir, that we have wasted the whole of the morning on criticising something we have no control of, and I certainly do protest against the waste of time, Sir.

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS (BRIG.-GEN. G. D. RHODES) : Your Excellency, I think it will be agreed, after listening to the speeches that we have heard this morning, that we are talking about a question which is one of the most complex and difficult that we have to consider and settle in these Territories. We have, Sir, machinery laid down for attempting to deal with these problems, and that machinery, as has just been pointed out by the last speaker, does not altogether lie on your Council. The management puts up the facts and figures and proposals to a Railway Council, by whom they are thoroughly examined and thrashed out, and I would explain that before any change in the rating policy takes place, if such change does take place, that procedure will be fully complied with, and there is no doubt that Kenya members of the Railway Council will take every care to see that both sides of the question are very fully examined. There can be no doubt about that point. While therefore, Sir, the consideration of the question of change in the rating policy is somewhat outside the purview of this Council, I do feel . . .

THE HON. T. J. O'SHEA : Your Excellency, on a point of order—is that a statement of fact?

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS : Well, Your Excellency, perhaps I can make it more clear that before any such change can take place, it must go through, as I have just stated, the procedure that is laid down by the Railway Council and the High Commissioner, and before any change takes place that procedure . . .

THE HON. T. J. O'SHEA : Your Excellency, may I have a reply to my question? The question of whether the rating policy of the Kenya and Uganda Railways is outside the purview of this House, as stated by the hon. Member?

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS : Your Excellency, I do not quite know how to answer that question. There is no doubt that this House does not go into the details on the lines I have suggested.

THE HON. T. J. O'SHEA : Your Excellency, may I have a reply? On a point of order, I am entitled to have an answer to that question whether it is outside the purview of this House, Sir. If so, in that case, I would, with all respect, submit that my motion is completely out of order and, in the words of my hon. friend, I should never have wasted the time of the House.

THE RT. HON. LORD DELAMERE : May I suggest, Sir, that any matter dealing with the Railway is a perfectly proper matter to be debated in this House; that the fixing of rates has by a self-sacrificing action of this House been put outside its immediate purview.

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS : Well, Sir, I think the words of the Noble Lord perhaps make the position clear to the hon. Member opposite, and if I may proceed with my argument, I want now to try and show just why the present position of the Railway is causing me considerable anxiety, and why I have stated in my Report that that position may bring about or may force upon us a change in rating policy. I have not suggested anywhere in this Report that a change in rating policy must be brought about or is shortly to be brought about, or anything of that sort. I have put before you as fully as I possibly can every figure that I can get hold of bearing on this subject, and the whole object of that, as I have stated, Sir, is to enable the Railway Council to come to a proper decision about these questions.

Now, Sir, the reason why I am anxious about the position is that, as I have fully explained in the Report, our revenue is decreasing while the work that we are doing is increasing. I have pointed out clearly that the fact that revenue is decreasing is a very common process amongst all Railways at the present time. That revenue should decrease while the work done increases is, so far as I am aware, almost unique. That is the position that is causing me anxiety at the moment and that is why, although it raises questions which I admit are questions of controversy and difficulty, that is why I have felt it my duty, at the end of three years of study of this question, to put down very clearly the facts that are available to enable us to discuss this problem. Our revenue is dropping per ton mile of work done for two reasons, as I have explained in the Report. One is that our low-rated commodities are increasing rapidly in tonnage compared with imports, and the other is due to the reductions in rates that have been brought in in the past.

Now, Sir, I am quite aware, and I have clearly stated in the Report, that the question of falling prices plays a very active part in this process that has been going on, and I should like also to endorse what the hon. mover of this motion has said with regard to the past history of the Railway. He has, in words far better than any I can choose, shown that the Railway itself has carried out a remarkable work in the past eight years, chiefly through the guidance of the late Sir Christian Felling. I would go further and say that there are few Colonies of this size where a Railway could be doubled

in size, whose revenue could be trebled in that time, and carry on in the way that has been done, and that is a tremendous tribute, not only to the General Manager, but also to the inhabitants of these countries.

Now, Sir, I come back again to that point we are in difficulty about with regard to our revenue, and it is my duty as General Manager, so long as I have to try and balance my budget, to show where the revenue is dropping away and where perhaps we are in difficulty with regard to balancing that budget. Hon. Members have mentioned the fact that the Colony's funds gain considerable benefit from the working of the Railway, and that those benefits should be taken into consideration. Well, Sir, so long as I am told that I have to find the interest on loan moneys with reference to the Railway, so long as there is no gesture from the Colony to take a share of that burden, I have somehow to try and balance the budget. I repeat, Sir, without wishing to go into very great detail, that the size of this document I am holding up (the Annual Report) to-day—I should like to compare it with the report of one of the largest private railways in the world, the Canadian Pacific Railway—the size of that document is due to the fact that we are trying to put before you every possible figure that will enable us to make a proper judgment with regard to this financial situation. The Noble Lord mentioned that we are all looking for correct facts. That is a very true statement, and I hope that within the next two or three months we shall be able to put forward for the Railway Council sufficient facts and figures to enable them to take a decision with regard to this whole matter. There is no question at the moment of changing the rates policy; but there may be. I do not wish you to feel that it may not be necessary. That I do not know. I have not yet put forward any definite suggestion to the Railway Council, because I have not yet got full figures. It has taken me three years to get to this stage, to give you this information, and it will take me another two or three months to put them into tabular form so that the Railway Council can go into the full figures. That, Sir, is the whole position.

The question of whether the rate on maize pays the Railway or not is a very big and very difficult question. I think there is no doubt whatsoever that the rate we get for maize does not cover costs. In regard to the figures that the Noble Lord quoted, that applied some years ago. Those figures, Sir, may have been due to the fact that at that period we had empty trucks going to the Coast, and in those circumstances it is quite a proper procedure to charge a low rate to get a new traffic developed.

THE RT. HON. LORD DELAMERE : On a point of explanation, I did not say that the maize rate necessarily paid the Administration. I said that including the stuff imported because of that export it did so.

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS : I accept that statement, Sir. At that time it may have been true. I do not think it is true at the present moment, but, as I have said, I have not yet got my figures ready for Railway Council in that connexion, but I should like to say this : that all new developing countries go through a period where imports are necessarily in excess of exports ; that has been, I think, proved by history in most other countries. Then you get to the stage where imports begin to drop off and exports begin to equal imports ; and the next stage is when exports actually exceed imports. During these three successive periods your actual costs do vary, and I suggest very seriously that South Africa felt this to such an extent ten years ago that they altered their maize rate from Sh. 1 to Sh. 1/50 in order to meet that particular difficulty.

Now, Sir, this diagram which I shall hold up will perhaps illustrate how serious some of the reasons why we are in difficulty over our maize at the moment are. The pink areas show the maize that has been exported in the last two years. We have two very accentuated peak periods ; the last one, when we carried practically the whole of the maize in three months—nearly in two months—shows exactly what has to be provided to carry that traffic, and it is because of that fact that we are having difficulty in our costs. To do that, hon. Members will realise, means we must have engines, trucks, crews, many of which are not fully used during the rest of the year. Those are things that we have to consider. We have got to face those facts and find what is the best way of financing the whole process without interfering with or destroying an industry which is of value to the country as a whole. That, of course, is obvious.

Most of the points that have been raised, Sir, in the speeches have been dealt with fairly fully in my Report, and therefore I do not feel called upon to go into them in detail ; but to take the branch lines questions in particular, that have been mentioned by one or two hon. Members opposite—on page 13 of my Report I explained very fully how these branch line accounts are prepared, and I explained exactly so many of them show losses, and why so many of them show greater losses with the greater traffic that they carry. There is no question of branch lines carrying the main line. This is merely a question of accounts to show under the

system that has been approved—under normal circumstances, that is—whether the branches are profitable ones. If our rates were all profitable rates the increased traffic would show considerable benefit to the main line. Under our particular form of rates policy, the branch line appears to show a definite loss. That only, I submit, Sir, shows up particularly the rates policy, and does nothing else. I show a table for the first time in this Report of the tonnage carried on these branches. That tonnage amounts to the considerable total of 162,000 tons. As I say elsewhere, the average rate on the carriage of goods is somewhere near 9 cents per ton mile. I submit that that tonnage of 162,000 tons could not be dealt with anything like so economically by road transport, and therefore although those branch line accounts show considerable losses against the branch lines, those losses are due to the peculiar nature of our tariff policy. That is all fully explained in the Report.

It is quite true, as has been mentioned by one speaker, that we have had a loss on passenger traffic. The figure has been given at £169,000. I would emphasise that these are not precise figures. They are average figures, and the nearest we can get to the actual cost, but they do indicate that there is a serious loss on the passenger traffic. That has been known for some years, and has been expressed in previous Reports. This year, as hon. Members are aware, following the advice of the Railway Council, we have very considerably cut down our passenger service so as to attempt to reduce that loss.

A point has been made, Sir, by the hon. Member for Nairobi North that we should be able to get actual costs of each train-load of maize carried to the Coast. That is a question that has been baffling the attempts of every Railway accountant for years. It is not possible to get actuals. Every train does not carry maize. Its running is not affected only by the fact that it has maize to carry. It may be delayed because it has to pass other trains coming up in the other direction. All sorts of things enter into the picture, and on this Railway the nearest we can get, which again are average figures, are the figures which I have given in the Report showing the average cost per ton mile. Those figures may not be actually correct to the nearest cent, but they are indicative, as I have said, of the actual position, and sufficiently so to enable us to appreciate the whole problem. Actually, I may say, Sir, that, taking into consideration the extra rolling stock, engines, crews and items of that sort that are necessary to deal with this, the biggest crop that we have to carry, the figure of $5\frac{1}{2}$ cents quoted by the Noble Lord is probably an under-estimate, but I state that with great reserve, because, as I say, we have not yet finished working out these actual costs.

I hope I have said enough to show that the problem is before us. We have not decided it or dealt with it, and for myself I am not yet prepared to make a recommendation. I hope to be able to do so this year. That is the position to-day, Sir. This whole question will shortly come before the Railway Council, when opportunity will be available to them for going into the matter in every possible detail.

THE HON. THE COLONIAL SECRETARY: Your Excellency, before you call upon the hon. mover of this motion to reply, I should like, if I may, to intervene just to say that as a member of Railway Council myself, I dissociate myself from the statements of the hon. Member for Mombasa. It is the case, as the Noble Lord has pointed out, that the Railway Council is the statutory instrument under which the rates and rating policy is finally implemented, but I cannot help feeling that a debate, ranging as this has done, on more or less general lines on a subject which is definitely of a vital and great interest to this Colony, cannot but do good. At the same time, Sir, it seems to me, after hearing the speeches that have been made, and in particular the reply made by the General Manager, that, if I may say so, this House would perhaps be putting itself in a false position by pressing this motion to a division. As I see the case stated now, it is this: The policy of this Railway is well known, and is as stated in the General Manager's Report. For that policy, I, in common with other members of the Railway Council, must take the fullest responsibility. It is suggested that we here and now should agree to a motion saying that any change in that policy is uncalled for. I suggest, as a member of the Railway Council, that in view of the fact of the statement of the General Manager that he himself has not got all the facts and figures before him, that we should perhaps be prejudging the issue by definitely forcing such a motion to a division, but at the same time, in my opinion, Sir, I consider that the hon. mover of this motion has done a service to the country in ventilating this question so that it can be fully debated, more particularly in view, if I may say so, of the challenging terms of the General Manager's Report.

THE HON. T. J. O'SHEA: Your Excellency, I entirely agree that the discussion that has followed the introduction of this motion has served its purpose, and in view of the sympathetic attitude that has been shown by the hon. General Manager and by the hon. Colonial Secretary, I have no intention of pressing it to a division, and, Sir, I shall be very brief indeed in reply to the debate.

I hope it has been made clear, Sir, that closer settlement is bound up with this motion. It would tend rapidly to decrease the high proportion of low-grade traffic going out of the country and would tend to increase the output of higher-priced export traffic, and tend considerably to increase the amount of high-rated import traffic. The hon. Member for Kenya has described the present policy of the Railway, which has proved so successful, as "economics gone mad." or perhaps I should say the statement was that if he understood my arguments aright, that they represented "economics gone mad." I can only assume that he did not understand my arguments aright, because the policy I have advocated is that which is pursued by most of the major and minor countries of Western Europe, and by the great American Railways, and it is a policy also in operation on Railway systems throughout the world. It is a policy in operation in the great industries throughout the world, and in the retail trade, namely, to demand profits on your service according to the ability of those articles to command profits in the world.

I have much pleasure in withdrawing the motion, Sir, on the very definite assurances that have been given that nothing will be done to alter the present rating policy until the matter has been given the fullest consideration, and after all the advice that has been collated and obtained is placed before us.

The motion was by leave withdrawn.

The Council adjourned till 3 p.m.

On resuming :

NOTICE OF MOTION.

HIS EXCELLENCY: Gentlemen, the hon. Treasurer will now give notice of motion regarding the Land Bank, which I hope we will be able to deal with to-morrow, with regard to the terms upon which the money will be issued to the Bank and the rate of interest.

The composition of the Board, as far as I have been able to arrange it, is—

The Hon. the Treasurer (Chairman),
 The Hon. the Attorney General,
 Mr. Gill, of Messrs. Gill and Johnson,
 Major Charles Taylor,

and I am awaiting a reply from Mr. Woolryche-Whitmore. Mr. Toogood was invited, but regretted that he could not accept.

THE HON. THE TREASURER (MR. H. H. RUSHTON) : I beg to give notice that at a later stage during this session I shall move :—

“ That this Council approves of the £240,000 raised for the purpose of the Land Bank being issued to the Land Bank as required, and that the rate of interest to be charged against the Bank be 4.7 per cent.”

MOTIONS.

TERMS OF SERVICE COMMITTEE.

THE HON. T. J. O'SHEA : Your Excellency, may I have the permission of the House to make a slight alteration in my motion and substitute the word “ Committee ” for the word “ Commission ”?

HIS EXCELLENCY : Yes, with the leave of the House. Is the House agreeable to that alteration?

HON. MEMBERS : Yes.

THE HON. T. J. O'SHEA : I beg to move :—

“ That this Council requests Government to appoint a Committee as soon as possible to inquire into the terms and conditions of the Civil Service.”

Your Excellency, as I understand this motion has the sympathy of Government, I would not take up much of the time of the House in urging its acceptance, were it not that there appears to be every necessity to make quite clear what is the attitude of Members on this side towards the Civil Service, both the personnel of the Civil Service at the present time and what may be the Civil Service of the future. In the document placed before us recently containing the very able memorandum by our late Governor, the following passage occurs, in talking about the attitude of the colonist towards the Government :—

“ The leaders of the Government encounter this spirit chiefly in the form of bitter attacks upon the Civil Servant's terms of service—attacks which are unquestionably most harmful to any long view of the Colony's interests. Yet they are natural. The Civil Servant draws the same pay, however hard the times ; he takes his leave, he counts on his pension. The farmer, amid his struggles and uncertainties, regards this security with a jaundiced eye, and cannot believe that the Civil Servant's heart is with the country.”

Now, Sir, in view of the fact that such a good friend of this country, a friend in every sense of the word, as Sir Edward Grigg, has so completely misunderstood the attitude of this side of the House towards the question of Civil Servants' terms, emphasises that it is necessary to explain the position. I think I have the full approval of all my colleagues in saying that our efforts to have changes made in the present and future terms of the Civil Service are not due to any extent whatever or influenced by a spirit of vindictiveness towards the Service or by any political motives. On the contrary, we share with the Government itself the sound view that a well-paid, contented Civil Servant is essential to the peace, prosperity and welfare of this Colony and Protectorate. And, Sir, I would like to make it perfectly plain that in a desire to have these terms of service altered we do not wish to do anything, however small, that would render those terms unfair in any sense to the Service or occasion the slightest distrust. On the contrary, we still cling to the hope that we shall have the support of the Civil Service itself in having those terms changed.

There are two more sound reasons why these terms and conditions should be changed. One is the complete alteration that has taken place in the conditions of the country in which the Civil Servant lives since these terms were embodied in a contract. And the second is perhaps a not less important reason: their economic bearing on the finances of the Colony. When the present terms were initiated, this country was, even to Foreign Office officials who drew up the contract, Darkest Africa. They were made to apply to men mostly of middle age. There were very few young men who came out then, very few married people; and they came out with the idea that they would not be long in the country. They never thought of spending the rest of their sicknesses that were supposed to be rampant in Darkest Africa. Furthermore, Sir, the great majority were men holding responsible positions, and the terms were made such as would appeal to men of ability to come out to Africa. Compared with conditions of to-day, Sir, there is practically no similarity. The conditions to-day are entirely different from what they were then. The majority of the Civil Servants are living to-day in a civilised country. The great majority are living in the towns—most of them offering the amenities of civilised life—and there is no comparison between the conditions under which these people live and the people who did the pioneer work in the administration of this country. Again, Sir, the numbers of the Civil Service are out of all proportion to the small number recruited when this contract was initiated, and the great majority of the present Civil Servants are people holding subordinate positions.

Furthermore, a very large proportion of them are married people with families, and some of the terms which were regarded as an inducement to come to this country in the old days are to-day a strain upon the Civil Servant rather than a benefit. In addition, we find that a considerable proportion of the Service, more particularly in the junior and subordinate grades, is being recruited from people who are practically domiciled in the country, and they no longer want some of the conditions which were regarded as great privileges by the earliest administrators. To emphasise, however, that from an economic point of view, it is urgently necessary to deal with this important question, I would mention in passing that I have gone to the trouble of taking out the figures from the 1931 Estimates, for the cost of the personnel of the Service, and I find it is well in excess of £1,000,000, and an appreciable proportion of it is not for personal emoluments, but for such things as passage money, house allowances and sundry other allowances. As the staff of the Railway, whose financial difficulties we were dealing with this morning, would also be affected by any change in the terms of service of the Government Departments, we have also to take into consideration the cost of personal emoluments in that service, the all-in cost, which is also in the neighbourhood of £1,000,000, so that we are in fact dealing with a problem that involves an annual expenditure in the neighbourhood of £2,000,000. I trust, Sir, that that will be sufficient to emphasise the necessity from an economic point of view of dealing with this question urgently.

It will be within the memory of many Members on the other side of the House that we have been endeavouring to have this problem dealt with over a period of six or seven years. Various committees have sat—some of them have never reported; others did—in one or two cases there was agreement upon conclusions so far as the representatives of the people and the Government in this country were concerned, but unfortunately those proposals were subsequently turned down, and so to-day we are no "farrarder." The country is spending large sums of money unnecessarily year after year, and spending that money in a way that is of no real benefit to the Service. On the contrary, if savings under such heads were effected, it is just possible that terms of service could be improved in other directions with the approval both of the representatives of the taxpayer and of the Service itself.

One question in particular I should like to draw attention to—the matter of pensions. An ex-Member of this House, one of the oldest unofficial advisers to Government in the country, when discussing the matter with me the other day, mentioned that in 1910 the pensions list of this Colony only totalled the small sum of £3,000, and even then he urged upon

Government the necessity of making some provision for the rapid increase that he could foresee would take place in subsequent years. That advice was not taken. We have done nothing since then, and what is the position? Our pensions list to-day is in the neighbourhood of £120,000, and a committee that was appointed to deal with the matter about five or six years ago produced figures to show that in a comparatively short number of years our pensions bill would be in the neighbourhood of £250,000 annually. These figures, I hope, will satisfy you that it is urgently necessary to deal with this question of pensions.

Again, Sir—overseas leave. There was a time when overseas leave after a short period of service was considered very desirable by a great majority of the service, but that is certainly not the case to-day. A very large proportion of the service finds, on occasion, financial embarrassment on account of frequently recurring leave periods, and such people would gladly welcome a revision of the terms so that they could remain in the country much longer and not be regarded as part of the foreign service.

In addition, I am not sure if it has yet occurred to Government that because of the present terms of service in Government being so out of relation to the needs of the country that it has a very adverse influence indeed upon employment outside Government. As an illustration, the all-in remuneration of a qualified stenographer in Government is in the neighbourhood of £40 per month, that is to say, substantive pay, house allowance, various other allowances, overseas leave every two and a half years, and yet, Sir, in the commercial sphere equally competent people can be obtained for £20 per month, and in other countries with as high a cost of living as here can be obtained much lower. What is the result of that? In the commercial sphere it is practically impossible to keep a good clerk because of the strong inducements to find a job in Government service.

There is another important aspect of the matter, Sir, that if we go on as we are going there will be such a tendency on the part of people to look for jobs in Government service that it will undermine the morale of people. It can be compared with the demoralising effect of the dole in countries overseas, and I think before it is too late we should give consideration to that aspect of the problem.

The present terms of service are very obviously based on the idea that the Civil Servant is making a temporary stay in the country, that all his interests are overseas, and that the oftener he gets back there the better and the sooner he gets

out of the country after his service is up the better; whereas to-day we are in need of terms of service that will be based on the idea of permanent residence here.

The three essentials that I consider should be covered by the inquiry, Sir, are: Firstly, possible savings in cost under the present terms. Now I am not raising the question of contractual obligations, or what is equity or what is legal, or what is not legal or what is not equitable. I am merely asking that the question as to whether savings could not be effected under the present terms could be gone into, and in that connexion I would say that I should welcome the fullest possible representation of the Civil Service itself in any such inquiry, and, so far as I am personally concerned, I should largely be guided by them as to what were or were not fair savings under the present terms.

Secondly, Sir, the inquiry should endeavour to arrive at future terms of service based upon recognition of the increasing local recruitment and at the same time recognising that for some period of time to come the more responsible posts in the service will of necessity be held by men coming from overseas. On a recent occasion in this House, the hon. the Attorney General expressed the belief that it was the opinion of every Member in this House that the country gained immensely by having a continual stream of new men coming in and going out as thereby we got the benefit of experience acquired in other Territories. This motion gives me an opportunity of saying that that most certainly is not the opinion of the majority on this side of the House. On the contrary, we believe we have got to the stage when it is of much more importance to the country and of much greater value that, having found the right men for the posts, we should if possible retain their services and have the benefit of their local experience. Of late it is becoming increasingly noticeable that the official side of the House suffers from that lack of local experience.

Lastly, Sir, I think the terms of the inquiry should cover the question of a possible local Civil Service.

Finally, Sir, I would urge that every possible effort be made to make this inquiry a final one and to bring this long-standing problem to an issue that will be satisfactory to the service and satisfactory to the country.

THE HON. F. O'B. WILSON: Your Excellency, I beg to second the motion.

HIS EXCELLENCY : The question is :—

“ That this Council requests Government to appoint a Committee as soon as possible to inquire into the terms and conditions of the Civil Service.”

LT.-COL. THE HON. C. G. DURHAM : Your Excellency, I most heartily support everything that has been said by the hon. Member for Plateau South. I hope there will be some finality about this. For two or three years this matter has been suppressed. We have had boards and committees, and as time is a very great factor in this I hope Government will be pleased to appoint a committee at the very earliest possible moment.

THE HON. THE COLONIAL SECRETARY : Your Excellency, I should like to thank the hon. Member who moved this motion for the very temperate terms in which he has moved it, and the fact that he has emphasised that in so doing he has done so in what he believes to be the best interests of this country, and that it in no way contains a hidden attack on the Civil Service. If I may say so, in the previous debate during the last session when a similar motion stood in the name of the gentleman who was standing in his place, the same friendly attitude characterised the debate, and the hon. the Acting Colonial Secretary, when replying to it—if I might for a moment quote his words—said :—

“ In fact, the time I feel is very long past in which such a motion as this, put up by Members on the other side of the House, is suspect by the Service as merely being a roundabout method or a direct attack on the Civil Service privileges.”

I would therefore like to say that the Government, in accepting this motion, accepts it in the spirit in which it has been put forward, and wishes, with hon. Members opposite, to co-operate in an attempt to solve this long outstanding problem.

I must say, Sir, that it is as much a matter of regret to me personally as it can be to any Members opposite that the proposal made as a result of the former debate on this subject, namely, that a Commission should consider this question presided over by a Colonial Office official, has at present come to nothing. I say that not because I wish to suggest that someone from the Colonial Office is probably better able to solve our local problems than we are ourselves, but because I feel it is important, in view of the past history of this issue, that a man with such experience should come here and obtain the local atmosphere, and having obtained it and having obtained agreed proposals which he could sponsor at home as

reasonable, I felt in that way we should much more rapidly obtain a solution of this problem than possibly by having a local committee which would then have to go forward again to those who might not have had a very recent experience of this country. However, Sir, the Colonial Office, though not turning down such a suggestion entirely, have pointed out their difficulty in the matter, namely, that at the moment a committee is sitting in London for a unified Colonial Service on which many of the officers possibly who might be sent out here are engaged, and that therefore, as we regard this matter as urgent, they consider the best thing for us to do is to form this local committee, which can thus explore the ground, and I feel and hope that they will be able to produce proposals which will be found not inconsistent with the ideal of a unified Colonial Service which, as I understand it, is being worked out at home. In that respect I agree with the hon. Member in stressing the importance of the committee exploring the possibility of setting up a local Civil Service, for if it is admitted, as I understand it is admitted, that certain Members at any rate on this side of the House are likely to be birds of passage, while, on the contrary, a large proportion of the Service is going to make its life and career here, I feel that we might very likely avoid the clashes that have occurred in the past in an attempt at unification if we can so differentiate, and thus obtain terms of service suitable to the country which would be fair to all concerned.

THE RT. HON. LORD DELAMERE: Your Excellency, I am afraid that as far as my personal opinion is concerned, that has been at the bottom of all our troubles in this matter during the last few years. It appears to me quite impossible to unify a Service throughout the whole of Africa, under different conditions of every sort. It appears to me quite absurd that if you have to live in some death trap or other your pay and allowances are the same as where you live in a country where the Government is giving out 999-year leases. I remember a very good instance of that when the Chartered Company handed over Northern Rhodesia to the Colonial Office. I happened to be staying at Government House—I am not advertising the fact at all, Sir—I remember at the time—perhaps I should not take up the time of the House in this way—the Chairman of Elected Members, Sir Herbert Stanley, was staying there. He said, “Well, thank God we have got out of the hands of the Chartered Company.” “Well,” I said, “we have had some experience of the other side of the question. The first thing they can do is to add enormously to our expenditure.” Well, at dinner, Sir Herbert Stanley received a telegram which said that in Northern Rhodesia the Colonial Office insisted that all the salaries should be put up to the same rates as those in East and West African countries.

I think that is an instance of what unification leads to. Those people were perfectly contented, with some local interests in the country, and they instantly had this thing forced upon them. That is hardly the way to put it—but, at any rate, it was forced upon them. You have this country, as I say, in the south, where living is on a different standard. The standard of living in this country has altered enormously owing to the amount of stuff grown in the country and I think it is a fact that a great many articles can be got which cannot be got in most colonies in Africa, and that living is a great deal cheaper in the last few years. It depends how you live, of course, but I think that is so, and as far as I am concerned I have always been against and always shall be against a unified colonial service; I believe that the whole of our troubles come from that particular thing. Here we ought to be able to settle that question out of hand. It is a matter for this country, which has got to pay the bill. This country has long ago ceased to have a grant from the Colonial Office. Then if we find that our new terms are too low we should then have to come into line in order to get the right men. But what the object of a unified colonial service is I cannot understand. It seems to me a very large proportion of people's lives is spent in going to one country to learn a thing and then having to go to another and having completely to unlearn it and start all over again, and I hope, Sir, that the hon. Members on this side of the House will push for all they are worth to get this thing done. I am entirely in accord with the principal submission that the chief object is not to go into the question of present contracts as far as possible. There is one thing, I think, for instance, that at one time we put the age limit from 60 to 50, or whatever it was, and it seems a pity that we could not go back to 60, which would be a big saving. I am, of course, prejudiced, being of the latter age, and thinking I am still of use to somebody, which is probably untrue.

With regard to our pension list, I think we should get that on a contributory basis. Having said that about present contracts, and I do not couple with that quite all the tribulations, because times do change in a certain way, but to my mind the special interest I have in a committee of this sort is in a new appointment and local Civil Servants. With regard to new appointments, I entirely agree with my hon. friend that at the present time and for the last few years the conditions in the Civil Service have been made very much better than outside on the average for the same sort of thing, and I think that is a very bad thing for the country, as my hon. friend said who moved the motion. For technical people or experts in certain individual things undoubtedly you have to

pay the world's price, whatever that may happen to be, but with ordinary people who have no particular trade or are not particularly technical, it appears to me there again that we ought to be able to get them at the same sort of rate that they can be got for in the country by other people. It seems certainly to make for discontent in the ordinary dealings of the country if the people working outside the Government always see that things are better for the Government people than for themselves, and I think in the case of new appointments, if it appears that the whole basis of our wealth in this country is likely to be wholly changed, or to a certain extent, that should be gone very carefully into. And there again I think we are going to get out of this unified thing. Because after all, Sir, in a great many of these Colonies in Africa and the West Coast there is nobody to talk about it and discuss it except the people involved, and I think that is the reason why it is so very difficult to get perhaps quite the right basis on which to place these appointments.

With regard to a local service, I think for this country that we should try and start it. We have good schools now, and I think people should begin to look forward. A great many people should be able to go into the ordinary industries of the country, and I think a good many should be able to go into the work of the country's Government. I have really very little to say on this matter except that I hope Government will allow this to go forward, and I do hope it will try and put forward a case on its own basis, and will try and point out to the Colonial Office that in a great many instances this country is a great deal different from most of the other countries under the Colonial Office.

THE REV. CANON THE HON. G. BURNS : Your Excellency, while agreeing that there is room for some investigation with regard to the terms of the Civil Service, one cannot help having a feeling, Sir, that to look upon the Civil Servants of this country as a whole, and not take into account the locality in which they are serving, the conditions under which they live, would be absolutely unfair. There are many of the Government Servants serving in districts where, to compel them to live three or four years and expect them to do efficient work, would be absolutely and utterly unfair to them. I know, as a matter of fact, on the Coast the effect it will have, and to expect a man to do longer work, as he would be expected to do, and to expect a man to live four years without any change to the homeland, is unfair.

There is another aspect. The man who lives in towns is different, but where an officer has to go out into the blue, and live alone without the companionship of other Europeans, and

to expect him to go for three or four years would be entirely unfair and unfair to his wife and family and those dependent on him. The strain is so great that it would perhaps mean a breakdown in health. So that such an investigation must take into consideration the different districts in which the officers are serving, and also the different tribes with which they are serving. Some tribes are very much more easily dealt with, and the officers have not the same strain upon them as others. At the present time, in the Kikuyu District, officers have a tremendous strain placed upon them, so that I hope any such investigation will take into consideration the locality in the first instance, and the strain that is placed upon officers in lonely stations, and the necessity for such officers getting out of the country more frequently than those living in towns.

LT.-COL. THE HON. J. G. KIRKWOOD : Your Excellency, the Government has accepted this motion, more especially the spirit in which it has been moved. If we at least will get something of advantage to the Colony, I quite agree with the last speaker, but I should have thought it was quite unnecessary to go into those details; naturally, proper investigation of the terms of service here would take into account the varying conditions that we do find even in Kenya, and when one talks of a unified service, the last hon. speaker has given the answer that a unified service was just as impossible for the different colonies throughout the Empire as it is impossible even in this Colony to ask the Government servants to serve at Turkana and other places under the same conditions and regulations that they might serve, say, in such a beautiful spot as Kitale.

There is no question about it, those points will be taken into account. The hon. mover has covered all the points that are necessary to come from this side of the House, and I do not think I need delay you any longer.

HIS EXCELLENCY : Does the hon. mover wish to reply to the debate?

THE HON. T. J. O'SHEA : I have no reply to make, Sir.

HIS EXCELLENCY : The question is :—

“ That this Council requests Government to appoint a Committee as soon as possible to inquire into the terms and conditions of the Civil Service.”

The question was put and carried.

THIRD SUPPLEMENTARY ESTIMATES, 1930.

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

“ That the Third Supplementary Estimates, 1930, be referred to the Select Committee on the Estimates.”

These Estimates reflect certain excesses on Sub-heads which could not be met by savings on those Sub-heads. The explanations are fully given in the supplementary statement, and as it is proposed that they should go into Select Committee I do not wish to occupy the time of the House by saying anything more on the subject now. I beg to move, Sir.

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

The question was put and carried.

BILLS.

FIRST READING.

THE 1930 SUPPLEMENTARY APPROPRIATION BILL.

On motion of the hon. the Colonial Secretary the 1930 Supplementary Appropriation Bill was read a first time.

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

SECOND READINGS.

THE LOCAL GOVERNMENT (ELDORET EUROPEAN HOSPITAL RATE) BILL.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. H. T. MARTIN): Your Excellency, I beg to move that the Local Government (Eldoret European Hospital Rate) Bill be read a second time.

This particular Bill in some sense embodies the two subsequent Bills which I have to move, as they are completely dependent upon it. Without this first Bill they become meaningless. I think, perhaps, therefore it will save the time of the House if such remarks as I make now on the second reading of this Bill are taken to apply also, except in one or two particularities, to these subsequent Bills, on which very much less need then be said.

Now, Sir, the origin of this particular piece of legislation is briefly as follows: I think it was in 1922, during a period of very considerable Government retrenchment, it was found not possible by Government to continue the organisation of

the European hospital at Eldoret. The funds, in fact, were not forthcoming. Government therefore made the offer to hand the property—as it might be called—over to any organisation which could take the financial charge and also, of course, administrative charge. Eventually, a local body, I believe, beat up subscribers—found subscribers, perhaps would be a better way of putting it—and the hospital continued to be a going concern. Later, new buildings were required, and Government came to the assistance in part of the costs of new works; but, Sir, the trouble came to this: that the works which were decided upon eventually became very much more costly and in excess of the total amount they obtained locally or was contributed by Government. In other words, the hospital found itself in the position of having obligations greater than its assets. It was quite clear that something had to be done, and the proposition which is now put forward comes to this: that the District Council and the Municipal Board—the one of the Uasin Gishu district and the other of the Eldoret town—joined together to agree to a rate which would keep the hospital going.

Now, Sir, there will be noticed in the last line of the Objects and Reasons of this Bill a statement that says that this Bill involves no expenditure from Government revenue. That, Sir, within its limits, within the limits of the Objects and Reasons for the Bill, is a perfectly correct statement. On the other hand, indirectly, this Bill will be quite useless unless Government also agrees to submit to this Council certain propositions for pecuniary assistance which will be made, of course, outside the scope of this Bill. The proposal, Sir, is that to float off the concern, take it out of its present troubles, and get it restarted, Government proposes to make a loan of £1,670-10-0, and a grant of the same amount. The loan, of course, will be a charge eventually on the two authorities, who will now raise a rate to keep the hospital going. In addition to that, Sir, it is proposed by Government also to include in the annual Estimates a sum of £350, which is to cover what might reasonably be considered a fair contribution by Government to the hospital in respect of indigent persons who cannot pay fees.

Those, Sir, shortly are the implications of this Bill. There are other implications. I think it is just as well perhaps to recognise fairly and state frankly that this is the first time in which rating of this sort for such a specific purpose has been suggested in respect of District Councils. I think, Sir, that the local bodies are to be congratulated on themselves coming forward and suggesting financial responsibility of this rather novel sort.

There is, of course, the other implication that in times of stress this Council has to watch the effect of local taxation on general revenue, but, Sir, I think I can quite safely say that in this particular instance no fear has yet been expressed, or I think is reasonable to entertain, that this local taxation, this local rate of, as at present proposed, Sh. 30 per head for every adult male, is likely to affect the taxable condition of the areas concerned.

We have, Sir, naturally, in drafting this Bill, so far as possible consulted the wishes of the people who are going to produce the money. There is one small point which may be noticeable perhaps, particularly to such local representatives of these areas who are present to-day, and that is that we have changed the age limit, exemption limit, of the taxation from 21 to 18. There is nothing very sinister in this change. It was only put in at the last moment because it was found, as I understand, that the taxation age for adult males is in other taxation measures, such as the education rate and the non-native poll tax, the same age. Should there be some local reason why the age of 21 should be considered preferable, it will no doubt be possible to discuss that in the Committee stage, and I am sure Government is perfectly ready to hear any arguments which are relevant.

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

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

The question was put and carried.

THE CARRIAGE OF GOODS BY MOTOR (CONTROL) BILL.

HIS EXCELLENCY: Before I go on, I have to announce that I propose that the Carriage of Goods by Motor (Control) Bill should be put off until to-morrow; a request has been made to me to adopt that course.

THE LOCAL GOVERNMENT (ELDORET EUROPEAN HOSPITAL RATE) BILL.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to give notice that I shall move the third reading at a later stage of the session.

THE HON. T. J. O'SHEA: Is it going to third reading before Committee?

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I apologise to the House.

THE LOCAL GOVERNMENT (DISTRICT COUNCILS)
(AMENDMENT) BILL.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT : Your Excellency, I beg to move that the Local Government (District Councils) (Amendment) Bill be read a second time.

The object of this Bill is to render possible the method of taxation in the Uasin Gishu district which I explained in respect of the last Bill. Under the existing Ordinance there is, of course, no provision for a poll tax of this nature for such a specific purpose. This Bill enables such a system of rating to be put in force for this purpose.

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

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

The question was put and carried.

THE LOCAL GOVERNMENT (MUNICIPALITIES)
(AMENDMENT) BILL.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT : Your Excellency, I beg to move that the Local Government (Municipalities) (Amendment) Bill be read a second time.

This is the last of this tribe of Bills, and provides for the making of Rules by the Governor for the detailed organisation of a joint committee of both the District Council and the Municipal Board to carry out the objects of the last two Bills, and it provides accordingly for joint responsibility.

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

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

The question was put and carried.

THE NURSING SISTERS (RETIRING ALLOWANCES) BILL.

THE HON. THE ATTORNEY GENERAL : Your Excellency, I beg to move that a Bill to Provide for the Payment of Retiring Allowances to Nursing Sisters be read a second time.

Nursing Sisters, Sir, are alone among the members of the Civil Service in one respect which affects them very adversely indeed. That respect, Sir, is that not only do they

in the ordinary course of their duties go from place to place, from Colony to Colony, from Protectorate to Protectorate, but there is, as a general rule, a break between those periods of service in different parts of the Empire. Their service is not continuous. The effect of that, Sir, is that those ladies who devote their lives to attendance on the sick in the Colonial Empire find themselves—their salaries never having been large—after an aggregate of a considerable period of service ineligible for a pension because no period of continuous service which they have done would render them eligible for a pension from any one of the Colonies they have been in; their aggregate service, though sufficient in length to render them so eligible, has not been continuous.

The object of this draft Bill, Sir, is to get over that—I was going to say anomaly, but I prefer the word hardship. Their service has been in the aggregate sufficient, but it does not, by reason of the very nature of that service, qualify them for a pension, because it has not been continuous.

Certain Nursing Sisters in each Colony are the holders of permanent positions, permanent pensionable posts. Those, Sir, are the ladies who act as Matrons in the larger hospitals, who have proved their worth and have been admitted to the permanent staff and who return regularly to service in one Colony, and thus qualify for pension. Their position, Sir, as hon. Members will see, is not in any way impaired by this draft legislation. Clause 8 (2) covers their case. If there are such cases, Sir, of people who have had perhaps in the early years of their service non-continuing broken service and afterwards are fortunate enough to be appointed to permanent posts on the pensionable staff, they will be allowed to elect whether they will draw the pension or take the allowance. The amount is not excessive. The allowance to be made is at the rate of Sh. 8/4 per month of service in the Colony. The essential pre-requisites of the drawing of an allowance are three: The Nursing Sister must have done at least three years in the public service of the Colony; must have attained the age of 50 years; and have done in the aggregate 15 years' service either in the public service or in a public hospital, with the one proviso that after 10 years' service a retiring allowance may be granted at the same rate in the case of great physical or mental infirmity rendering the Nursing Sister incapable of rendering further active service.

For the ordinary term for which a Nursing Sister has remained in this Colony the amount payable would be £15 by way of retiring allowance, i.e. after three years' service a Nursing Sister would qualify from the Colony of Kenya for an amount of £15. I would invite the attention of hon.

Members to the definition of "Nursing Sister," which has been slightly modified from that which is to be found under similar legislation made in other Colonies to meet local conditions. This includes :—

“ ‘ nursing sister ’ means a nurse, nursing sister ”—
these two are without qualification—“ health visitor or matron who has received an appointment in the public service, or in a public hospital in the Colony, or in a public hospital elsewhere to which she received an appointment through the Overseas Nursing Association.”

And so, Sir, service in any public hospital will qualify for pension or for retiring allowance under this, but will not of course affect the quantum of allowance to be paid that this Government has fixed by one factor only, the length of service, which will not be less than three years under the Government of this Colony.

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

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

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

LT.-COL. THE HON. C. G. DURHAM : Your Excellency, although I am quite prepared to support this Bill, I would like to put it that at the end of the three years' service of the Nursing Sister the Government would be liable to pay £15. I want to know why £15 is the amount to be paid?

THE HON. THE ATTORNEY GENERAL : I am afraid I did not make the position clear, Sir. I said after the normal period of service—the normal period of recruitment to this Colony—the minimum period of a tour of service. If a Nursing Sister remained for 10 to 15 years she could elect to take a pension under the Pensions Ordinance, and would not be dealt with at all.

THE HON. T. J. O'SHEA : The hon. mover has so played upon our feelings that it seems the height of cruelty to oppose this, but as a matter of principle I am compelled to do so. I have made up my mind to vote against everything of this nature until the conditions of service have been altered.

THE RT. HON. LORD DELAMERE : Your Excellency, I must take the same point of view. I think that while a Committee has been appointed on these things, it is not a good plan to take individual instances.

THE HON. F. A. BEMISTER : I shall support the Bill. This is the first time a Bill has been introduced which does at least entire justice to a very well-deserving profession, and it must be admitted a profession which is not overpaid in any way. I think you will find that they have the lowest terms of salary; their conditions of living are the worst in the Colony—and I speak from absolute experience, after having examined their quarters, especially at Mombasa, where I doubt the hard-pressed settler would ever dream of putting his cattle. I appreciate thoroughly and am absolutely in favour of the Government putting up this measure. I only wish that the figures were larger.

THE HON. W. C. MITCHELL : Your Excellency, without wishing to take up the time of this House at this hour of the day, I would like to say that I wish to follow the line taken by the hon. Member for Mombasa. I think principles are all very well in their way, and should be adhered to to the limit, but there are conditions when one can reasonably depart from a principle, and I do think that in the cases outlined by the hon. the Attorney General in moving the Bill, I do think they are worthy of some consideration. One can also imagine that in the event of a Nursing Sister reaching the age of 50, not qualifying for any pension, but being in such a pecuniary state that she requires assistance, she will in all probability come before this or some other body for special assistance, and I much prefer to have provision made for assistance or anything else in a normal way, rather than by taking cases *ex gratia* on their merits.

THE HON. THE ATTORNEY GENERAL : I do not think there is anything for me to reply. When doctors disagree I hesitate to intervene.

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

The question was put and carried.

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

The Local Government (Eldoret European Hospital Rate) Bill,

The Local Government (District Councils) (Amendment) Bill,

The Local Government (Municipalities) (Amendment) Bill,

The Nursing Sisters (Retiring Allowances) Bill.

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

The question was put and carried.

The Council went into Committee.

In Committee.

THE LOCAL GOVERNMENT (ELDORET EUROPEAN HOSPITAL RATE) BILL.

The Bill was considered clause by clause.

Clause 6.—Exemptions.

THE HON. T. J. O'SHEA: Your Excellency, this is the exemptions clause. Under (1) (a) it says, "Every person under the age of eighteen years." Now, Sir, the only reason that has been advanced for altering the age that was agreed upon in all the negotiations referring to the introduction of these local measures is that it brings it into uniformity with some other Ordinances. I suggest that that is a very flimsy reason indeed on which to upset the whole scheme. After all, there was a certain amount of opposition to this proposal that we should rate ourselves to take over a social service, and one of the terms upon which it was agreed to by the public was that persons under 21 years of age should be exempt, the reason being that quite a few of the poorest families in the district have a large number of children, some of whom between the ages of 18 and 21 are still dependent upon their parents, and to keep in the age of 18 years would mean a considerable hardship on those people. Furthermore, having gone into the finance of the thing, they were satisfied that sufficient revenue could be raised from this rate for the purpose by confining it to people over 21 years of age. In the circumstances, Your Excellency, I hope Government will agree to revert to the original figure.

LT.-COL. THE HON. C. G. DURHAM: Your Excellency, I should like to support the argument. I have never been able to understand why a man should be taxed at the age of 18 when he is not given the rights of citizenship in this country, which are not given to him until he is 21 years of age.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I think Government was not aware of any special reasons for this fixation of the age at 21 as were suggested locally at Eldoret. I think probably the impression was that 21, being, I think, the ordinary age for majority, it was taken for granted locally that would probably be also the taxation age, which in actual fact in other matters of taxation here it is not. Therefore this was automatically altered, but, Sir, I think the point is this: two local authorities make themselves responsible for producing the necessary sum to keep this organisation alive, and I see no harm at all in their having their own suggestions adopted as to the distribution of those contributions amongst themselves. Therefore, Sir, I personally can see no objection; the Attorney General may have one, but I see no particular objection to going back to the original age of 21.

THE HON. THE ATTORNEY GENERAL: I have none, Sir.

THE HON. T. J. O'SHEA: Do you wish me formally to move that as an amendment, that the word "eighteen" be deleted and the word "twenty-one" inserted?

HIS EXCELLENCY: Yes.

THE HON. T. J. O'SHEA: I beg to move.

The question was put and carried.

Clause 9.—Procedure for recovery.

LT.-COL. THE HON. O. F. WATKINS (PROVINCIAL COMMISSIONER, NZOIA): Your Excellency, there is a small point which I should like to bring to your attention in the proviso where the power to remit is given to the Resident Magistrate, Eldoret. We have already, Sir, a number of bodies that are granting indigent relief in various ways—the School Area Committee giving free education; the Agricultural Credits Board; and there is the Hospital Committee which is giving free hospital attention—and I think it is very advisable, Sir, that if possible that should all be concentrated and we should try and get one sort of committee which goes into all cases where there is need. I think that clause should be altered to give the Governor power to appoint any person or body of persons that he may think fit to remit taxation in this particular case.

I should like to propose, Sir, that instead of that proviso the wording of the Local Government (District Councils) (Amendment) Bill should be adopted:—

“ Provided that the Governor may, on the application of the Council, grant to any person or body of persons power to remit the rate wholly or in part in respect of any person liable for the rate who satisfies him that the payment thereof will impose undue hardship upon such person.”

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: This is a new proposal, but I personally can see no objection.

LT.-COL. THE HON. O. F. WATKINS: Then I should like to move that—I had discussed it with the hon. the Attorney General.

THE HON. THE ATTORNEY GENERAL: The formal amendment will be that the proviso to clause 9 be amended by the deletion of the first line thereof and the substitution therefor of the following:—

“ Provided that the Governor may, on the application of the Council, grant to any person or body of persons power to . . .”

The question was put and carried.

THE LOCAL GOVERNMENT (DISTRICT COUNCILS) (AMENDMENT) BILL.

The Bill was considered clause by clause.

Clause 4.—Repeal and Replacement of section 101 of the Principal Ordinance. Power of Council to impose rates.

THE HON. THE ATTORNEY GENERAL: In this case, Sir, in consequence of the amendment which has just been made to the last Bill, it will be necessary to amend the proviso to clause 4, that part of section 101 which is (g)—the proviso. The amendment would be the deletion of the words “ a magistrate of the first or second class ” and the substitution therefor of the words “ any person or body of persons.” It is the same amendment as was made a moment ago in the other case.

THE HON. T. J. O'SHEA: And 18 to 21 years.

THE HON. THE ATTORNEY GENERAL: That is in (d) (i).

THE HON. T. J. O'SHEA: I beg to move that 101 (1) (d) (i) be amended by the deletion of the word “ eighteen ” and the insertion of the word “ twenty-one.”

The question was put and carried.

THE HON. THE ATTORNEY GENERAL: I beg to move, Sir, that the proviso to 101 (1) (g) be amended by the deletion of the words “ a magistrate of the first or second class ” and the substitution therefor of the words “ any person or body of persons.”

The question was put and carried.

THE LOCAL GOVERNMENT (MUNICIPALITIES) (AMENDMENT) BILL.

The Bill was considered clause by clause.

THE NURSING SISTERS (RETIRING ALLOWANCES) BILL.

The Bill was considered clause by clause.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Local Government (Eldoret European Hospital Rate) Bill and the Local Government (District Councils) (Amendment) Bill be reported to Council with amendment; and that the Local Government (Municipalities) (Amendment) Bill and the Nursing Sisters (Retiring Allowances) Bill be reported to Council without amendment.

The question was put and carried.

The Council resumed its sitting.

HIS EXCELLENCY: I have to report that the Local Government (Eldoret European Hospital Rate) Bill and the Local Government (District Councils) (Amendment) Bill have been considered clause by clause in Committee of the whole Council and have been reported to Council with amendment; and that the Local Government (Municipalities) (Amendment) Bill and the Nursing Sisters (Retiring Allowances) Bill have been considered clause by clause in Committee of the whole Council and have been reported to Council without amendment.

THIRD READINGS.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that—

The Local Government (Eldoret European Hospital Rate) Bill,

The Local Government (District Councils) (Amendment) Bill,

The Local Government (Municipalities) (Amendment) Bill,

The Nursing Sisters (Retiring Allowances) Bill,
be each read a third time and passed.

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

The question was put and carried.

The Bills were read a third time and passed.

*The Council adjourned till 10 a.m. on Friday,
the 19th June, 1931.*

FRIDAY, 19th JUNE, 1931

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Friday, the 19th June, 1931, His Excellency the Governor (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 18th June, 1931, were confirmed.

PAPERS LAID ON THE TABLE.

The following papers were laid on the table :—

By THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MACGREGOR, K.C.) :

Civil Procedure (Amendment No. 2) Rules, 1930.

Rules of Court (Court Fees Amendment) No. 3 of 1931.

ORAL ANSWERS TO QUESTIONS.

GAME RESERVES.

LT.-COL. THE HON. C. G. DURHAM asked :—

“ 1. Will Government consider the possibility of preserving an area of land including the Ngong Hills as a National Game Park?

2. Is a portion of the Game Reserve in the vicinity of Mbagathi now being used by some Masai and others for the grazing of their cattle and the carrying on of dairying and cattle business generally?

3. If so, will Government state its reason for allowing it to continue? ”

THE HON. THE COLONIAL SECRETARY (MR. H. M.-M. MOORE) : 1. Government has under consideration at present the question of National Parks and their suitable locations. The Game Warden has been instructed to examine, and report on, certain areas in this connexion, and detailed proposals will follow the submission of his report.

2. A portion of the Game Reserve in this vicinity, which forms part of the Nairobi Commonage, is occupied on Temporary Occupation Licences by natives for stock grazing. No Masai, however, are among this number.

3. The cattle grazed in the area under reference provide a valuable contribution to the Nairobi milk supply. They do not interfere with the game, and it is proposed to allow them to remain until such time as some good reason for their removal is apparent.

LT.-COL. THE HON. C. G. DURHAM : Your Excellency, arising out of that answer, are these natives who supply milk to Nairobi under the supervision of the Medical Officer of Health?

THE HON. THE COLONIAL SECRETARY : I do not know whether the hon. the Director of Medical and Sanitary Services can answer that question. I am afraid I cannot, in which case I should like notice of it.

THE HON. THE DIRECTOR OF MEDICAL AND SANITARY SERVICES (DR. J. L. GILKS) : Your Excellency, the milk supply of Nairobi is under the general supervision of the Medical Officer of Health; any such milk supplied by these natives will come under his observation.

THE HON. T. J. O'SHEA : May I ask whether it is equitable that valuable land of this nature should be given out under Temporary Occupation Licences for dairying purposes in competition with people who are paying high prices and high rentals for land?

THE HON. THE COLONIAL SECRETARY : I can only say that I must presume that before these Temporary Occupation Licences were issued the question was carefully considered and it was regarded as equitable.

THE HON. T. J. O'SHEA : Arising out of that answer, may I ask whether these Temporary Occupation Licences have been granted within recent years, not to say recent months?

THE HON. THE COLONIAL SECRETARY : I shall require notice of that question.

STANDING TIMBER COMMITTEE.

THE HON. W. C. MITCHELL asked :—

“ 1. Will Government be pleased to order that Reports of the Standing Timber Committee shall be circulated to all the hon. Unofficial Members of Council?

2. Have the thirteen recommendations of the Standing Timber Committee contained in the First Report received the approval of the Government?

3. If the answer to Question 2 is in the affirmative, will Government be pleased to order that an official notification of this approval shall be published in the Official Gazette at an early date?

4. Will Government be pleased to order that in all subsequent Reports of the Standing Timber Committee the approval or otherwise of Government to the recommendations contained in a Report shall be included as an Addendum to each Report? "

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. H. T. MARTIN): The answer to the question as a whole is in the affirmative.

NAIVASHA LAKE.

LT.-COL. THE HON. C. G. DURHAM asked :—

" In the interests of the fishing possibilities of the future, will Government undertake to set aside convenient plots to accommodate week-end parties and also provide the necessary roads of access to the Lake? "

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Investigations in connexion with this matter are in progress, and an answer to this question will be sent to the hon. Member as soon as possible.

THE RT. HON. LORD DELAMERE: On a point of order, the numbers of the questions—are they with regard to the number of questions asked by individual Members, Sir, or what is it? I notice No. 49 in that case.

THE HON. THE COLONIAL SECRETARY: It is a running number for all questions.

UNSKILLED NATIVE LABOUR.

LT.-COL. THE HON. C. G. DURHAM asked :—

" What is the highest wage paid at present for unskilled native labour by—

- (a) The Kenya and Uganda Railway;
- (b) The Public Works Department? "

THE HON. THE COLONIAL SECRETARY: The rates paid are as follows :—

- (a) Sh. 20 per month, with rations.
- (b) Sh. 25 per month, at Mombasa, without rations.

THE HON. T. J. O'SHEA : Arising out of that answer, may I ask whether Government is satisfied that these rates are competitive with the rates paid by other than Government employers for similar classes of unskilled work?

THE HON. THE COLONIAL SECRETARY : I would ask the Director of Public Works and the General Manager of Railways to reply to that question.

THE HON. THE DIRECTOR OF PUBLIC WORKS (MR. H. L. SIKES) : Your Excellency, the rate of Sh. 25 per month is only paid to a few labourers at Mombasa who have been in the Department for a long time, and I am satisfied that the rates paid are not competitive with private employers.

THE HON. T. J. O'SHEA : Arising out of that answer, may I ask why Government rates are not competitive with the rates paid by private employers?

THE HON. THE DIRECTOR OF PUBLIC WORKS : My meaning, Your Excellency, is that we do not enter into competition with private employers—we do not pay higher rates than are paid by private employers for the same class of work.

THE RT. HON. LORD DELAMERE : Arising out of that question, when the hon. Member says that they do not enter into competition, does he mean that they are not good cooks or boys, or what exactly does he mean, in Mombasa?

THE HON. THE DIRECTOR OF PUBLIC WORKS : These boys with a high rate of pay at Mombasa are for special work, such as, for instance, drawing *hamali* carts about the town. That class of labourers was paid at the rate of one rupee per day in pre-war days.

THE HON. T. J. O'SHEA : As the question does not refer to Mombasa, may I ask whether the rates quoted apply in up-country districts, and if so, whether the rate is on a parity with the rate paid by other employers in the Uasin Gishu district?

LT.-COL. THE HON. C. G. DURHAM : Still arising out of the answer, Sir, may I ask, for instance on the Yala extension, what the rate paid to the natives there is? That is away up-country, not in Mombasa.

THE HON. THE COLONIAL SECRETARY : On a point of order, the original question of the hon. Member was the "highest" rate. If further information is required as to the general rates of pay for natives we will deal with that, but the answer was specifically the highest rate paid.

MOTIONS.

LAND BANK FUNDS.

THE HON. THE TREASURER (MR. H. H. RUSHTON) : Your Excellency, I beg to move—

“ That this Council approves of the £240,000 raised for the purpose of the Land Bank being issued to the Land Bank as required, and that the rate of interest to be charged against the Bank be 4.7 per cent.”

Under section 20 (2) of the Land Bank Ordinance, the rate to be charged by the Government against the Land Bank by way of interest has to be fixed by the Governor in Council and approved by the Legislative Council. His Excellency in Council has decided to fix the rate at 4.7 per cent, and the covering approval of the Legislative Council is now sought by this motion. The 4.7 per cent is made up of the actual amount (i.e. 4.68 per cent) which Government pays itself plus .02 per cent management expenses charged by the Crown Agents for managing the loan, which brings the net cost to the Government up to 4.7 per cent. Government feels that it should not seek to make any profit on the transaction, neither should it issue money to the Land Bank at lower than cost, and it is hoped that hon. Members will agree that that is a reasonable attitude to adopt.

There is a point in the first part of my motion which is intended to mean that Government seeks sanction to issue money to the Bank as required and only charge interest on the money issued; that is to say, that the Bank will draw, we will say, £5,000, £10,000, £15,000 a month, and that interest would commence to accrue on the first of the month following the date upon which the money was issued, which would mean, of course, that the general taxpayer would be paying on the unissued balance 1.2 per cent for the period during which it remains unissued—1.2 per cent being the difference between the rate which the Government is paying for the money and the rate which the money is earning at the present time in the Joint Colonial Fund. It is felt that a small concession of that kind could properly be made to the Bank, and would enable it to keep the charges it has to make to borrowers as low as possible. As hon. Members will remember the charge made by the Bank includes not only interest but redemption and management expenses also, but it is, I know, the intention of the Land Bank Board to endeavour to issue money at the very lowest possible rate they can commensurate with the safety of the Bank and its stability.

There has been one informal meeting of those members of the Board who were available, and we hope to have the first formal meeting on Tuesday next, when we shall issue

application forms, together with notes as to the limitations of the activities of the Board, so that we can get straight to work. Your Excellency has already had a preliminary Board for some weeks, and I think it did everything possible pending the appointment of the formal Board. We could get no further till the Board was ready to take over. It is ready now if this motion is adopted. We have acquired a small room in the Treasury building at a very low rate to commence with, and it is the intention of the Board to endeavour as far as possible to make use of the services of the small organisation of the Agricultural Advances Board, so as to keep expenses down to a minimum. Forms of application will be issued with a memorandum on the activities and limitations of the Board, because there is still a very great deal of misapprehension in regard to the functions of the Board. Applications have been received from people saying, "I have 5,000 acres of land—please send me a cheque book to draw money on the Land Bank." Another application was made verbally—not in my office, but elsewhere: "I don't quite understand; I thought the Land Bank could only operate on first mortgage; if so, that is all right, because I have already got a first mortgage." Another was on the very difficult question which will have to be settled by the Land Bank Board of the meaning of the word "onerous." The lady in question said, "I have got a farm valued at £5,000, but I have got a mortgage of £2,000; I regard that as onerous and I want to get rid of it. I suppose the Land Bank is able to take that over." All these things are rather tragic and it does indicate that there is need for further information from the Board as to its activities.

I beg, Sir, to move the motion standing in my name.

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

HIS EXCELLENCY: The question is—

"That this Council approves of the £240,000 raised for the purpose of the Land Bank being issued to the Land Bank as required, and that the rate of interest to be charged against the Bank be 4.7 per cent."

The question was put and carried.

POSTAL RATES.

THE HON. W. C. MITCHELL: Your Excellency, I beg to move—

"That this House does not approve of the proposed increases in postal rates."

By comparison, Sir, with the subjects that have been taking up the time and to some extent perhaps trying the temper of this Council during the past few days, the question of an additional 5 cents on the letter or postcard rate may appear of relative unimportance, but I think, Sir, that in this question of the increase in postal rates there are one or two rather important principles involved which at any rate in the eyes of the commercial community seem to justify taking up the time of this Council for a few moments. I will endeavour to be as brief as I possibly can, as I know there is a considerable amount of important business lying before us. I should like even to be as brief, if I could, as the hon. the Commissioner for Local Government, Lands and Settlement, in replying to my question a few moments ago.

In the first place, Your Excellency, I think it must be conceded that any addition to the overheads of any undertaking in this country to-day is rendering the position of the agriculturist, who is the prime and only source of wealth in this country, still more difficult. The problem which lies before all agriculturalists, and commerce as apart from agriculture can only be taken as a portion of it, the difficulty with which they are faced is an effort to put prime products on the world's markets at a cost equal to market price, or something below it. Any addition to taxation is bound to make that difficulty still more apparent. It may be argued, possibly, that the amount involved in this taxation is relatively small. I think, Sir, that that is a dangerous argument. We were considering a few days ago one or two other forms of taxation which also, we were told, involved comparatively small sums of money. If we admit one by one schemes of taxation which in themselves involve only small sums, before we have gone very far we shall have ourselves approved schemes which in the aggregate put a very substantial burden on the community generally.

I have endeavoured to arrive at the sum which will actually be involved in this increase in postages, and for that purpose I refer to the abbreviated Report of the Post Office and Telegraphs Department. From this it would seem that if there is no increase or decrease in the number of letters and postcards handled by the Post Office as a result of this change in rates, that additional charges on inland postage would amount to £15,495 per annum, whilst the increase on postage to British Possessions would involve another £5,122; or a total on all letters and postcards of £20,617. As against that, Sir, there is a slight reduction to be provided for—only I understand a little over 9 per cent of the total—for the number of letters which are handled for nothing for official correspondence of other Government Departments. We can

therefore take a round sum that will put, as I understand it, approximately £19,000 per annum additional taxation on the country. It seems to me, Sir, the worst possible time to put an additional burden of that kind on anybody, but presumably, Sir, there must be some who disagree with that point of view or we should not have had this proposal put before the country. It is the view of the commercial community, and I think it is probably held by other sections of the community, that a Government Department whose function is strictly that of a public service, should not be used as a taxing machine. We are quite prepared to pay the cost of a public service, making the fullest possible allowance for all contingencies, but I do not think a case can possibly be made out that the Post Office requires any additional funds towards the cost of its own service. The postal revenue for Kenya during 1930 amounted to £95,572. This was a decrease of £9,564 on the 1929 figures, but the 1929 figures showed a very substantial increase of £4,853 over those for 1928. The figure of £95,572, which was the revenue for last year, is actually above the average revenue for the previous five years. The excess of revenue over current expenditure for the year 1930 amounted to £39,945. Now, Sir, admittedly that excess of revenue over current expenditure does not take into account interest and depreciation on such things as telegraph and telephone lines, plant and so forth, but I do think that £39,000 leaves an ample margin for any charge of that kind.

Then there is another view which any person using a postage stamp can very well take, and that is the cost of that service in each individual item. The present rate is 15 cents per ounce or portion of an ounce—practically twopence—and that it seems to me for inland postage is a high enough rate for anybody; and twopence-halfpenny, which is the price to which we propose to raise it, seems to be a good deal too high. In brief, Your Excellency, my objections to this increase in postal rates are three: One, that the Post Office should not be used as a taxing machine; Two, that if it is to be so used, this is not the time to impose what is quite a substantial tax on the community; Three, that if it is not used as a taxing machine, I fail to see any reason or any case made out by the department for increasing their charges; and I hope that on those three grounds you will see cause to give the matter your serious consideration. I beg to move.

THE HON. F. A. BEMISTER: I beg to second it.

HIS EXCELLENCY: The question is—

“That this House does not approve of the proposed increases in postal rates.”

THE RT. HON. LORD DELAMERE: Your Excellency, I should like to be allowed to support this motion, chiefly on the ground that the hon. gentleman put number two, which was that the present time was not the moment to put on extra taxation. With regard to the others, I am not quite sure in a country like this whether you can carry it out to the extreme, that is the question as to whether any department like the Post Office should be used as a taxing machine. I have never been quite certain about it. It has nothing to do with this, and I fully support the case put forward by the hon. gentleman.

COL. THE HON. W. K. TUCKER: I desire to associate myself with the mover, and to ask one point and that is—its bearing on this newly-inaugurated air service—because, Sir, as I understand it, these rates are going to be proportionate. I do not know whether it is understood the use that is being made of this air service or the consideration being given to it at the present time by people on this side, and also people in Europe paying the extra cost against the facilities granted. I do state, Sir, after a good deal of inquiry and knowledge of the subject that it is just like this at the present time as to whether tremendous facilities not merely of the letter that costs 65 cents, which is chiefly a social matter, but the delivery in this country of shipping documents and vice versa into England involving many times 65 cents, which I repeat, Sir, is being adopted by the receivers and the senders, and it may very well be that 5 cents on every half ounce, which is a considerable addition to what we are endeavouring to establish in this country, may very well break down to a considerable extent the growing traffic by air of postal matter even at the present time. If that broke down it would not merely be an inconvenience to the public, not merely a loss of revenue, but it would materially hinder the improvements now taking place in such important Government departments as the Customs. I assure you, Sir, that is a point of considerable importance to be borne in mind in connexion with this advance in the general postal rates.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I rise to support the motion for the reasons given concisely and precisely by the hon. mover, also on the principle that I cannot vote for increased taxation until Government has explored every avenue for curtailing expenditure; further, till Government has given Elected Members the opportunity they have had in the past and not had this year of investigating the affairs of the Colony in a manner that will enable them to come to a reasonable conclusion. For those reasons, I must support the motion.

THE HON. T. J. O'SHEA : Your Excellency, I do wish to speak, but I am anxious to hear the views of the hon. Postmaster General on the subject, Sir.

THE HON. T. FITZGERALD (POSTMASTER GENERAL) : Your Excellency, three objections have been put forward against this proposal for increased postage rates. The first and principal one, I think, is that the present time is not an appropriate one in which to increase taxation. I am sure I will be pardoned if I say so, but I consider that this question was disposed of a few days ago in the debate on the Customs Tariff (Amendment) Ordinance. The position is, rightly or wrongly, that Government has to find additional revenue to tide over matters during the present period of depression, and that fact being accepted, the next point to consider is the most suitable way of obtaining that additional revenue. In the Customs Ordinance a few days ago a sum of £18,000 was found by certain increases in duty. Government apparently requires something more than that, and the point is how that extra amount should be found. Apparently, Sir, a sum of £10,000 will be of very considerable use at the present time, and I do suggest that no fairer or more reasonable way of finding that money could be found than by increasing postage rates as proposed. If it is any consolation to the hon. mover, I consider this tax to be an ideal one. It costs nothing whatever to collect; its incidence of collection is not particularly painful—the amount contributed by the public is collected in small sums throughout the year; and every section of the community contributes its quota towards the tax. In connexion with the latter I would mention that the natives are using the post at the present to an extent which is probably not very fully realised. The commercial community I think would have much more cause for complaint if the rate on printed matter was increased, as that is a rate which does directly affect that community in connexion with the sending out of their bills and circulars.

The suggestion, Sir, that the Post Office should not be used as a taxing machine is really not very sound. It is not suggested, Sir, that this revenue is required for the Post Office purposes. It is not. It is required for the purpose of general revenue, and I am afraid that in this particular instance the Post Office is being used as a taxing machine; but that is no new idea or peculiar to this Colony. The Post Office was used during the war as a taxing machine, and at the present time is being so used in South Africa. Quite recently, the South African postage was no less than doubled, so that from one point of view the position here is not as bad as it is there. Taking it as a fact that additional revenue is required, I do not think hon. Members opposite can suggest a more suitable or more appropriate means of raising the additional amount to be found.

The hon. Member for Nairobi North mentioned the possible effect of this increase on the air mail service. I do not think it can be seriously suggested that an increase from 60 to 65 cents is going to make any material difference to the air mail service. I think if any relief in that direction is required it should be towards getting a reduction in the relatively high rate of transport which is being charged by Imperial Airways.

I would like to question the figures stated by the hon. mover of this motion. I think he has possibly included Uganda in the figures on which he worked. Revenue in respect of the Uganda figure goes to Uganda. On present figures, so far as Kenya is concerned, the increase of revenue will be something in the neighbourhood of £14,000, but postings are falling, and I am very much afraid that when these new rates are imposed some allowance must be made for a further decrease. Thus, in all the circumstances, I think it wise to place the additional revenue at not more than £10,000. It is quite possible that something extra may be realised. I do not think there is anything further I can add to this debate. The position is as I have stated it, and, as I said before, I think this is a fair and reasonable way of obtaining revenue.

THE HON. T. J. O'SHEA: Your Excellency, the hon. Postmaster General has made it perfectly clear that this is undoubtedly a measure of taxation—this increase in the postal rates—and not an increase made necessary to meet the cost of the service. I should like to deal with it entirely from that point of view and very briefly. I think he has quite rightly pointed out that it is a very easy and inexpensive means of raising new taxation, but nothing more can be said in its favour. However much it may be distributed over the community which has to pay out this 5 cents, nevertheless the fact remains that it is an increase of not less than £10,000 in the amount that people have to pay to Government for Government services, and it is very interesting to note this: that the technical adviser to Government in this matter has had to warn Government that because of this increase in taxation, the use of the service is very likely to be decreased, so that we may find at the end of the year that instead of Government getting a certain amount of money from this new tax to meet its difficulties, it will actually be no better off, although it has compelled those who are paying for the service to pay $33\frac{1}{3}$ per cent more for the use of it.

Now, Sir, the hon. the Postmaster General has said it is only right and proper that Government in its difficulties should increase taxation. I say that it is entirely wrong in the circumstances of the country to-day. . . .

THE HON. T. FITZGERALD : On a point of order, I never said anything of the kind. What I suggest is that if additional revenue has to be found—a matter entirely outside my purview—this is as good a way as any other of finding it.

THE HON. T. J. O'SHEA : I stand corrected, Sir. That is exactly what the hon. Member did say, and perhaps I did not hear him quite rightly, but if additional revenue has to be found, Your Excellency, I contend, as do all Members on this side, that there is no case made out so far for finding additional revenue. On the contrary, a case has been made out by the facts of the situation for a considerable decrease in expenditure, and it is because of the strength of that case that I so strongly oppose this increase in taxation that is opposed by this motion. The House was treated to some discussion on the subject when we were discussing Customs increases, but, Sir, I think it is only fair to warn the Government that we shall have to continue until Government changes its policy to emphasise that the representatives of the taxpayer cannot agree that the circumstances of the country permit of any fresh taxation, and we look to and expect and will insist upon Government meeting the situation by a greater reduction in its expenditure.

THE HON. F. O'B. WILSON : Your Excellency, I should like very briefly to support this motion. I will not traverse the arguments that have already been used this morning; I agree with every one of them.

My main point, however, in rising to support it is that one does object to this increase in taxation until the necessity has been made apparent to us. I also do feel rather strongly that Government in a way are contradicting themselves in the arguments that they use. They say at one moment that so many thousands of pounds—the gross amount of all the taxes that have been put on is £28,000—that I think is a very useful thing and a very material thing; and in the next breath they say that taking £28,000 out of the taxpayer's pocket is nothing because it is distributed out. I do not think that is quite right—the £28,000 has got to come out of the taxpayer's pocket in the country, and is £28,000. You cannot get away from it. This series of little fiddling taxes that is going on puts a little here and a little there, and rather makes one think, or reminds one of the old saying of the last straw breaking the camel's back. Is the Government looking for the last straw? They will find it fairly soon, and when the camel's back is broken there will be nothing.

THE HON. W. C. MITCHELL : Your Excellency, I do not think that I have very much to say really except that in the first place I would apologise for having slipped up in regard to these figures—the Postmaster General was quite correct, I did include Uganda inadvertently.

In his remarks, the Postmaster General, I think, referred to South Africa having doubled their postage rates recently, but he omitted to give the actual figures. As far as my recollection serves me, I think they increased from one penny to twopence, and twopence is the rate which we are to-day paying without any increase at all—at least, we are paying twopence within a cent or so of a penny.

The Postmaster General also mentioned the extent to which the natives avail themselves of the postal services. I know a little about that, too, Sir. Only a few days ago one of my natives handed me a letter addressed to a friend of his in Kavirondo, and asked me if I would be good enough to post it for him. He left it open, and requested that I should insert a postage stamp in it when I got to Nairobi so that his friend could reply. When I got to Nairobi to put the stamp in, I thought I had better gum the stamp on to the letter inside or it might be lost, so I opened the letter, and found twelve letters inside addressed to twelve different natives in the Kavirondo Reserve.

Although I made a mistake in those figures, it does not in any way alter my opinion on the rights and wrongs of this increased taxation. I regret, Sir, that I still hold the same view, and hope that this motion put up to the House will be carried.

HIS EXCELLENCY : The question is—

“ That this House does not approve of the proposed increases in postal rates.”

The question was put and lost by 11 votes to 17.

Ayes : Mr. Bemister, Capt. Cotter, Lord Delamere, Lt.-Col. Durham, Lt.-Col. Kirkwood, Messrs. Mitchell, O'Shea, Major Robertson-Eustace, Sheriff Abdulla bin Salim, Col. Tucker, Mr. Wilson.

Noes : Major Brassey-Edwards, Mr. Bruce, Canon Burns, Messrs. Butler, Fitzgerald, Gilbert, Dr. Gilks, Messrs. MacGregor, Martin, Moore, Brig.-Gen. Rhodes, Messrs. Rushton, Scott, Sikes, Wade, Lt.-Col. Watkins, Mr. Wolfe.

REPORT OF SELECT COMMITTEE ON THE BUTTER
LEVY BILL.

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

“That the Report of the Select Committee on the Butter Levy Bill be adopted.”

The Report, I am happy to say, Sir, is a short one, and though it is not a unanimous one—the signature of one Member of the Committee is missing from the Report, Sir—I think I am justified in saying that to the amendments which are embodied and recommended in this Report, the hon. Member certainly gave his concurrence.

The amendments are very few in number and there are only three of them to which I need very briefly refer.

The first recommendation, Sir, is that there be added to the second clause of the Bill a proviso that no levy will be operative until two months after the date of the proclamation imposing it. Hon. Members will recollect that there is in the Bill a clause providing for exemption in cases of hardship and the Committee felt, Sir, that that clause would to a certain extent be rendered inoperative if a levy came into operation on the very day on which it was proclaimed. The levy would then be payable by everyone, payable even at the risk of a certain amount of hardship, while persons who anticipated that hardship were endeavouring to prove their right to exemption. The effect of the recommended amendment will be this, Sir, that when a proclamation is issued intimating that a levy is to be imposed on butter there will be a clear period of two months given in which persons who claim that the payment of that levy will inflict hardship upon them will have an opportunity of making their case to the exempting authority.

The second recommendation, Sir, is that the cost of the advisory consultative body which will be appointed to assist Your Excellency, chiefly in the two major respects—that of arriving at the proper figure of the cess, and secondly in dealing with exemptions—is a fair and proper charge against the fund as a whole, but the Committee did express the hope—I think I might even go further and say the confident hope—that in the circumstances which have prompted the introduction of this legislation and its acceptance by this Council the cost of that Board will be very small indeed, if not non-existent. The Committee did venture to hope that there would be found in the Colony persons not only sufficiently public-spirited but in a financial position to give their services on such a Board without remuneration.

The third and last point, Sir, corrects what I am afraid is a very obvious omission from the Bill as drafted. It provides that the accounts of the fund should be audited in such manner as the Governor may direct, and as soon as possible after audit and after the end of each year shall be published for the information of those interested in the industry.

The fourth recommendation is merely verbal; it deletes a quite unnecessary word from one of the clauses.

There are, I think, two further points on which I would ask the indulgence of the Council to say just a word. One is, Sir, that the hon. Member for Kenya, who did not sign the Report, refrained from doing so I think because of the provisions of clause 7, which confers on officers authorised in the part by the Treasurer, power of entry on the premises. I do hope, Sir, the hon. Member will not press that objection. It is never a pleasant business to have to make provisions like that in any legislation, but I am sure hon. Members will admit that, though unpleasant, it is absolutely essential. There are offences prescribed in this legislation, and it is not much good, Sir, saying that so and so will be an offence unless there is the ordinary elementary power given to discover that offence, to detect it, and to lead to its punishment, and that is all that clause 7 of the Bill does. My friend, the Treasurer, who is the authorising officer under the clause, did give in Select Committee an assurance that he would exercise those powers with care and with discretion. I am not sure it is necessary for me to repeat that, Sir, but in view of the fact that my friend did mention it in Select Committee, I would like to make that public—the powers will not be arbitrarily and improperly used. The powers are necessary and will be exercised with the utmost care and discretion.

The other point, Sir, is that on the day after this Bill was accorded a second reading certain protests and complaints against it were circulated, I think, to every Member of this Council. It was suggested that . . . I am apparently wrong, Sir; then to every official Member of this Council. It was suggested that the Bill did not meet with the approval of the population of Nairobi, and that their lack of approval was dictated by the fact that the Bill contained no provision for the protection of the consumer against exploitation by the increased price of butter. I had hoped, Sir, that I had made the position in that regard sufficiently clear on the second reading. I did then make public the assurance given by the Co-operative Creameries, Ltd., that they would not increase the price of their creamery butter to the consumer. In the

light of that assurance, I should have thought that there was no need whatsoever to embody in this Bill a provision fixing a maximum price. It is always a dangerous thing to do, and a step that the Government should always be extremely reluctant to take, and I can only hope that the public reiteration of the undertaking given by the Creameries will be a sufficient assurance to the consuming public in Nairobi.

I beg to move the adoption of the Select Committee's Report on the Bill.

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

HIS EXCELLENCY : The question is—

“ That the Report of the Select Committee on the Butter Levy Bill be adopted.”

CAPT. THE HON. J. L. COTTER : Your Excellency, I would like to explain the reason why I did not sign that Report. As the hon. Attorney General has mentioned, clause 7 was the chief reason. The hon. Attorney General has given out that the powers given under clause 7 are quite necessary. I say they are not necessary at all. In every Bill brought before this House it is necessary to give special powers to the Treasury and in some cases to the Land Officers to enter upon premises, and I cannot see any point in having magistrates or police officers in the country. I cannot see it, and I intend, although it is evident that the hon. Attorney General does not wish me, to say so, the reason I have in opposing this clause. It is quite possible at any time to use this clause for the purpose of the greatest abuse. It has been done in this country already, and I can give you papers to prove where individuals are accused of taking advantage of this type of law, and I am quite certain when I say that of every one of my constituents, there is hardly one who would submit to that clause. I submit it is not necessary, and in fact it may be used for purposes of abuse.

Another point I would like to say is that to me it is remarkable that a law should be made apparently by an agreement of a company on the one side and of the Treasurer on the other side. I gather that from what the hon. Attorney General has mentioned. I submit the Creamery is a private company, and nothing to do with this Bill at all under any circumstances. You can see what may happen in time, and it may lead to the greatest abuse, that the Treasurer may send an accountant to a European firm. He goes out of his way to be dictatorial, and will almost certainly cause the greatest trouble. I submit the clause is unnecessary. We have magistrates and police at the present moment in every place. That is why I would not sign the report.

COL. THE HON. W. K. TUCKER : I feel I must make a short comment on the concluding remarks of the hon. Attorney General. At the second reading, I endeavoured to interpret a message from those who were associated with a resolution passed by an important representative body who had been discussing this Bill, and they passed a resolution saying they firmly agreed, in so far as they were entitled to agree, to the conditions, upon a clause being inserted in the Bill to protect the consumer. Well, Sir, in the discussion on the second reading, it became obvious that a clause of that nature was meaningless, but none the less in the Select Committee, when that particular communication was discussed, I understood the hon. learned gentleman to give a rather wider promise than the one he has given—or rather assurance—and that is that over and above any promise given by the particular trading organisation with regard to not advancing the present price of butter, the hon. gentleman would assure the House and through the House the country, that, being experimental legislation very much along the lines of the Wheat Pool of last year, he would state that the Government proposed watching its operations in its early months, so that if by any possible chance unforeseen by anyone it did become oppressive to the consumer, Government would give the assurance that they would then reconsider the whole application of the Ordinance.

THE HON. F. A. BEMISTER : Your Excellency, it is just on the question of figures. The undertaking given by the learned Attorney General is incomplete—I find not that the consumer will not pay this, but that the price of creamery butter will not go beyond Sh. 1/50. But, Sir, I think my contention the other day was that as a man to-day can get butter at Sh. 1/20 from a non-co-operative seller, directly the non-co-operative seller has to pay the 25 cents tax extra, he will then pass it on to the consumer, which obviously makes the consumer pay it—Sh. 1/20 plus 25 cents would be Sh. 1/45. It does seem to me that it is obvious that the consumer must pay wherever he wishes to buy from a non-co-operative seller. It is quite clear.

THE HON. THE ATTORNEY GENERAL : I am glad of this opportunity to deal with one or two of the points which have been made, none of which, Sir, are really directed at the primary object of the motion, which is the adoption of the Report. The recommendations made therein have escaped scathless from the fire of the other side of this Council. There are one or two incidental points which have been made, and had better be answered.

The hon. Member for Kenya has expressed his willingness to lay certain cases before Your Excellency, with a view to showing the inequities of the legislation now embodied. It is a truism that hard cases make bad law, and equally a fact that a clause such as this exists in similar Ordinances, not only here, but in other Colonies also. The whole of the Plants Diseases legislation and the whole of the Criminal and Penal legislation necessarily embody such a clause as this. I have already repeated the undertaking, given very fully and frankly by my hon. friend the Treasurer, that discretion and care would be used. The case that the hon. Member took is one that in practice cannot occur. The necessity for legislation I can put shortly. Let us assume Mr. A, a butter-producer with six milking cows, gets exemption on the ground of hardship, and let us assume that some of his neighbours seem to think that those cows are producing an abnormal amount of milk—and therefore butter—and that there is coming from Mr. A a very large quantity of butter. Indeed, the obvious inference is that Mr. A is using his exemption to dispose of the butter of his neighbours. Is there anything unfair that a responsible officer deputed by the Treasurer should go first and make an examination? We can achieve exactly the same by stating all offences under this Ordinance should be cognizable to the Police, but, Sir, one of the clauses gives the power to inspect books, and, great as my admiration for the Police officers of the Colony is, Sir, I suggest that they are not quite the best people to draw correct inferences from the books of a firm. That is why we have chosen an officer appointed by the Treasurer.

I must apologise if the assurance which I endeavoured to give in the interests of the consumer was not sufficiently full and frank to satisfy those who are represented by the hon. Member for Nairobi North; he has taken the analogy of the Wheat Pool, and I think it is very nearly a complete analogy. On that occasion I gave an assurance which I can quite safely repeat now. It is as follows: If by reason of the imposition of a levy on butter under this Ordinance Government is satisfied that the producer of butter is improperly exploiting the consumer, then, Sir, this being an enabling measure only and not in any sense a compulsory measure, Government will naturally consider the exercise of the rights which it possesses, that right being to cancel the cess and come back to the *status quo ante*. I hope, Sir, that assurance in those terms will remove the doubts of the hon. Member.

HIS EXCELLENCY: The question is—

“That the Report of the Select Committee on the Butter Levy Bill be adopted.”

The question was put and carried.

BILLS.**THIRD READING.****THE BUTTER LEVY BILL.**

THE HON. THE ATTORNEY GENERAL : I beg to move that a Bill to Provide for the Imposition of a Levy upon Butter be read a third time.

THE HON. T. D. H. BRUCE : I beg to second that.

HIS EXCELLENCY : The question is that a Bill to Provide for the Imposition of a Levy upon Butter be read a third time and passed.

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

THE RT. HON. LORD DELAMERE : On a point of order, Sir, does that include the amendments?

THE HON. THE ATTORNEY GENERAL : Yes, Sir, that is the order.

THE RT. HON. LORD DELAMERE : It was a point of order. I did not understand myself.

THE HON. THE ATTORNEY GENERAL : The adoption of the Report incorporates the amendments in the Bill automatically, Sir.

HIS EXCELLENCY : The question is that a Bill to Provide for the Imposition of a Levy upon Butter be read a third time and passed.

The question was put and carried.

The Bill was read a third time and passed.

SECOND READINGS.**THE CARRIAGE OF GOODS BY MOTOR (CONTROL) BILL.**

THE HON. THE ATTORNEY GENERAL : Your Excellency, I beg to move that a Bill to Provide for the Licensing and Regulation of the Carriage for Reward of Goods by Motor Vehicles over Roads of the Colony be read a second time.

The fact, Sir, that the second reading of this Bill has come on a date subsequent to the debate on the Railway Rating Policy which took place yesterday has, I feel, rendered very much easier the task which lies before me—the task, firstly, of explaining the principles which underlie this legislation and the details incorporated in the Bill, and perhaps the more difficult task of justifying to hon. Members of this Council the acceptance and adoption of those principles and details.

I say that, Sir, for two reasons : Firstly, because, if I correctly interpreted the trend of the debate yesterday, there was one point on which there was unanimity, and that was that at the present moment no change in the Railway rating policy could be made, and, secondly, Sir, because it was common ground throughout the debate that one of the serious disabilities, one of the real and serious causes of loss of revenue to the Railway Administration at the present moment, was motor competition. If those two bigger points are accepted, Sir, there we have our problem ; and in view of the acceptance of those two propositions yesterday, Sir, and in view of the further fact that the Report of the Committee, of which Report this legislation is the outcome, has been published and in the hands of hon. Members for some considerable time, I hope, Sir, that I need not elaborate further the problem in itself. As I have stated, there it is. The Railway is losing a considerable sum each year as a result of motor competition, and the Railway, whatever the position hereafter may be, the Railway as it is to-day, Sir, cannot avoid at least the greater part of that loss, Sir, because the competition is directed—the transport by motor—only to those goods which are easily transportable, to a large extent not perishable, for which the Railway under its rating policy charges the highest rates. Motor competition, Sir, is—to put it quite plainly—picking the eyes out of the import traffic, and it is enabled to do so by reason of the fact that there is now between Mombasa and Nairobi a road which for the greater part of the year is suitable for motor traffic. It is enabled to do so at rates which very materially undercut the corresponding Railway rates, and with the knowledge that the Railway is unable, without very lengthy consideration at least and profound discussion, to reduce those rates to a figure which will put the motor lorry business off the road.

There you have your problem, Sir. The next question that arises is : Is it a problem which it is our duty to face and to tackle, or is it not? Because, if hon. Members think that it is not, that is the end of the whole debate. The disease is there. If the sense of this House is that no remedy should be provided for it, then I am beating the air and wasting the time of the Council ; but if, as I confidently hope, the mere fact that there is a disease will stimulate hon. Members to find a proper remedy for it, then, Sir, we pass to the second question : What form should that remedy take? That brings me expressly and specifically to this legislation.

There are, I think, Sir, two obvious courses to take—either of them may commend itself to a certain section of this Council. The first, Sir, is the easy one of prohibiting motor traffic, the carriage of goods for reward, over certain

sections of road, and thereby make it quite impossible for imports into the Colony to be carried from Mombasa, the port of import, either to Nairobi or to points beyond Nairobi, in competition with the Railway. That solution, Sir, has the merit of simplicity and brevity and completeness. If it is the considered desire of this Council that that step should be taken it can be done in a very much simpler way than by legislation of this length. But the view of the Committee, Sir, was that in all the circumstances of the case that action would not be justified.

The view of the Committee, Sir, a view which I confidently propound for acceptance in this House, was that healthy competition is as good for the Railway Administration as it is for anybody else, that the effect of healthy competition would be to stimulate the Railway Administration to more economical and more satisfactory running in the best interests of the public; but I am putting the converse—the effect of prohibition would be to remove practically all stimulus or ambition from the Railway Administration. But, Sir, the present competition is, in the opinion of that Committee, definitely unhealthy. It is unhealthy, Sir, for perhaps more reasons than I can possibly give. It is unhealthy because it picks the eyes out of the import traffic; no attempt is made to carry the great bulk exportable products on which the Colony must depend; no attempt is made to carry unwieldy, heavy, low-rated imports; in those articles in Classes 1 and 2, which are easily transported, that motor transport organisation specialises. That in itself, Sir, is an unhealthy phase. It is unhealthy for a second and more important reason, Sir, and that is that although those goods can be carried and are carried by motor at a cost considerably beneath that which the Railway is bound to charge, that saving is not, so far as the Committee was able to understand, to ascertain, Sir, with the possible exception of two small lines, that saving is not handed on to the consumer, so that the consuming public are not one whit better off, with two possible small exceptions, by reason of this competition. That is a second profoundly unhealthy sign about this traffic.

A third, Sir, and by no means negligible one, is that so far as the Committee were able to ascertain, the motor services are ill-regulated, they run spasmodically, they may or may not get through to their destination, they are a danger to other users of the road, they are a considerable gamble to any one who chooses to avail himself of their services for the transport of anything that is at all perishable. Then evidence was given to us that there was one considerably bulky line of goods—confectionery and chocolates—which definitely did not go by motor lorry any longer because the manufacturers had

refused to entertain any further claims for damage and destruction. That, again, is unhealthy, Sir. They are ill-regulated and spasmodic; they are without a sufficient degree of control; they are run—I am afraid there is sufficient evidence to show—almost as a danger and a curse to those who are properly using the road; but they have a very great convenience indeed, Sir, which the Railway can never give, and that is that they supply transport from the door of the consignor to the door of the consignee. There is no delivery to a station involved; there is no collection from a railway station involved, and so, from that point of view, Sir, they are very attractive indeed. They have proved, in fact, so attractive that I would remind hon. Members of the figure—a figure which was quoted by the hon. Member for Plateau South yesterday—the General Manager estimates a loss between Mombasa and Nairobi of something like £70,000 per annum.

The remedy which the Committee recommended, Sir, was not that which I have mentioned—that of complete and total prohibition; we were not prepared to go that length, Sir, but we have definitely suggested that there is a disease which requires a remedy; that a remedy is urgently needed, and that that remedy should take this form, Sir—that the main trunk avenue of communication from Mombasa to Eldoret on the main line, on the Uganda line, and to Kisumu on the Kisumu line, should be regarded as definitely competing unfairly with the Railway; that between Mombasa and those terminal points there should be certain scheduled points, key points—Voi, Nairobi, Nakuru—and that for the carriage of goods for reward on any section of that road which covers two of those key points application should have to be made to a Board, and that the Board should have power to refuse a licence on certain grounds which I will go into in greater detail presently, Sir, and that if a licence is granted by the Board two obligations should at once flow from the granting of that licence. One, Sir, is that the vehicle so licensed should be insured against third-party risks in exactly the same way as under the existing law a motor omnibus for the conveyance of passengers has to be insured; and, secondly, Sir, that the person intending to operate a service by means of that vehicle should pay a licence fee for the privilege of conveying goods in that vehicle over whatever route he may select.

At this stage, Sir, I feel that I ought to digress to explain what I appreciate, and fully appreciate, is a pair of provisions in this Bill which must have caused a considerable amount of doubt in the minds both of hon. Members and of the members of the public who have read it. I should like, Sir, to draw attention to those provisions and to explain as shortly as I can how they came about. As I have endeavoured

to indicate, Sir, the scope of this legislation is to control the carriage of goods only where that carriage is definitely in competition with the Railway, and yet, Sir, both at the beginning of clause 4 (1) and at the beginning of clause 5 the wording is such as to indicate to any one who reads those clauses that the function of the Board is to control and regulate all motor carriage for reward over any road in the Colony. The explanation of that, Sir, I think I can give quite shortly and, I hope, satisfactorily. The Report of the Committee embodied in clause 19 a recommendation that in addition to dealing with traffic directly in competition with the Railway the Board should have power to deal with all motor carriage for reward, even on feeder roads and roads ancillary to the Railway, in fact, on any road in the Colony, and that for such traffic there should be payable a fee, with the proviso that where a motor vehicle was kept for the carriage of the owner's own property or own agricultural produce or agricultural requirements no licence fee should be charged.

When the Report and the Bill in that form were considered by Government it was felt that it would be quite sufficient—particularly certain and sufficient in the meantime—to deal with the question of road competition, but that no useful purpose would be served by confusing those two quite separate issues.

THE RT. HON. LORD DELAMERE : Hear, hear.

THE HON. THE ATTORNEY GENERAL : And that it would be better so to amend the Bill as to delete all reference to transport which was not directly in competition with the Railway and to delete, to limit, the functions and duties of the Board to the control and regulation of definitely competing traffic. That, Sir, was very easily done at first sight ; it merely meant the deletion of one clause and one schedule, but, Sir, it consequently entailed the recasting of a considerable amount of the Bill. The situation was urgent. Time was the essence of the contract, and I was anxious to get the Bill published for general information at the earliest possible moment. And so, Sir, you have the production of the wording such as the wording in the two clauses that I have just referred to which is in the light of the later clauses of the Bill incorrect. As the hon. Member for Plateau South has just reminded me, even the long title of the Bill conveys entirely an erroneous impression. That is the reason, Sir. It was because Government was anxious that the public should be informed of its intentions with regard to this problem as early as possible. It was a choice then between delaying publication and recasting the Bill or getting the Bill published as it is before us here to-day and later, in the Select Committee to which Your

Excellency has authorised me to say this Bill will be referred, then explaining the apparent inconsistencies of the Bill, and putting them right. I hope hon. Members will accept that explanation and agree that in the circumstances the Government was in it was the better course to pursue.

Now, Sir, I shall come, if I may, quite shortly to the details of the Bill. Its sole object now is to regulate and control traffic which is directly in competition with the Railway. By that I mean, Sir, competition which, if we may take Mombasa as the terminal port of departure, means transport which carries goods for reward in motor vehicles from Mombasa to a point beyond Voi. The second stage will be beyond Nairobi, i.e. to or beyond Voi, to or beyond Nairobi, Nakuru, and in turn Eldoret and Kisumu.

THE HON. T. J. O'SHEA : On a point of order, may I ask whether the Bill is what it is called or what the hon. Member says it is? The Bill as it stands is to control traffic over the whole of the roads of the Colony. Am I to understand him to say that he will move amendments to change the purpose of the Bill?

THE HON. THE ATTORNEY GENERAL : I would remind the hon. Member that the title of a Bill is no part of it. That is a cardinal and elementary point of construction. The title is there for the guidance of hon. Members, but it forms no part of the legislation itself. The position is, Sir, that this debate, according to the definition of our Standing Rules and Orders, is confined to the principle—if it incorrectly embodies the principles which this House accepts then, Sir, it is a case for amendment. The contrary proposition which has just been advanced is quite new to me, that we are not tied by the principles which commend themselves to us, but by the actual wording of the draft Bill before the House. I have already mentioned the Bill will go to Select Committee, and what I am anxious to learn is whether the principle commends itself. If it does, Sir, I think the details can be quite easily settled and quite constitutionally.

I repeat, Sir, that we are dealing now with competition along that road which runs very largely parallel to the Railway and which is directly in competition with Railway transport. The scope of the Bill covers all motor vehicles—tractors, trailers, motor cycles, side cars. The definition of "motor vehicle" is made as narrow and restrictive as we have been able. If the principle applies to the conveyance in bulk, then it applies to the conveyance of small quantities in the same way, but it only applies to the carriage for reward. There is nothing in this to prevent any person carrying his own goods with him or the goods belonging to other persons

travelling with him between any points all over the system, but there is one thing in the definition of carriage for reward that I ought to draw attention to specifically: that is that carriage for reward has been defined as including the delivery of goods which have been purchased or the conveyance to the place of sale of goods which have been imported by the seller. That is to say, if a merchant house in Nairobi agrees, instead of using the Railway, to use its own fleet of motor vehicles to bring its own imports up to Nairobi, under the provisions of clause 4, that is considered a conveyance of goods for reward. Application has to be made to the Board, Sir, and the applicant has to state the routes over which he proposes to operate the service; the rates he proposes to charge; the maximum weight of goods he proposes to carry; the kind of goods or merchandise he proposes to carry; and the number of persons, other than the driver, to be carried in the vehicle. On receipt of that application, Sir, the Board fixes a date for hearing and determining that application, and all persons interested are entitled to appear and be heard, including, Sir, the High Commissioner, or any authorised servant of the High Commissioner for Transport. The criteria which the Board apply are these, Sir: The condition of the road and the adequacy of existing facilities for the conveyance of goods between the two terminal points, but there is a proviso to clause 7 that the Board is not entitled to refuse a licence merely because existing Railway facilities between the places to be served are, in the opinion of the Board, adequate. If an application is granted, Sir, there is an obligation on the applicant for the licence fully to insure the vehicle against third-party risks, and here, Sir, I must emphasise this important point: the licence is not granted to the individual—the licence is granted to the vehicle. There is no question of A saying, "I desire to run a service between Mombasa and Nairobi and employ a vehicle. If my first vehicle breaks down I shall employ another." The legislation specifically licences the vehicle and in no sense licences the applicant, so that if a vehicle breaks down that licence cannot be transferred to another vehicle. A licence is, of course, annual, Sir. No provision in the legislation as provided is made for licences for a shorter period than one year. The reason for that can be explained very shortly. Particularly between Mombasa and Nairobi, it is only for a certain part of the year that the road is reasonably open for motor traffic, so that an annual licence in fact and not in practice will be effective for twelve months. It will probably be effective for seven or eight months with reasonable safety, and if one is prepared to take a risk possibly effective for a little longer. There is a certain time of the year when the rains make the road unsuitable for heavy motor traffic.

Under clause 11 we come to the scheduled points. I have already stated what they are. There is provision for any other point to be a scheduled point and for fixing a fee under the Schedule for conveyance to any newly declared scheduled point. They are at first sight, I have no doubt, heavy. At an earlier stage, I said that the Committee had definitely and emphatically declined to take any action which would lead quite clearly to a monopoly on the part of the Railway; they would neither be a party to legislation which would close or prohibit traffic entirely, or to any other form of legislation that would give the Railway a complete monopoly. The fees, although heavy, have been worked out at such a figure as will, in the case of a thoroughly well regulated, well run service, still leave a profit. They are not prohibitive. There is still a margin, though of course a greatly decreased margin, in favour of motor transport, but it will be obligatory by reason of the fact that an applicant will not only have to pay this fee but to pay his insurance premium. Also there will be an obligation on him to see that the service is suitably run, the vehicles suited to the service, and we will in that way get a very much better organised and better service, though a very much smaller one, than exists at the present moment. When we come to effects, Sir, there is one point that I think I need stress. As the law now stands, if you find a vehicle hopelessly overloaded and quite unsuitable for the task it performs, the only person in practice who suffers is the driver. It is in practice very often extremely difficult to bring home the complicity of the owner, and if the driver is fined and cannot pay the fine, as a consequence of that another driver is obtained and the same thing occurs. So in this legislation we have imported a provision which first appeared in the English Road Act, 1925. It will now be competent to a court, instead of punishing a driver, to cancel or suspend the licence of the vehicle; in effect, to put the vehicle for a stated time off the road. That, Sir, has the effect of making the owner scrupulously careful to see that the conditions of his licence regulating, for instance, the tonnage of goods which he is authorised to carry, the number of persons other than the driver that he is authorised to carry, are in fact enforced. It deprives him of the pleasure of saying, "I was quite unaware of this; this is all my driver's fault; punish the driver, please." The onus of proof, Sir, of proving that goods are not conveyed for reward, is placed on the defendant. That is, I think, not unreasonable, Sir; it is in accordance with the ordinary legal principle that matters peculiarly within the knowledge of any person are matters which he ought to be called upon to prove.

The last clause, Sir, is necessitated by the fact that under the Traffic Ordinance a motor vehicle licence taken out in Uganda or Tanganyika is effective within the Colony. That position is, of course, not changed, but the effect of the last clause is merely to declare, Sir, that though a vehicle licensed in Uganda is entitled to use the roads of this Colony without payment of any other fee, it is not entitled to carry goods for hire or reward between scheduled points without complying with the provisions of this Ordinance.

Those are the principles and the more important details of this draft legislation. I repeat, Sir, it is Your Excellency's intention to refer this matter for fuller consideration to a Select Committee in due course. That being so, Sir, it is, I hope, unnecessary for me to indicate now the form which, in my opinion, the amendments which I have foreshadowed should take, and I will content myself, Sir, with commending the principles embodied in this Bill at least to hon. Members and moving the second reading.

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

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

Council adjourned for the usual interval.

On resuming :

THE RT. HON. LORD DELAMERE : Your Excellency, I am very glad that Government has taken out of this Bill, or proposes to make amendments in this Bill, which will make it only to deal with carriage between certain scheduled points, so that it will not interfere with the general carriage to and feeding of the Railway in any other sort of way. I think, Sir, it is possibly not generally understood by everybody in this country what a tremendous thing this competition with the Railway on quite an unfair basis is between Mombasa and Nairobi. The Railway, as has been said, considers that it loses something like £75,000 a year—that is in gross revenue, I understand. Now, I think, Sir—I work it out—everything is in rather a hurry during this session—we have not had our afternoons lately because there has been a pressure of business—it is difficult to get these things, but as far as I can work out, on Classes 1 and 2 the profit to the Railway is something like four-fifths of the total—at any rate, it is a very large proportion of the total, and, Sir, that is done on one or two classes, that is, on the first and second class stuff carried by the Railway. That is done on these classes because they are believed to be able to carry it, because they are either

luxuries or articles which, when they come to be divided up, the difference of the freight on the Railway does not amount to very much per unit of the thing that is sold.

Now, Sir, I said just now that it is unfair competition, as indeed the hon. mover himself said, and the chief reason why it is unfair competition is because the Railway is by law a common carrier and has to carry everything that is offered to it, but these other people who compete with the Railway are not common carriers, and cannot be made common carriers by means that one can think of, and therefore they are at an enormous advantage in being able simply to take, as the hon. the Attorney General said, the cream off the traffic, and carry these very expensive things that carry a high rate. It is not a matter of the Railway; it is a matter of the country. You lose this year £75,000 on our bit of the Railway, but that does not count all the rest of the journey in Uganda, or anywhere else—that is the case, Sir. You soon get into figures which would have covered the deficit on the Railway last year. I do not know what the whole amount is, but it is a very large sum of money indeed. That is a loss for the moment to the Railway, or was last year, because the Railway happened from profits to have been able to accumulate certain reserves which in the case of the deficit on the Railway last year enabled the deficit to be paid out of Railway funds, but if that occurred again, the Railway is in the position that it has only got at the present time the main reserve, such as the depreciation reserve against falling assets, which you cannot properly take money out of, and it would mean, I suppose, that the Colony would have to pay its share of that loss. Again, Sir, if the Railway loses money by this particular competition—I am putting it from one side for the moment—if the Railway loses this very large sum of money through this competition, then it does mean that the returns in rates which have been made during the last few years—very large sums indeed, we were told this morning—they come to something like £320,000 a year—the people of the country, the consumers, are paying less by £320,000 than they were three years ago for this stuff that they get carried on the Railway—it is quite evident that if this very unfair competition digs into the things which pay for the carriage of many other things on the Railway that these sort of returns in rates will be a thing of the past in the future. They are, I think, those sort of things one should look at from the point of view of the public as a whole, and there is no doubt that from the point of view of the public as a whole they are completely interested in every way in this particular competition, or at any rate putting it on a basis which is a completely fair one.

I think the only point of difference between us probably—actually in our hearts—is whether that competition should be dealt with by complete prohibition between Mombasa and Nairobi or by the method proposed in this Bill, which is that rates should be brought up to the point where that competition is probably not worth while, or at any rate, where the competition is a very severe one. As far as I am concerned, Sir, I am willing, for the sake of agreement and so on, that the method of dealing with that competition between those scheduled points, and more especially, Sir, between Mombasa and Nairobi, which I think is the crux of the whole thing, should be left to be dealt with in the manner proposed by the Bill; that in fact between those scheduled points a Board should occasionally sit or should sit or should be in being or some authority should be in being and should fix those rates of taxation put on those vehicles or that it should be put in the Bill. Sir, that is a matter for the Select Committee which Your Excellency has said will sit on the Bill.

So far as I am concerned, I have nothing more to say, except to beg this House and everybody outside to realise that it is not a question of the Railway. The Railway is a statutory—or whatever you like to call it—authority which is bound to carry all goods, and unless it is protected on its higher rates to some extent it is impossible for it to charge the low rates it charges on other commodities, and that, Sir, is not only regarding exported produce—it also affects very largely, and must do so, all low-rated imports. It will also affect imports very much, because there will not be that return in rates which has been coming to the country in the last few years. I think it is a most important thing that this matter should be dealt with. One hates to feel that one is trying to shut out anything, but I consider in my own mind that it is completely unfair competition which would never have taken place at all if the Railway were not a common carrier and not confined to one particular line and so on.

THE HON. T. J. O'SHEA : Your Excellency, may I disarm criticism by explaining that I am not shaking with rage but with ague, and that if my remarks this morning are somewhat incoherent it will be understood I am suffering from what my hon. friend describes as "cold feet," and not from an excess of temper.

Sir, I say that because I have to start off by expressing my very emphatic opinion that in connexion with this Bill Government has behaved with inexcusable stupidity and that towards the members of the Committee who are to some extent responsible—I am afraid to a very considerable extent responsible—for this Bill Government has behaved with the

gravest discourtesy, and as one of the members of that Committee I feel very much aggrieved. Unfortunately, the opinions I shall express are based upon my convictions, and are not the outcome of any feeling of peevishness that may obsess me at the moment.

Your Excellency, the hon. the Attorney General has advised this House during the last few days to accept certain rulings on its procedure that I can only describe as most extraordinary, and the latest has to deal with this Bill. He has ruled, Sir, or he has advised a ruling, that this Bill deals only with motor traffic over certain scheduled roads. He has also advised a ruling that the title and preamble do not stand part of the Bill.

THE HON. THE ATTORNEY GENERAL: On a point of explanation, Sir, I sincerely trust I said neither of those things. What I did endeavour to convey was that one of the recommendations of the Committee having been deleted the scope of the Bill was practically between scheduled points, and that certain amendments which would be consequential on that action had not been made. The reason for that failure I endeavoured to communicate, Sir, and I asked the indulgence of the House in that respect.

On the question of the title, Sir, I said, on the discussion of principle which we are on now, looking at the title of a Bill did not matter because it was a cardinal point of construction, legal construction, that you are not entitled to take the title of a Bill in an endeavour to construe what the clauses of it mean.

THE HON. T. J. O'SHEA: Thank you, Sir. In view of that explanation, Your Excellency, I will completely ignore the two statements that have been made by the hon. Member, as I am not quite sure what either of them means, having heard both. I will therefore endeavour to use my own intelligence to find my own explanation of what this Bill means.

Your Excellency, I would ask the House to turn to page 4 of the Report of a Committee to consider the Motor Services Bill. On page 4 it will be seen "that the conveyance by motor of goods for hire or reward should be controlled generally throughout the Colony," and certain fees for licences to enable vehicles to do that are mentioned. Then in clause 22 it says, "We append hereto a copy of a draft Bill embodying our recommendations."

Now, Your Excellency, let me explain, in support of my charge that members of this Committee have been treated with grave discourtesy by Government, that I did not see this

Report before I appended my signature, and I did not see the Bill which in that Report we state we are attaching. I was asked to sign by telegram, which I did—I saw neither this Report nor this Bill—and in the absence of any explanation why this Bill has been produced I must contend that this is the Bill that was intended to cover the recommendations of the Committee, and the recommendations of that Committee were to the effect that the Bill would include regulations controlling the conveyance of goods by motor generally throughout the Colony.

Your Excellency, it is not for the purpose of venting any personal feeling that I adopt this attitude towards the Bill—not in the least. I am extremely sorry that I find occasion to make complaint against the officials who are associated with me on this Committee, more particularly against the hon. Attorney General, who generally does things so courteously, but for the purpose of pointing out that because after changes of decision that have taken place within the last forty-eight hours, this House is in the most hopeless muddle, and the Government is in a muddle in dealing with this Bill. It set out to do one thing, and now is trying to do something entirely different, and consequently it is difficult to understand how, as we must, we are going to keep within our Standing Rules and Orders and pass this necessary legislation.

I think there are two principles involved, and we must dissociate them. I am prepared to agree that in the circumstances as we now find them, it is most inadvisable that we should attempt to deal with the broad principle. I think it would be most inadvisable to make any attempt whatever to deal with that problem this morning, and so I have, I can, as a Member of the House, jealous of its privileges, agree to changes being made if I can see my way to do that, but I think it will be straining the rules of the House to do it. If possible I will raise no objection, but, Sir, I think it is necessary to emphasise that this Bill was intended to deal with the control of traffic throughout the Colony, and that the members of the Committee, realising that, did ask that their Report should get full publicity and that any Bill based upon that Report should also get every publicity, so that the people in the country should have an opportunity of studying how Government proposed to deal with one of our major problems, because anyone who has studied the question at home must gather that the question of our transport in the future and the future prosperity is linked up with the proper settlement of that problem.

Now, Sir, being somewhat directly concerned with motor transport, I think no one will question my position and nobody run away with the idea that I am one of those who are prepared

to put forward the claims of motor transport in an effort to defeat this competition with the Railway. On the other hand, I am one of that large number who agree that motor transport must prove its ability in this country on a basis of fair competition. These people recognise that the community, through its State organisation, has invested very large sums of money in the existing transport system—the Railway—and that it would be the height of foolishness for that excellent asset to be destroyed unless there is conclusive evidence that this new form of transport could replace it with benefit to the community. As it is in competition that it can replace the Railway we are inclined and all feel it necessary to protect the Railway against competition. I think motor transport in other parts of the world has already successfully proved that it has a part to play in the transportation conditions of the future, with the Railway as a form of absolute transport. Even in this country it has already shown it has to-day a part to play—a considerable part—and that in the near future it will be playing an even more considerable part. It is because of that I am most anxious that a Bill, a well-considered Bill, should be introduced that would control the development of transport of the future. Hence my disappointment that because of the muddle we have allowed ourselves to get into, the Bill should now be diverted to a smaller purpose. I should like to emphasise that it was not the intention of the Committee to restrict the development of motor transport in the country. On the contrary, we hoped that the recommendations we made would form the basis of a Bill that would tend to assist in the development of that industry and that in doing that it would at the same time provide a basis upon which its competition with the Railway would be on fair and sound lines.

Dealing with it from that restricted point of view, Your Excellency, I think it is necessary to say something about the schedule of licence charges proposed. It may be that these would at the present time be sufficient to kill the competition. If that be so, then it is because that competition is not as well organised as it might be. Having gone into the figures, I am satisfied that well organised motor transport could compete with the Railway on the scale of those charges, but it could not do so unless it were most efficiently organised, and I am one of those who are prepared to allow that competition on that basis; that is to say, if it is efficient, if it is well organised and run as a capable utility service, then I say the State has no right to refuse to allow it to compete with the Railway. To do so would be to run us into a great change of events in a short space of time, that through such lack of foresight in developing our transport methods we were not able to compete in the world market and export products, because

there is already evidence that in certain ways motor transport can replace the Railway, but in other ways it is hardly likely to do so for a long period—possibly never. When you consider the changes that have taken place in recent years in passenger services, when you remember the loss last year, and when you reflect that already, to-day, there is carriage of passengers by motor transport, it must, of course, be realised that motor transport has already proved itself of benefit and is likely to be of much greater benefit in the near future, and that being so, I say it would be a shame to pass any measure to-day that would have the effect of completely debarring all possibility of its development in this country.

Now, Sir, there is one aspect of the problem that appears to have been completely lost sight of, and that is the influence that this legislation may have upon the development of our road system. When we were sending our cargoes in to the Railway during recent years it was necessary to have a policy under which, to get the full benefit of that investment, we would have to develop our road system to a corresponding extent, and I believe that to facilitate the development of our road system, so necessary to a proper transport system for our import and export requirements, we must regulate the development of motor traffic. If we allow it to grow up undeveloped it will restrict instead of encourage development of the road transport system. It has been said that this legislation will prove a crushing burden upon the motor industry in this country—on the industry engaged in the sale of motor vehicles and the sale of parts. I say that nothing of the sort will happen, but that it is necessary to see that those who use motor vehicles for reward as apart from those who merely use them for personal purposes shall contribute to the cost of road development and road maintenance. And from that point of view I justify the comparatively high cost of licences on these scheduled roads. It is no injustice to the motor transport industry that it should be charged those fees, and I justify them on that ground and on the ground that they are going to prevent lorries running and to leave the Railway free to carry on traffic irrespective of the efficiency of the Railway.

I deeply regret, Sir, that because of the lack of opportunity that was given to Members of this House and the public to study the Bill that its intentions have become so confused at the last moment. As evidence that the wider intentions of the Bill would not have met with the opposition of this morning had there been time fully to consider them, I mention this, that people engaged in the motor industry of the country about 9 a.m. this morning voiced the strongest possible objections to the second portion of the Bill, and our

understanding of those intentions was certainly not a proper interpretation of the Bill as we understood it, and if they had been given time in which to learn what exactly were the views of Government and time in which to suggest an amending Ordinance, I feel certain the Bill would have been welcomed by all engaged in the industry who want to see it developed along proper lines. I have gone out of my way to test public opinion on the Bill, in both its wider and narrower aspects, and I have satisfied myself that it would have had the approval of the overwhelming majority of people who have the interests of the industry at heart—

THE RT. HON. LORD DELAMERE : Question.

THE HON. T. J. O'SHEA : I am quite prepared for that point of view to be questioned, simply because it has never been publicly discussed, and so unfortunately we have the possibility of having to voice personal opinions. But I would challenge anybody to put it to the public, and I would accept their verdict. In view of the position in which I have been placed the result is that I must maintain a rather critical attitude towards the subsequent passage of this Bill.

I have considerable doubt as to whether the changes contemplated can be made in it, and I certainly would like to hear from the hon. mover in his reply how he manages to interpret clause 4, I think it is, within the narrower definition that he has now given to the Bill.

LT.-COL. THE HON. J. G. KIRKWOOD : Your Excellency, I do not propose to go into the details of the Bill, but the position as I see it is rather an astounding one. A certain motion was passed in this Council some time ago in general terms to afford protection to the Railway against unfair and uneconomic motor transport competition. This Committee that has drawn up the Report and this Bill is the result of that ; but they have gone beyond their province. They propose to deal with motor transport generally throughout the Colony : " A Bill to Provide for the Licensing and Regulation of the Carriage for Reward of Goods by Motor Vehicles over the Roads of the Colony."

Another point : In reading the Report of the Committee, there is a great deal more in the Report than in the Bill ; there are other items in the Bill that are not in the Report. It is very difficult to understand. This morning I understood agreement had been come to between the Elected Members and Government to alter this Bill—to take it in two parts—the one as it affected the Railway and the other as it affected the general transport indicated. Up to now that has not been done. It would have saved, to my mind, a great deal of time

if that had been stated at the start and a motion moved to cover that ground. It would have saved the whole of this debate. The hon. Member for the Rift Valley has indicated that Government has some such intention, but I am not aware of Government's intentions. I think it is rather unfortunate that that has not been made clear.

THE RT. HON. LORD DELAMERE: Your Excellency, on a point of explanation, I think I said that I was glad that Government had taken out of this Bill the general provisions dealing with transport all over the country, and my reason for that chiefly was—if I may be allowed an explanation of that matter—that it is far better to deal with that under the general Traffic Ordinance of the country than under a Bill for protecting the Railway from unfair competition.

LT.-COL. THE HON. J. G. KIRKWOOD: That is my point, Sir. The Noble Lord has declared that is Government's intention, but I want to repeat again, I am not aware of what Government's intentions are with regard to this Bill. As the point has been taken up I am going to say that it is expected that Government will separate this Bill into two parts, that they will first proceed with the protection of the Railway against unfair competition, and at some later date go into the other matter. I am speaking on that general supposition. I do not wish to delay the House.

Looking at the schedule, and taking the Bill as it stands with reference to transport generally, it is increased taxation, and on those grounds I am against it; but for Government to find a way on some lines that have been indicated to protect the Railway against unfair and uneconomic competition, I am most wholeheartedly for it. I must also insist, as far as I am concerned, on the protection of road users against the Railway in the second part.

LT.-COL. THE HON. C. G. DURHAM: Your Excellency, it may be that I am extremely woolly-headed, but on reading clause 4 of the Bill, it did seem to me that it was Government's intention to clear off every possible thing that was going in the country on every road in the Colony. As I now understand it is not the intention to interfere with settlers' property at all or the transportation of their produce for sale, and that they will not be called upon to take up a licence for so doing, I shall support the Bill, because I believe in the principle of it.

THE HON. F. O'B. WILSON: Your Excellency, after reading this Bill and the Committee's Report, I find myself in some difficulty to make up my mind whether the Bill was meant to be fish, flesh, fowl or good red herring, and after hearing . . .

THE HON. T. J. O'SHEA : On a point of order, it may help the hon. Member if I ask a question now : Have the objects and reasons of the Bill been circulated? It would save a lot of unnecessary debate.

THE HON. THE ATTORNEY GENERAL : They have not, Sir. The objects and reasons are, I suggest, sufficiently embodied in the Report.

THE HON. T. J. O'SHEA : May I ask whether that complies with Standing Rule and Order No. 64?

HIS EXCELLENCY : What is the hon. Member's point?

THE HON. T. J. O'SHEA : Your Excellency, it is laid down in No. 64, as I understand it, and it has been the custom of the House, that a Bill must be circulated with a statement of its objects and reasons.

HIS EXCELLENCY : There was circulated the Report of this Committee.

THE HON. T. J. O'SHEA : Your Excellency, I do not dispute that. I am asking, Sir, if a statement of the objects and reasons has been circulated.

THE HON. THE ATTORNEY GENERAL : I think they have, in the form, Sir, of the Report of the Committee.

HIS EXCELLENCY : I think the intention of the Order has been fulfilled.

THE HON. THE COLONIAL SECRETARY : If I may intervene, I think it is clear that the objects and reasons in the ordinary form have not been attached to the Bill, but I think also it will probably be agreed that the Report which has been laid does make clear the origin of the Bill, and I think possibly with the indulgence of the House, if that is the general view of the House, it should not be regarded in this case as really in the public interest to take a technical point on the passage of this Bill, if I might just explain a word perhaps on the whole history of this legislation.

As hon. Members are aware, this matter has been before the country for nearly two years—I think eighteen months. The Government were reproached—and I think properly reproached—that it had not taken as active a step in dealing with this matter of the Committee as had been hoped, and it was in our endeavour to get some material before the House as early as possible that this situation has arisen. The situation briefly is this : Government appointed this Committee,

which is not a Select Committee of this Council but a Committee with terms of reference to inquire into and advise Government on this problem. That Committee reported and the Government considered that Report. They thought it desirable not entirely to embody all the recommendations of that Committee in the Bill which has been laid before Council today, but at the same time, to avoid delay and because, if we wanted to give the necessary notice in time, it was thought desirable to stick to the body of the original Bill with certain concessions which it was hoped had been made clear, and further, the Attorney General, in introducing the measure, would explain that that was the case. We believed, Sir, that in so doing we should be meeting the wishes of not only hon. Members opposite but of the country generally. If, Sir, the hon. Member wishes to press this point of procedure, that is another matter, and I am sorry—and I am sure the Attorney General will agree with me—that we have not actually put the words “ Objects and Reasons ” at the end of the Bill.

HIS EXCELLENCY : I hold that the spirit and intention of the Rule has been carried out : “ . . . each Member a copy of the Bill together with a statement of the objects of and reasons for the Bill.” That has been sufficiently in this case complied with by Members getting a copy of the Report.

THE HON. T. J. O'SHEA : I understand your ruling to mean that the Report of a Committee to consider the Motor Services Bill is a statement of the objects and reasons?

HIS EXCELLENCY : It does give the hon. Member the objects and reasons of the Bill.

THE HON. T. J. O'SHEA : May I ask for your further ruling as to whether one object of the Bill is to make recommendations for the conveyance of goods by motor and controlling them generally throughout the Colony?

HIS EXCELLENCY : That has been dealt with as the Bill progressed. The Attorney General has explained that, and it will be dealt with when it goes into Committee. I hold the spirit of this Order has been carried out in this case.

LT.-COL. THE HON. C. G. DURHAM : With the greatest deference in the world, although we have not got the objects and reasons in the Bill, I am not going to support my hon. friend on the right (the hon. Member for Plateau South), and I should like him to withdraw any objection he may have in this case.

THE HON. T. J. O'SHEA : I want to be quite clear on this subject. I understand your ruling to be that the objects and reasons are as stated in the Report, and that the Bill does cover the recommendations of the Report?

HIS EXCELLENCY : The idea of that Rule is that Members should know what a Bill is about ; that is the idea of the objects and reasons for a Bill. I hold the Order has been carried out sufficiently for that purpose.

There is this technicality about the title on the front page of the Bill. It says, " over the Roads of the Colony "—that goes too far. It is my duty to decide these points, and I decide in this case that—

THE RT. HON. LORD DELAMERE : Before you decide, Sir, I should like to put one point of view, and that is this : that decision would mean that in the case of any Committee sitting with which Government was in entire disagreement, that you would if you published their Report—it would mean that those were not the objects and reasons of the Bill from the point of Government. I cannot believe that that can be so, Sir. I am going to beg my hon. friend not to press this point, because I think to do so on a question which everybody has decided is vital to the country, which is one of the biggest things in the country, that of the Railway and the motor industry, I think it would be a great mistake to press it ; but we must ask you to consider carefully a decision which means that if the Report of a Committee is going to be laid to show what the purposes and reasons of a Bill are, those purposes and reasons may, in certain cases, be entirely different from the whole feeling of the Government and the objects of the Government.

HIS EXCELLENCY : I am taking each case as it arises.

THE HON. T. J. O'SHEA : To make the thing easier for Government, and some people on this side of the House apparently, I would ask your leave, Sir, to withdraw from the House as a protest against the manner in which you have been advised in regard to the privileges of this House.

(The Hon. T. J. O'Shea withdrew from the House.)

THE HON. F. O'B. WILSON : To continue, Sir, from where I left off some time ago, I do think we want to be careful, as a result of all that has been happening this morning, and a certain amount of confusion, that we do not allow a red herring to be dragged across the trail of the one thing this House is in general agreement about, and that is, that this unfair competition between road and Railway must be stopped and quickly stopped. The Railway I gather are losing a matter of some £500 a day over this matter—even more—and it is not a thing that I believe we can delay in taking some action about. There were in the Bill, as we see it

here—there were I gather two main issues, both of them in connexion with protecting the assets of this country: One protecting the Government Railways—a most important asset of this country—and the other to a certain extent protecting the roads and the communications of the country from damage done to them. With the second issue, as I gather, it is the intention of the Government to send this Bill to a Select Committee and as the idea is that that Select Committee will confine itself to the first issue, I shall not attempt to deal with it now at all, but I do hope, Sir, that we shall be able to get this Bill through on the first issue and to get it through quickly, as I believe it is one thing of very great importance to the country generally.

COL. THE HON. W. K. TUCKER: Your Excellency, I and the hon. Members on this side are more concerned with the procedure than anything else—if this object can be achieved quickly by adopting this Bill. If that can be done more quickly by this than by any other method, for my part and my colleagues', we desire to go on with it, and in order to be quite sure about that I desire to ask the hon. mover a question, of which I gave him private notice, whether, in his reply, he will make it clear that in the Select Committee it will be possible, for instance, to eliminate or so amend the Schedule as to allow the general motor trade beyond Nairobi to remain undisturbed for the present? Another point I would like to ask him, Sir, also with regard to procedure, is this: Are we in fact going to save any time by discussing this Bill, as it will have to be discussed at great length in Select Committee, as compared with Government instituting a small simple Bill dealing with the major point at issue, because, as I see it, if this Government appoints a Select Committee no actual legislation can come about until this Council re-assembles, and it seems to me that precisely the same amount of time will be taken if a very simple Bill were mutually agreed upon between now and the next time Council assembles and were passed on the first day. That is merely a point which I do hope the hon. mover will take up in his reply. In the meantime I desire to say, on behalf of those I represent, that had we dreamt that the motion passed last November, which was calculated to deal as we thought wholly and solely with the road versus railway traffic, was going to be amplified by the Report now before us, I am certain that other issues still wider would have been raised, and would have required discussion before any legislation, such as, for instance, where is the money going to, the large amount of money presumably which will be derived from this proposed taxation? That is all, Sir, except to mention what has been brought out in

debate that in the course of three to five years the Railway and the Railway Council have been trying to grapple with this problem. It is well to point out that a couple of years ago the then existing rates were reduced by something over 30 per cent in an endeavour on the part of the Railway to combat this serious menace.

THE REV. CANON THE HON. G. BURNS : As one who has attached his name to the Report of the Committee, I want to rise to support the Bill as to-day brought before this House on the grounds that the Railway is an asset to the country that cannot very well be done without, and anything that is going to destroy that asset and make it valueless should be dealt with. At the same time, the reason why that motor traffic is not being prohibited—it is going to be controlled only, and the Bill will not interfere with properly organised motor service to carry goods. The other point, of course, with regard to the damage of roads by this heavy traffic which the public funds of the Colony have to pay for, is another aspect of this, Sir, which has not been very much dealt with or touched upon. If the heavy traffic is allowed to go over roads without any compensation towards the destruction caused on those roads, it is doubly unfair, because the Railway has to keep up its permanent way at a very heavy cost, while the other has not. Therefore, I support the Bill as brought in now.

HIS EXCELLENCY : Would hon. Members like to adjourn now? Does any other hon. Member wish to speak on this before the hon. Attorney General replies? What is the feeling among Members—would they like to adjourn now?

THE RT. HON. LORD DELAMERE : I do not think any other Members would like to speak, Sir. Perhaps, Sir, we had better adjourn for lunch now.

LT.-COL. THE HON. J. G. KIRKWOOD : On a point of order, the loss to the Railway must be considerable. It is going on day by day ; it is going on every day. Cannot something be done before next Council, if I am right in assuming it is not going to be until August? Thousands of pounds will be lost before then.

THE RT. HON. LORD DELAMERE : I hope this is going to be sent to a Select Committee which will sit straight away. It has only got to deal with one or two points, has it not?

The Council adjourned till 2.30 p.m.

On resuming :

HIS EXCELLENCY : Does any other Member on the unofficial side of the House wish to speak?

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE : There is one point I would like to ask, Sir, on the question of overloading of lorries, as to how the lorries are to be weighed—the loads. A few days ago the Police in Mombasa took a lorry from Macupa Bridge right back to the Public Works Department and weighed one parcel only, and took that only as an average for the rest of the load. The case was thrown out in the courts because all the load was not weighed. I take it some provision has been made for weighing scales to be provided to weigh these lorries.

THE HON. THE ATTORNEY GENERAL : Your Excellency, I have every desire to be as brief as I can, Sir, in view of the state of the time, and fortunately there is not a great number of points to cover. The hon. Member for Plateau South indicated this morning that in the view of certain interested sections of the community sufficient time had not been given for representation of their views to be made to us. On that, Sir, I would merely repeat that it is Your Excellency's intention to refer this Bill to a Select Committee, and naturally that Committee will hear at such length as is necessary any interested parties. Similarly, I was asked how I could reconcile the wording of clause 4 with the stated scope of the legislation. I did endeavour on the second reading to make it clear that clause 4 would require amendment, and I suggest it is not difficult. All that would be necessary would be the deletion of the words "over any road in the Colony" and the substitution of "from any scheduled point to or to a place beyond any other scheduled point," which is the wording of clause 12. And that is roughly the sole amendment that will be necessary in the various clauses to bring the desired scope of the Bill—the wording of the Bill in accord with the desired scope of the Bill.

The hon. Member for Plateau North suggested a specific motion for amendment in this respect should have been made. That was a point of view that did not occur to me, because it was going to Committee. It is not possible on second reading to take motions for amendment, nor did I think it was necessary to go into Committee of the whole Council as a preliminary. I can only repeat the amount of amendment required will not be considerable. He also invited me to steer a course between Scylla and Charybdis in the protection of the Railway. That I am not going to attempt to do here. It is also a function of the Select Committee, and we are all

admittedly out to give the Railway all the protection it requires and I am quite sure Members will not press any discussions of increased taxation.

LT.-COL. THE HON. J. G. KIRKWOOD: On a point of explanation, Your Excellency, I was not referring to the Schedule in this Bill as a Schedule; I was referring to other parts of the Bill where anybody and everybody would have to apply to this particular authority for a licence, which I understand is not the case or what they have to do to-day.

THE HON. THE ATTORNEY GENERAL: There is no such provision in the Bill, Sir. The Member for Nairobi North asked me how one can provide to amend the Bill so as to confine it to registrations between Mombasa and Nairobi: By clause 11, which declares the scheduled points. If Nakuru, Eldoret and Kisumu cease to be scheduled points, then the control of motor traffic would only take place between Mombasa and Nairobi. The second point was that he preferred to have a short small simple Bill dealing with the major point of prohibition. If the opinion of the Select Committee is in that direction, Sir, then it is not a difficult matter to achieve. It would merely—the Committee would sit, and in their Report make recommendations in that direction, and if agreed to the other Bill would be accepted in substitution for this one.

COL. THE HON. W. K. TUCKER: The question I really asked was whether there would be any decreased expenditure of time if that alternative was carried out. I did not propose a separate Bill except from that point of view.

THE HON. THE ATTORNEY GENERAL: There would, of course, be none. In the first hour of the Committee that point could be thrashed out. The Bill would be a short and simple one.

The question about overloading is a difficult one. At the present moment it is an offence. The prosecution of such offences does present a real difficulty, because we have not got weighbridges, but if any considerable number of fees such as those set out in the schedule were paid, then there would be less objection to providing a weighbridge, say, at Athi River or Tsavo Bridge. Until there are weighbridges, it is a difficult matter, but I do not think it is an argument against making such a provision as we have here.

LT.-COL. THE HON. C. G. DURHAM: With regard to the last remark of the hon. Attorney General, it is perfectly simple if you know what a man is carrying. If he has so many cases of whisky, you know what the weight of a case of whisky is.

HIS EXCELLENCY : The question is that the Carriage of Goods by Motor (Control) Bill be read a second time.

The question was put and carried.

APPOINTMENT OF SELECT COMMITTEE.

HIS EXCELLENCY : As arranged, the Bill will now be referred to a Select Committee.

THE HON. THE ATTORNEY GENERAL : Your Excellency, I beg to move that the Bill be referred to a Select Committee, the composition of which will perhaps be settled later, Sir.

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

The question was put and carried.

THE TOWN PLANNING AND DEVELOPMENT BILL.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. H. T. MARTIN) : Your Excellency, I beg to move that the Town Planning and Development Bill be read a second time.

If I ask the permission of Council to deal with this Bill in perhaps what may appear a somewhat unconventional manner, I trust the somewhat peculiar position of the Bill may be some sort of justification. What has happened is this : Before the expiration of the last Council the Bill had gone through all its important stages, that is to say, it had gone through Select Committee and was ripe for a third reading, which could very easily have been taken. The reason that it did not go through that third reading was briefly, I think, as follows : There was a minority report, partly on a matter of principle and partly on a matter of detail. The principle involved and the details involved in that principle were such as to induce the Government to take the view that they should not adopt the majority report straight away, but in view of the possibility of other Members than Elected Members present at that time being forthcoming after the general election, they should hold the matter over, so that, if necessary, this particular principle, which, as everybody knows, is one of betterment, could be discussed.

Well, Sir, I suggest that although it is a little unfashionable here at the moment, that particular method of dealing with the matter should be so accounted for at the moment and the particular line of action which Government now proposes should be permitted in consideration of its, what I might call, indulgence of some months past.

Now, Sir, the whole point is this : In common, I think, with all other Town Planning Bills, provision was made in the last Town Planning Bill, some ten years ago, for the principle of betterment. Provision was also made for the principle of paying compensation. Now, Sir, those two terms are very simple, at least they sound very simple until one begins to look at, shall I say, the Select Committee's Report of last year, and sees the amount of confusion, mental confusion, which seems possible to gather round terms of this semi-technical character. To my mind that is not unbelievable because up till a short time ago I have suffered from a similar mental confusion myself. The point is this : There are two sorts of compensations ; there are two sorts of betterment. Two sorts of compensation are provided for in this Bill, and one sort of betterment obligation. The compensation, that is to say, the duty of the State or the Town Planning Authority to make payment to the individual—that sort of payment is provided for in two ways : the first and most obvious, which is treated subsequently to the other—I think it is in clause 13 of the Bill—is for the ordinary obvious direct sort of compensation which definitely takes away land from the individual and then pays for it. I would therefore ask Members not to shut that sort of issue, direct payments for land taken, out of the particular issue which we have to debate here now.

Now, Sir, there is another sort of compensation, which again can be divided into two parts. That is the compensation for the direct influence of a Town Planning scheme on the value, not on the diminution of land—on the value of land belonging to the individual. Sir, it is considered fair, if it can be proved in a court that before the issue of a Town Planning scheme it can affect the market value, the price, of a piece of land, that compensation is payable. One hears a great deal every now and then of the dangers of quoting other peoples' procedure, other countries' Ordinances, and practices in other lands. I do not think we can stand entirely on our own legs or think entirely for ourselves perhaps even in this country, and my own feeling in the matter has been that the less we quote outside precedent the better, but in this particular instance, that is to say, providing for compensation before a Town Planning scheme is ever executed, before, we will say, a road is driven through a part of a town which is going to attract away business from another part of the town, before that road is ever constructed, there is provision in this particular draft to enable the owner whose land—its marketable value—is affected by the mere issue of such a scheme—I believe I am right in saying that we have in this particular instance thought for ourselves, because I know of no other Ordinance which makes the same provision. That, Sir, of course, may be used as an argument against making such a

provision, but we cannot use those arguments two ways, and if that argument is going to be used that we have not followed precedent, that we possibly are creating a dangerous precedent, then I suggest that on the other side of the account, on the betterment side, we must be content to follow the rest of the world.

There are many reasons, I think, for following the rest of the world in the provision for betterment payments. I will not put them up in the form of quoting precedents, at the moment, at any rate, but I will put them forward, if I can, purely from the commonsense point of view. Now, Sir, a Town Planning scheme, we will say, financed by the Local Authority, no matter where its funds come from, but a Town Planning scheme financed or to be financed for a definite area and for the good of the area as a whole, does, I think, involve a certain amount of give and take in the methods of action. I have dealt to a certain extent with the difficulty of the individual where he is in the position of having to give instead of take. Well, where he has to give, as I hope I have explained sufficiently, he is in a position to be compensated. Now, Sir, on the other side it can happen, although in actual practice it seems to happen very seldom, but it is possible for the Authority to go to court and say that by this definite expenditure of this definite sum of money in a particular area this or that individual has received a definite benefit which can be assessed in terms of money and can be just as readily assessed and should be just as readily paid as so-and-so who was compensated last week.

Now, Sir, there are many arguments, and with some astonishment I have seen in this Select Committee's Report of last year arguments which suggest that that is a most unfair method of procedure, that it is quite reasonable that the individual on the one hand should be compensated, but that the pioneer, because he has used his brains, risked his money, and done this and that, should never have to pay up even when there is a direct cash value accruing to him for no act whatsoever of his own.

THE RT. HON. LORD DELAMERE : Question.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT : I suggest there is a great confusion of ideas involved in that argument. Nobody, I think, more than I do, believes that the pioneer in a young country is entitled to every sort of benefit from his speculation. He risks his life probably—I mean all the years of his life; he risks every penny he can make or scratch up; in other words, he puts his heart and soul and all that he has into a bet on the future of a new country.

THE RT. HON. LORD DELAMERE: Then the Government takes it.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Perhaps the Noble Lord will allow me to finish my argument before he corrects it. There is nothing in this Town Planning Bill to prevent that reward going to that pioneer. There is nothing whatsoever. He buys his plots—he may or may not build as the development of the towns, as the prosperity of the country increases, as agriculture develops and so on, but values rise and he gets the direct results of those values; but there is a very great difference between such incremental increases of value and the direct cash benefit available from expenditure under a Town Planning scheme, and I do suggest, Sir, that it is a complete confusion of ideas to mix the two things together. It may be argued why not put it on the rates?

THE RT. HON. LORD DELAMERE: Hear, hear.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Well, of course, for the individual who happens to avoid a betterment charge that is an admirable way of dealing with the matter, but I would point out two things: First of all, if the individual who directly benefits in cash by the increase of the value of his land, if he is to be relieved of that burden, he can only be relieved by somebody else sharing it who may have no sort of benefit whatsoever from the results of the scheme.

I think that is the argument, as shortly as I can put it, from the point of view of betterment and compensation. My main point is this, that if we have compensation, that is to say, a cash payment on proof of direct loss on the one hand to the individual, so, on the other hand, we should have the compensatory factor of a direct payment on the other.

I will not go into the question of details, which are better left for a Select Committee, but I would point out that the individual is so far as possible protected by being able to pay in instalments, and I would point out this much, that I doubt whether any court—my hon. friend the Attorney General, who I think will second the motion, will perhaps correct me if I am wrong—I doubt very much whether any court could or would charge upon an individual landowner the direct payment provided for betterment under this Ordinance without the very clearest proof that that increase in value was perfectly genuine; what shall I say—negotiable in cash. The dice, Sir, I think, should not be weighted unfairly in these matters, and to have a Town Planning Ordinance in which the individual gets everything and the Authority nothing would be unfair.

There is this last point, and it is this last point which suggests to Government that perhaps a Select Committee would be the best way of dealing with the matter, and that is the question of the proportion of payment to be made in respect of betterment.

Again, Sir, I do not wish to quote precedents too much from outside, though they cannot be entirely ignored. It happened quite recently in the new Town Planning Act introduced at home that a proposal for one hundred per cent betterment payment was successfully taken through its second reading without a division in the House of Commons. I wish to pass the analogies; they are dangerous things. I am merely making the statement. I wish to say as a matter of logic that if you have 100 per cent compensation it is a little difficult to avoid the suggestion that 100 per cent shall also be payable in betterment financially. I should just like—it is repetition—to suggest to hon. Members that involved in this principle of betterment is none of the confiscatory—may I suggest some people call it socialised legislation, which is ordinarily associated with any measure, particularly in this country where the private individual is expected to pay. The suggestion is, Sir, that we should go into the matter, taking the principle. We can go into certain matters of detail in Select Committee.

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

HIS EXCELLENCY: The question is that the Town Planning and Development Bill be read a second time.

THE HON. F. A. BEMISTER: Your Excellency, as a member of the Select Committee that considered this Bill, I would say that as the points were so filed down in that Select Committee, I was hoping that there would be no necessity to open up so many questions again as are obviously opened up in a Select Committee. The only point of difficulty that I can see in the whole of the discussion, Sir, is this one of betterment. And it is not only on a question of principle, it is on a practical difficulty. The hon. mover mentioned that on the one side it was fair, it was considered fair, to pay for loss of land, but there were other people who considered it was not fair to pay for betterment. Well, Sir, I hardly think it right to consider the two questions exactly the same, because—

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: On a point of explanation, I particularly asked the hon. Member not to consider them in the same plane.

THE HON. F. A. BEMISTER : I am sorry, but I have got to, because in the one case it is quite clear and easy to prove a definite loss, but, Sir, when you are considering the cash value of betterment, are you not rather speculating as to the price to be given? Let me try and explain it. I can only do so by Mombasa—I do not know much about the country—but there was a street driven through the old town, and in order to carry it through fairly cheaply it was made in a very peculiar way. Now there is no question whatsoever that the people who had frontages—it was through a whole lot of hovels—and then those people who found themselves with frontages on that road did obviously obtain better rents for their premises and many of them did get better prices for the sale of their land. That is perfectly true, Sir, but look at the value attached to the whole community by reason of that road being cut through. It relieved the traffic from very dangerous roads and enabled the traffic to come from a place called Levin House right up into the Salim Road area, without the congestion which the Police could not control. So there you had an actual betterment to the whole community.

Now, Sir, if the whole community do receive that benefit, and I doubt if it is questioned at all in any way, then would it not be better for the whole of the community to share the burden? It is obvious that if you increase the rates on the separate properties the individual actually pays more in rates and subscribes to the general betterment, and the whole town benefits by the general amenities. I find it very difficult, Sir, to discover a method whereby a given plot of land has no frontage, and for the means of developing your town or your island, as the case may be, a road is driven through and certain plots are made frontage plots. Now those roads would not be driven through if they were not required for the benefit of the whole community. If the benefit comes to the community, why should an individual have to pay an assessment of a cash betterment? That is the only point I am on, Sir—the cash betterment for something which you must estimate, perhaps on a low market, perhaps on a high market. Say you were to assess to-day on improvements in Mombasa your figures would be about 10 per cent of what they were three or four years ago. Now put it the reverse side. A man who had to pay you a cash betterment on the assessment of the values in those days, to-day would find himself very much in the deficit; he would be losing. What I would earnestly suggest and plead with the Government to consider is whether some portion of the amount could be paid in cash and the rest—I am agreeing to the principle—to be on the higher rateable value of frontage thus caused through the improvements made in the roads of the neighbourhood. If you could possibly get over that difficulty.

THE RT. HON. LORD DELAMERE: Your Excellency, I am afraid on this side of the House there is quite a deal of disagreement on this particular point of betterment, and I think that is the only thing we have to discuss about this Bill. Everything else was agreed some considerable time ago, although we have a new Council who wish to reopen the point in the Bill attacked in the old Council before this.

Now, Sir, I hope you will allow this matter to be left to the free vote of this House. It does not appear to be a matter that should be forced by Government. May I first say, Sir—I think it is rather necessary to say this now—that I have no interest, direct or indirect, in town property of any sort; personally, as far as I am concerned, I am not prepared to give an opinion on the question of betterment elsewhere in other older countries without some knowledge of the facts, but it is perfectly evident that in older countries, towns have grown up under totally different conditions from those of the present day, and the conditions of this country, where the conditions created in the past may temper necessity of planning for the sake of health and decent living to so great an extent that it is impossible to carry the finance of the particular project, where compensation has to be paid without any return from anybody else for betterment.

Then, Sir, I think it is possible that such a clause is justifiable. It appears almost certain that that is the case. What puzzles me is this: in that other case necessity needs no law. You have got to get this done, put right, and you have to take certain steps to do it, and it is almost impossible to advance any argument if you have to pay compensation without giving any return. Also, Sir, it can be said quite definitely in older countries what the realisable value of that betterment is and that it is a liquid asset. It can also be said that the local authority of the present day in those towns is no more responsible than anybody else for affairs that require complete readjustment. In older countries, Sir, it can also be said that any increment which comes to the individual is inherited, and is in no way caused by wisdom on the part of the individual who collects it, and has nothing to do with any foresight on the part of the present owner. However, I am not quite certain that these arguments do convince me even myself (laughter), even in older countries, but I should certainly hesitate very much to oppose this betterment clause in older countries where certain things had to be done because old conditions set up a state of affairs which could only be got rid of in one sort of way. But, Sir, it does appear to me that in this country this argument does not altogether apply, and this betterment clause is likely to create hardships which are

unjustifiable without the necessity, the sanction or the necessity, which has brought them into these older countries, and also without the proof of practicability which seems to me, Sir, to be rather lacking here. What equity can there be or should there be in a town like this for such a clause? I am, Sir, putting the other side of the case. I mean to be satisfied and very probably shall be satisfied. The policy I am laying down is only my view on the subject. This town is not a generation old. People who were here when it arose are still taking part in its government and control. A large proportion of the plots are held by the original person, either from the State or from some individual who had the foresight to buy from the State in a certain position. Almost any changes likely to take place now ought to my mind to have been foreseen from the beginning.

Under these circumstances, where is the justification, Sir, for making individual holders of plots—many of them people who have taken up their plots under schemes laid down only the other day by the same authority or the last one before that or whatever it may be—why should they pay for all the mistakes that have been made in the last scheme which has been laid down by the Authorities, and how can it be said, Sir, that increment in such cases in this country is an unearned one when it has been brought about by the foresight of the individuals who have bought these plots or these lands? I am not quite clear as to what argument there is in support of having betterment from individuals for a new scheme who only bought their land or put up their houses under the present scheme a year or two ago possibly. That appears to me a great difficulty in this matter in a new country like this. It would seem to me that the responsibility for the present layout and for any changes required is on the public authority and the Government which laid down the present scheme, under which it seems to me the people who have bought are entitled to any advantages that may have been gained by the amenities from outside which may emerge from any new plan which they have foreseen in the past although the public authority or the Government may not have done so.

Apart from that, it appears to me that a scheme which suddenly comes down—and I agree with my hon. friend the Member for Mombasa in this—on anyone, especially a small man, for cash, who has saved up and bought a plot under the conditions laid down only in the last scheme perhaps a year ago or whatever it may be, and ask him to pay an extra capital sum to the same authority because possibly a mistake has been made—it seems to me, Sir, that that is unjustifiable, because it was not his fault that the scheme has had to be altered so soon, and it is impracticable, in my opinion, because I do not

quite understand where, in normal cases, he will find the cash. Even if values on betterment were liquid, which I suggest in a country like this they are not, even then, Sir, how are they to be made divisible in many cases? A man does not want to give up his house and his plot, even if it is saleable, in order to pay for this extra betterment, this £200 or £300, or whatever it may be. Does it mean that every plot-holder under the conditions of this clause, if it is found against him for betterment, should mortgage his plot or house, or whatever it may be, in order to find the money to pay for these particular alterations in the scheme which it has been thought fit to bring in by the public authority? It does appear to me that in a country like this, where you have got the whole veldt of Africa to deal with, where only a little after the war almost the public authority had the chance of laying out these schemes, it does seem to me wrong that the individual should be mulcted in betterment for mistakes that have been made in the past. It is perfectly evident that if a man's property is actually bettered then there is an increment to that property and that that does find its way into the rates, and there is no doubt that in a very short space of time he will be repaying that amount by which his property is bettered in increased rates to the township authority. I do feel that it is quite questionable whether this particular clause 8, I think it is, is a wise one in a country like this. I feel that very strongly. I have not heard any arguments except precedent, and my hon. friend who moved the Bill particularly avoided it. I do feel, Sir, that Government, this House, should think very carefully whether that particular clause for betterment should be excised at present from this Bill. If the future proves to my mind any necessity I shall vote for this particular clause, but as it is, unless I am convinced before the end of this debate on this subject, I am going to vote against it for the reasons I have given.

COL. THE HON. W. K. TUCKER: Your Excellency, during the few days I have been a Member of this House, I have felt it my duty, as representing an urban constituency, to gather the views of the people more particularly affected in Nairobi, and I must say at the outset that everyone seems agreed that this Bill, as now presented, is an improvement over previous drafts that have been submitted from time to time. The first thing that impressed me on seeing the papers was the fact that the Select Committee reported with minority reports from all the Unofficial Members, and in fact from one of the Official Members, who got Your Excellency's permission not to sign, and that fact in itself, Sir, seeing that most of our Select Committees are unanimous, I think gives one occasion for a very close examination. It is quite true, Sir, that those

minority reports nearly entirely refer to section 8, the betterment section, which has been the main subject of discussion here this afternoon, and it is therefore very pleasing to know from the hon. mover that the question of one hundred per cent or some lesser percentage is within the scope of the Select Committee which Your Excellency proposes to appoint. Therefore, from that point of view, Sir, section 8 need not be laboured, but there is a point of principle which requires ventilating, because I am afraid the Select Committee would scarcely touch that, and that is the point of view held that this sterilisation principle—because I believe that is what it is generally known as throughout the world—might more fairly be applied from the date that the scheme is approved rather than from the date on which the scheme is launched, and in support of that, Sir, I would state—I believe my authority is good—that a particular scheme in Nairobi was launched more than five years ago—to be precise, on the 2nd March, 1926—and that the people have in consequence not been allowed to develop their property since that date, but they have paid rent to the Crown, rates to the Municipality, and in some cases interest on mortgages, without any ability to use the land. That is the information I have received, Sir, from a high authority on the subject.

Now, Sir, having examined this Bill and heard the views of people in Nairobi, I entirely disagree with the hon. Member for Mombasa that the thing has been brought down to such a fine point that there is no necessity to appoint a Select Committee. I have many points, Sir, which I know are committee points, but which I could not deal with in a Committee of this House, and I am certain that other Members are in the same position.

Another fundamental point of principle was raised by people in Nairobi, that the Indian Land Acquisition Act of 1894, on which this Bill will operate, is very unsuited to this country, and that a good argument could be adduced whereby we create a Land Acquisition Ordinance of our own precedent to the passing of this Bill. I feel obliged to convey that to this House for what it is worth.

As regards the Bill itself, Sir, it is very difficult quite to say what is a principle and what is a detail within the meaning of the powers of the Select Committee, but if in view of the general assurance, Sir, that such points, for instance, as that the Bill provides for no court of appeal, whereas it is strongly felt that there should be one—suggestions have been made that so far from the hon. the Commissioner for Local Government, Lands and Settlement's appeal being final, the Supreme Court should be brought into an Act of this kind—that I

imagine is something the Select Committee could deal with. In clause 13 (5) there is rather a dangerous suggestion that claims could be disallowed for good cause shown, whereas I am sure that in England the claim is sustained without any question of the ability of Government or the municipality to show good cause why it should not be paid. Equally strong is the feeling in regard to section 21, that the regulations therein referred to are all-important, and the view is held, Sir, that in a matter of this kind some idea as to what the initial regulations are going to be should be known to hon. Members of this House before they are asked to subscribe to the passing of the Bill. Finally, Sir—again, I think, the hon. mover may regard it as principle rather than detail—there is a view held in regard to section 24, where permission has to be sought from the Commissioner for Local Government, Lands and Settlement, that this might be more appropriately obtained from the Municipal Council or Municipal Board in such centres as those bodies exist, or as an alternative that the whole clause be deleted, seeing that ample safeguards exist under the Municipal and Local Government Regulations and the Division of Lands Ordinance. With a general assurance that the Select Committee's powers will be wide, and that items of the sort I have suggested may be regarded not as primary principle so much as details to be dealt with in Select Committee—subject to this, I shall be prepared to support the second reading.

THE HON. T. J. O'SHEA: Your Excellency, from the statements that have been made and given expression to in the course of this debate, one might infer that the principle of payment for betterment was involved, whereas such is not the case. The principle has already been recognised in that it is already the law of the land, and what we are being asked to consider in this amending legislation is whether in future payment for betterment will be 100 or 50 per cent. I think that is so. Now I am prepared to allow that on the theoretical side the weight of evidence is very largely in favour of the payment of 100 per cent, but on the practical side, that is, when you come down to consider the application of your law to local conditions, such is not the case. On the contrary, that is if you take local conditions into consideration—as I think you must do—you will find largely one more reason why the weight of evidence is against the inclusion of the full one hundred per cent, and the important consideration in my mind is that in other countries where the principle of 100 per cent has been recognised, you have stable land markets. Here you have not. In old-fashioned countries, one can always get a price for land based upon its revenue-earning capacity, and the return of interest year in and year out with comparatively small fluctuations. It is only under absolutely

abnormal conditions such is not the case, but in this country the position is altogether different. The land has, say, an intrinsic value of £5,000 under normal conditions. To-day you can sell it for £5,000. Twelve months later, because of a slump in produce prices or something else, you may not be able to sell that property for £2,000, and that makes all the difference in the world to the application of this principle. It must be recognised that bearing on this question land is used to a very large extent here for the purpose of raising capital for other undertakings, and that the effect a 100 per cent payment for betterment would have on a mortgage value of property might completely upset it. Therefore quite a number like myself agree in principle with the 100 per cent payment, but are of opinion that the conditions are not yet sufficiently ripe to permit of its complete application to this country, and that the case is very well met by a continuation of the 50 per cent, making allowance for the fact that in the towns likely to be affected by this Bill you already have a rating system, so that the authority is getting in addition an appreciation in the rateable value of the property.

THE HON. F. O'B. WILSON: Your Excellency, I had no intention of intervening in this debate on town planning at all, but there appears to have emerged a principle which I think is important to everybody in this Colony, and that is this principle of betterment as put down in clause 8. I think it is a question of principle, and not, as the hon. Member for Mombasa stated, a question of practicability, possibility or detail. It is a principle, and the principle of betterment is a thing which has in its first aspects brought people out to the Colonies. They have come because they are gamblers, speculators, what you like, because they are prepared to take a chance, and I think there should be nothing done in the legislation of any new Colony which would discourage people who are prepared to take a chance. The whole tendency nowadays is to discourage those people. The tendency in England I heard from various people who live in England now is that the young man of the present day wants to go into Selfridges, and Evans and Jones, and elsewhere, because he is not prepared to take a chance, and I do think that in anything we do in this country we ought to do everything we can to encourage a man to take a chance, and it is on that principle alone that I venture to get up and talk this afternoon on this Bill. I hope if this Bill does go to the Select Committee—and I shall vote against it unless I hear from the Attorney General something which shows that that particular clause is liable to be altered—I hope that the Select Committee will take into consideration very seriously what I think a very

big principle of encouraging people to come out to this country who are prepared to take a chance and give them a chance of reaping the reward of their enterprise.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I confess from the legal side of it, or even from the practical side in many cases, I do not feel competent to go into minute details of this Bill, but I do feel that the rate of betterment is abnormal, and that it is wrong to propose clause 8 at the present time in its present form. I think everybody who has had charge of development in Nairobi or outside towns will admit that to a great extent it is people with foresight who have developed those towns by putting up extensive properties that at the moment of building are far ahead of the normal requirements of the place where they are erected. They have undoubtedly conferred a value on the adjoining property of the town and in general for which they get no benefit whatever. It has been said by the hon. mover that if the authorities pay for the damage, it is only right that the individual should pay the authorities for betterment. Theoretically that may be sound. I am certain in the first place, where damage is done to an individual, it is only reasonable to pay him in cash, but then is it necessary to demand cash from a man who has not asked you to interfere with his property from a point of view of betterment which he has got and did not want? It has got to be conceded in the great majority of cases it would benefit the authorities and would certainly benefit the general community, but not necessarily the individual. As far as I understand the law at the moment it is 50 per cent, and there is also the rating system; I fail to see why the law should be altered, because I believe 50 per cent is ample and any betterment charge can be charged through valuation and it can be paid through the rates. In a young Colony like this I agree with the previous speaker, it is most difficult and would create hardship in many cases where land is used for the purpose of mortgage, to be called upon to pay a considerable sum in cash, even spread over a reasonable period. For these reasons, and many others with which I need not detain you, I hope the Bill will go to the Select Committee; I am opposed to the Bill as it stands at the present moment.

THE HON. W. C. MITCHELL: As a temporary Member, taking the place of the permanent Member for Nairobi South, who subscribed to the Minority Report (A), I naturally have given that Minority Report a good deal of consideration. I do not quite know to what extent I should let it weigh with me in my opinion, but the way is easy, in that it represents my own views entirely. I listened with the utmost attention to the hon. mover, and I fail to see anything in what he said

that tended to make me alter that opinion, and the fact that he appeared to be entirely out of order all the time was not allowed to influence me in coming to that opinion. I think, from the point of view of principle and practice, as mentioned by the hon. Member for Mombasa, the question of cash payments for betterment would be extremely difficult and unfair and difficult to carry out. However, as the Bill is going to Select Committee I see no reason to take up the time of the House beyond saying that I would like to associate myself as far as possible with the remarks made by the hon. Member for the other Nairobi constituency.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, in spite of the somewhat conflicting speeches from the other side of the House, I take it that the other side of Council—I take it that the general feeling is this, that the principle of betterment established some ten years ago is a necessary evil; and what really is left to discuss is not the principle of betterment, but the degree of tax on it. That being so, I need say very little. I should like to say, however, one or two things, particularly in answer to the hon. Member for Nairobi North, who asks several questions which I think in courtesy I should answer, mainly questions of detail. I think they come to this: that individual points of detail which are not referred to in the last Select Committee's Report should be open to discussion in the next one. Sir, I will give him that assurance. He raised a point with regard to the Indian Acquisition Act, but I am not concerned whether he correctly quoted the Act or not. There is a general law of land acquisition, and I think so long as any particular measures for land acquisition in this particular Ordinance are not repugnant to land acquisition generally in use in the Colony, I think it will be sufficient to say that we shall change rather than from top to bottom, that is from the particular to the general.

The Noble Lord will perhaps forgive me if I suggest that, rather than answering what I did say, he answered what he had expected me to say. He made I think no reference to the point which I tried to make that—and here I would refer to the hon. Member for Ukamba's speech at the same time—to what I believe to be an essential difference in the reasonable taxation and the reasonable payment for a direct benefit. After all, we all have to pay taxes in spite of our being perhaps legitimate pioneers, and I do suggest that there is a great difference between paying for direct benefits as they are received and as assessed by competent jurisdiction, and being debarred from the fruit of legitimate pioneering and speculation. My case is that here the only payment would be made

on the direct benefit that will accrue and that legitimate speculation would have its reasonable change without interruption. The suggestion I make, Sir, is this : That except this principle of betterment, the details of the Bill, as they may arise, particularly in relation to betterment, should be considered by the Select Committee.

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

The question was put and carried.

APPOINTMENT OF SELECT COMMITTEE.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT : Your Excellency, I should like formally to move that this Bill be referred to a Select Committee of Council.

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

The question was put and carried.

APPOINTMENT OF SELECT COMMITTEE.

THE CARRIAGE OF GOODS BY MOTOR (CONTROL) BILL.

HIS EXCELLENCY : I have to announce the composition of the Select Committee to deal with the Carriage of Goods by Motor (Control) Bill as follows :—

The Hon. the Attorney General (Chairman),
 The Hon. the Commissioner for Local Government,
 Lands and Settlement,
 The Hon. the Director of Public Works,
 The Hon. the General Manager, Kenya and Uganda
 Railways and Harbours,
 The Hon. Elected Member for the Rift Valley,
 The Hon. Elected Member for Plateau South,
 The Hon. Elected Member for Nairobi North,
 The Hon. Elected Member for the Coast.

The Council adjourned sine die.

WRITTEN ANSWERS TO QUESTIONS.

STOCK IN TOWNSHIPS.

BY CAPT. THE HON. E. M. V. KENEALY :

“ Will Government expedite the presentation of the report by the Committee dealing with Stock in Townships? ”

2. Was the film passed for exhibition by the Board of Censors, and, if so, was the Board unanimous in its decision?

3. Is Government aware that certain reasonable persons who witnessed this film described it as "a most disgusting piece of work, and calculated to do great harm to many who may see it, while it is inconceivable that it could give pleasure to anyone save possibly a person of perverted tastes"?

4. Will Government take steps to prevent this film being displayed anywhere in the Colony in future?"

Reply :

1. This film was viewed by the Board of Censors during the week ending 31st December, 1930.

2. The film was passed. The decisions of the Board are given as a Board and not on majority decisions.

3. Government is aware that adverse criticism of this film has appeared in the public Press.

4. Government is not prepared to reverse the decision of the Board in this matter, but has forwarded a copy of the Noble Lord's question and of this reply to the Board.

It is understood that the film has been withdrawn from further exhibition.

WATER LEGISLATION.

BY CAPT. THE HON. E. M. V. KENEALY :

" Will Government state when the water legislation enacted in 1929 is to be applied? "

Reply :

It is not proposed to bring the Water Ordinance, 1929, into operation until certain amendments have been made. An amending Bill has been prepared. In view of the fact that the administration of the Ordinance involves additional expenditure, it may prove impracticable to bring the Ordinance into operation during this year.

SURPLUS BALANCES.

BY CAPT. THE HON. E. M. V. KENEALY :

" What is approximately the present state of the Surplus Balances of the Colony; how much of this is allocated and to what purposes? "

Reply :

The Surplus Balances of the Colony on the 30th of September (the latest date at which final figures are available) amounted to £619,681. The amount was distributed as follows :—

Working Cash Reserve	£106,472
Unallocated Stores	91,783
Civil Service Housing Scheme	18,419
Advances to Local Authorities	7,040
Agricultural Advances	11,764
Balance, unallocated but temporarily advanced for loan services	384,203
	<hr/>
	£619,681
	<hr/>

It is impossible to give final figures till the accounts for 1930 are closed, but on present information the surplus at the end of 1930 is estimated to have been about £510,000. This is apportioned as follows :—

Working Cash Reserve	£100,000
Unallocated Stores	110,000
Civil Service Housing Scheme	44,000
Advances to Local Authorities	25,000
Agricultural Advances	100,000
Maize Industry Advances	108,000
Balance unallocated	23,000
	<hr/>
	£510,000
	<hr/>

OVERSTOCKING IN NATIVE RESERVES.

BY CAPT. THE HON. E. M. V. KENEALY :

“ Will Government state when action and what action will be taken to rectify the position of native reserves overstocked with uneconomic animals? ”

Reply :

Government is continuing actively to pursue this question and definite action will be taken as soon as circumstances allow.

STOCK IN TOWNSHIPS.

BY CAPT. THE HON. E. M. V. KENEALY :

“ Will Government state when the report of the Committee dealing with stock in townships will be available? ”

Reply :

It is not yet possible to say when the report of the Committee dealing with live stock in townships will be available, as the Committee has not yet completed its investigations.

SALE OF FARM IN NORTH NYERI.

BY CAPT. THE HON. E. M. V. KENEALY :

“ Will Government state the circumstances in which a farm in North Nyeri previously advertised for sale by the State is now advertised for sale by a private individual? ”

Reply :

The hon. Member's question presumably has reference to Farm No. 2888, North Kenya. This farm was allotted under the Ex-Soldier Settlement Scheme to Lt.-Col. James Scott, R.A.M.C., who, in 1920, took up the allotment and appointed a manager. A small amount of development was effected on the farm and a herd of cattle purchased. The occupation conditions of the scheme were fulfilled, and, as sufficient development had been done to qualify for the waiving of purchase price, Colonel Scott was informed that the waiver would be endorsed on his title when taken out. The permanent development was destroyed by fire, but in view of the hard circumstances of the case the assurance of waiver was allowed to stand. In spite of repeated requests, Colonel Scott declined to pay up the arrears of rent from 1921 and the costs of taking out his title. In October, 1928, a final notice was given that if the amount due was not paid by March, 1929, the allotment would be cancelled. In June, 1929, as the condition had not been complied with, Colonel Scott was informed that the allotment was cancelled. The farm was thereupon included in the schedule of an auction sale due to take place on the 31st March, 1930. A further letter was received from Colonel Scott emphasising his financial losses in respect of the farm, and stating that he was absolutely unable to pay the outstanding rent and other sums due, and that as he had no title to the farm he was unable to sell it, and being without funds he was unable to develop it.

As it appeared to Government that Colonel Scott was deserving of sympathy and consideration, the farm was withdrawn from the auction sale, and a proposal was made and adopted that the cancellation order be revoked, and that Colonel Scott be allowed a period of six months in which to find a purchaser for the farm. This offer was accepted by Colonel Scott, and it is understood that the farm has now been sold.

RAILWAY ECONOMIES.

BY CAPT. THE HON. E. M. V. KENEALY :

“ What action has the Railway Authority taken, or does it propose taking, to meet the present financial position in regard to—

- (a) Salaries, allowances and wages;
- (b) Terms of service generally? ”

Reply :

No action has yet been taken by the Railway Administration in the direction indicated, but the need of effecting further economy in working the services is recognised, and all possible methods of bringing this about are being explored.

JUDICIAL DEPARTMENT ANNUAL REPORT, 1929.

BY LT.-COL. THE HON. C. G. DURHAM :

“ 1. Who was responsible for the incorrect form in which Schedule 1 of the Judicial Department Annual Report for 1929 was originally published?

2. Will Government state how many of the 2,000 Europeans convicted of criminal offences in 1929 were convicted of offences against revenue laws, municipal and traffic laws? ”

Reply :

1. (a) The incorrect form was due to the movement of carbon copies in typing the schedule, which resulted in the figures in late copies losing alignment. As a result of this movement, the copy sent to the Government Press for printing with the Annual Report was incorrect.

(b) As soon as the mistake was discovered a copy of the corrected reprint of the schedule was forwarded to those persons to whom the Report had been circulated.

(c) The question of amending the schedules so as to remove any ambiguity as to the class of convictions recorded is receiving His Honour's consideration in connexion with the 1930 Report.

2. Of the 2,004 convictions recorded against Europeans in 1929, forty-nine were recorded for offences against the person and against property. The remainder of the convictions against Europeans, viz. 1,955, were for offences against revenue and traffic laws, local Ordinances, and such laws as relate to highway, revenue and social economy of the Colony.

REVISION OF SALARIES.

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

" Whether, in view of Government salaries and allowances having been increased after the Great War to compensate for the depreciated purchasing power of money, Government is now prepared to revise salaries and/or allowances downward to compensate for the steady appreciation in the purchasing power of money that has taken place since, as disclosed by Government statistics.?"

Reply :

The Government does not consider that any useful purpose would be served by drawing conclusions from individual investigations as to any alteration or modification which may have taken place in the purchasing power of money as applied to Kenya alone. If the present world-wide depression continues, resulting in a permanent appreciation of the purchasing power of money, the question of revising the terms of service may have to be considered throughout the Colonial Empire, but on the information at present before it, the Government of Kenya is of opinion that it would not be justified in taking isolated action.

As regards allowances, owing to the different character of allowances, it is impossible to give a comprehensive answer to the question, but in so far as allowances do not conflict with contractual obligations, a downwards revision in some cases has been brought into effect.

MARRIED WOMEN IN GOVERNMENT SERVICE.

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

" Whether, in view of the comparatively large number of married men out of employment, Government is taking steps to dispense with the services of married women whose husbands are in permanent employment in Government service or elsewhere."

Reply :

Apart from purely temporary appointments, there are in Government service 22 married women whose husbands are still living.

Some of these women are holding posts demanding special qualifications, such as lady doctors, matrons and teachers, while the husbands of eight are in the employment of Government.

No reason is seen on general grounds to warrant the termination of the services of any of these women, and, in any case, it is considered that to do so would not affect

provides for the cost of passages for Departments such as the Customs Department and Post Office and Telegraphs Department, which serve Uganda, and reimbursements of part of the cost of the Departments appear in the Revenue Estimates. Provision for passages for the Railway and Port Police is reimbursed by the Railways and Harbours Administration. Taking these factors into account, it is estimated that the provision shown in the 1931 Estimates for passages payable by the Government of Kenya, amounts to approximately £72,000.

Other expenses in respect of officers proceeding on and returning from leave are not shown separately in the Estimates.

(2) The amount provided for local transport and travelling in the Estimates for 1931 is approximately £104,500. Taking into consideration the factors mentioned above, it is estimated that the provision shown in the 1931 Estimates for local transport and travelling payable by the Government of Kenya amounts to approximately £102,000.

The Government, in its endeavour to cut down expenditure in 1931 in as economic and expeditious a manner as possible, has authorised the extension of tours beyond the maximum period laid down in present regulations in cases where the Head of the Department recommends such an extension as a measure both of economy and departmental convenience. As a further temporary measure of economy, rates of mileage allowances have been considerably reduced. Considerable savings are therefore likely to materialise on the sanctioned provision both for passages and local transport and travelling appearing in the 1931 Estimates.

(3) (a) House allowances : £42,000.

(b) Houses rented : £7,500.

(c) Owing to the widely varying conditions obtaining in the different Government stations in which Government quarters are provided, particularly those in which there is no demand for rented quarters on which a basis of rental value could be fixed, it is regretted that no reliable figures, fixed on a uniform basis, can be arrived at.

RAILWAY ECONOMIES.

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

“ Will the hon. the General Manager of Railways please state whether his anticipations of revenue and expenditure are still as expressed in the Estimates for 1931 passed by Legislative Council; and if not, what steps he is taking or proposes to take to meet the altered situation? ”

Reply :

The financial position of the Railway was fully discussed at the last meeting of the Railway Council on February 24th and 25th. In the light of available information, it appeared that the actual revenue for 1931 would probably fall considerably short of the Estimates approved for 1931 in the Legislative Council. The expenditure estimates were accordingly examined and extensive reductions recommended both in services and works which counterbalanced the anticipated shortfall in the estimated revenue. These reductions are now being put into effect.

ADVANCES FOR PURCHASE OF MOTOR CARS.

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

" 1. What was the total amount outstanding on the 31st December 1929, as due to Government in respect of advances made to civil servants free of interest for the purchase of motor cars?

2. What was the total amount advanced for that purpose in 1930?

3. What was the amount outstanding on the 31st December, 1930? "

Reply :

1. The total amount outstanding on the 31st of December, 1929, was £22,520.

2. The total amount advanced during 1930 was £22,379.

3. The amount outstanding on the 31st of December, 1930, was £20,095.

CARRIAGE OF MOTOR CARS BY THE RAILWAY.

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

" Is it the case that civil servants are given a free pass on the Railway in each tour of service covering the carriage of one motor car from the Coast to the nearest Railway station to their centre of activities? "

Reply :

(a) The regulation to which the hon. Member refers runs :—

" In the case of an officer, whose duties can best be facilitated by the use of a motor vehicle, purchasing such vehicle at a place other than his own station, Government will once in each tour of service defray the cost of transport of a vehicle of the type and grade

authorised, from the place of purchase if this is within the Colony or from Mombasa if the vehicle is purchased outside the Colony, to the nearest railway station to his post, provided that it is impracticable to use the vehicle for the journey in question."

(b) This regulation will be made the subject of specific reference to the Local Transport Committee.

HOUSE ALLOWANCE.

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

" Will Government please state whether more than one payment is made in respect of house allowance in cases of more than one member of a family living in the same household being in the Government and/or Railway service? "

Reply :

House allowances are paid in accordance with the Regulations to servants both of the Government and the Railway Administration, irrespective of whether any other member of the family of any such servant also draws an allowance from Government or the Railway Administration.

GOVERNMENT BUILDINGS AT KERICHO.

BY THE HON. CONWAY HARVEY :

" Were tenders invited for the erection of Government buildings at Kericho during 1930? "

Reply :

Tenders were not invited. The work was carried out departmentally, and was started in 1929.

KEDOWA-KERICHO ROAD.

BY THE HON. CONWAY HARVEY :

" 1. What sum has been expended to date on the Kedowa-Kericho Road, and how has this been allocated?

2. What further expenditure has been authorised?

3. What additional sum will be necessary to complete this road to a reasonable standard?

4. When is it contemplated that this road will be open to public traffic? "

ECONOMIES IN COST OF PERSONNEL.

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

" Is Government aware of the widespread feeling in the Service that large economies in the cost of the personnel of the Service could and should be effected? "

Reply :

The hon. Member's attention is invited to the answer given to the last question.

AGRICULTURAL ADVANCES.

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

" Is it the opinion of Government, after the information which has been placed before it in recent months, regarding the position of the agricultural industry, that no further advances of this nature are likely to be required? "

Reply :

Government has submitted to the Secretary of State the question of reopening and extending the Agricultural Advances Scheme.

COLONIAL DEVELOPMENT FUND.

BY THE HON. CONWAY HARVEY :

" Will Government be pleased to state :—

- (a) What applications have been made by the Kenya Government for assistance from the Colonial Development Fund?
- (b) What grants have been made to Kenya, for what purpose, and under what conditions? "

Reply :

The applications for assistance made on behalf of the Kenya Government are as follows :—

- (a) Cape to Cairo Air Service, Ground Facilities.
- (b) Colonial Veterinary Scholarship Scheme.
- (c) Establishment of Meat Factory to dispose of surplus stock in the Native Reserves.
- (d) Investigation in connexion with the standardisation of Railways in Africa.
- (e) An application has been made for a direct grant of £3,000 in the first year and thereafter a direct grant of £2,500 annually for the establishment of a Geological Survey. The duration is uncertain.

Of the above applications, the following have been approved :—

Description of Scheme	Purpose	Condition of Grant
(a) Cape to Cairo Air Service, Ground Facilities.	Provision of ground organisation at Kisumu.	Direct grant of £47,300.
(b) Colonial Veterinary Scholarship Scheme.	Provision for meeting one third of the cost of the scheme.	Direct grant of £4,150 apportionable between the ten Colonies who are participants in the scheme. Payment of grant spread over a period of three years.
(d) Investigation in connexion with standardisation of Railways in Africa.	As stated.	Direct grant of £5,000 (half the estimated cost of the investigation), spread over a period of three years. The balance is to be found as to two thirds by the K.U.R. Transport Administration and one-third by the Tanganyika Railway Department.

Application (c) applied for a direct grant of £60,000 from the Colonial Development Fund and a loan of £40,000 from the same source free of interest for a period of ten years. The Advisory Committee considered that the proposal could not be regarded as a purely development project but involved, in part at least, action which would in any case have to be undertaken as a part of normal administrative activities. The Committee was therefore prepared to recommend a grant of two-thirds of the initial capital expenditure, or, if preferred, grants of interest on total capital, including working capital, up to a maximum of £20,000, provided the Government would undertake to raise the balance of the funds required. In view of the present financial position, the Government could not see its way to meet this expenditure, and the proposal is therefore in abeyance.

Application (e) : The results are not yet known.

LAND BANK ORDINANCE.

BY LT.-COL. THE HON. J. G. KIRKWOOD :

“ Will Government appoint a Committee to investigate and report on the advisability of amending the Land Bank Ordinance? ”

Reply :

If the hon. Member will indicate the lines on which he thinks amendment of this Ordinance desirable, Government will be in a position to consider the matter.

BRIGADE COMMANDER, KING'S AFRICAN RIFLES.

BY LT.-COL. THE HON. C. G. DURHAM :

" 1. Will Government state whether the Brigade Commander, King's African Rifles, now on leave, is returning for a further tour?

2. Is he on the retired list of officers, and does he draw full pension as such?

3. As Brigade Commander, is he drawing full pay in addition to pension, and, if so, why?

4. Has the post of Commanding Officer, King's African Rifles, previously been held by an officer who was neither on the Active nor Reserve List of Officers?

5. What are the new rates of pay for Serving Officers? "

Reply :

1. and 2. The reply to the first two questions is in the affirmative.

3. As Brigade Commander, Colonel Wilkinson draws full pay in addition to pension in accordance with the terms of his appointment.

4. The former post of Officer Commanding Troops has never been held by an officer who was on neither the Active List nor the List of Reserve Officers. The question, however, does not appear to arise, as Colonel Wilkinson is on the Reserve List of Officers.

5. The present rates of pay for Serving Officers are as follows :—

Officer Commanding Northern Brigade : £1,200 per annum (£150 per annum Command Pay).

Staff Officer, Northern Brigade : £700 per annum (£50 Duty Pay—Intelligence).

Staff Paymaster, Northern Brigade : £720 by £30 to £840 per annum.

Staff Quartermaster, Northern Brigade : £720 by £30 to £840 per annum.

Officer Commanding Battalion : £850 per annum (£50 per annum Command Pay).

Second in Command : £700 per annum.

Adjutant and Quartermaster : £550 per annum (£75 per annum Duty Pay).

Company Commanders : £700 per annum.

Officers under 7 years' Army Service : £500 per annum.

Officers over 7 years' Army Service : £550 per annum.

Officer Commanding Supply and Transport Corps : £850 per annum (£50 per annum Command Pay).

Second in Command, Supply and Transport Corps : £735 per annum.

Subalterns, Supply and Transport Corps : £575 per annum.

PUBLIC WORKS DEPARTMENT COMMITTEE.

BY LT.-COL. THE HON. C. G. DURHAM :

" 1. Will Government state when the Report of the Committee of Inquiry into the working of the Public Works Department will be made public?

2. Has the Director of Public Works seen the Report and commented on it, and, if so, will Government publish his reply, and also the Committee's comments on his reply? "

Reply :

It is proposed to reply to both questions at the same time.

The Government, after giving careful consideration to the Report and to the comments of the Director of Public Works upon it, has decided not to publish it for the following reasons :—

(a) That the Director of Public Works was not in the Colony when the Committee of Inquiry sat and reported; and though the Chairman of the Committee was informed on the 12th November, 1930, that he would, no doubt, consider it desirable to re-convene the Committee for the purpose of giving the Director of Public Works, who had then returned, the opportunity of giving oral evidence, the Chairman and Committee replied that after reading the observations of the Director of Public Works, they were unanimously of the opinion that no advantage would be gained by asking him to appear before them; further, that the Committee did not see fit to examine the Acting Head of the Department.

(b) That Government, after giving careful consideration to the Report, and to the comments of the Director of Public Works thereon, is of opinion that the criticism of the Committee on the capacity of the Director of Public Works is not justified.

(c) That the Report has revealed certain weaknesses and defects in the details of the work of the Department, and the Government, after consultation with the Director of Public Works, has taken steps to remedy these defects.

NATIVE HIDES.

BY THE HON. W. C. MITCHELL :

“ 1. Have any reports been received by Government from home buyers and/or local shippers on the quality of native shade-dried hides?

2. If so, what is the nature of these reports, and is it a fact that 40 per cent premium on current market price for ordinary native prepared hides has been paid by local shippers for shade-dried hides?

3. What is the total export value of native hides?

4. Of this, what proportion are shade-dried?

5. What provision is made to encourage an extended production of shade-dried hides?

Reply :

1. The reply is in the affirmative.

2. These reports indicate that properly flayed, undamaged shade-dried hides command a substantially higher price than the ordinary sun-dried hides. Certain firms engaged in the trade in Nairobi offer a premium of 33½ per cent to 40 per cent for properly prepared hides over the sun-dried hides.

3. The export values of “ native ” hides are estimated as follows :—

1927	...	...	...	£160,000
1928	...	...	...	200,000
1929	...	...	...	220,000
1930	...	...	...	105,000

4. The estimate is 5 per cent.

5. Agricultural Officers and Stock Inspectors are continually demonstrating shade-drying methods in the Reserves. Shade-drying *bandas* have been erected at many points. Rules under the Crop Production and Live Stock Ordinance have been approved and will shortly be published, designed to control the treatment and marketing of hides. Efforts are being made to organise markets at selected points at which buyers who are prepared to pay a premium for shade-dried hides will attend.

LAW COURTS AND CENTRAL OFFICES.

BY THE HON. F. A. BEMISTER :

“ Whereas the amount of £300,000 voted for the erection of Law Courts and Central Government Offices was included in the December, 1930, Kenya Loan, and in view of the fact that the work has not yet been started, what is the policy of Government with regard to reducing interest and sinking fund accruing by placing the money out to loan? ”

Reply :

Loan balances are invested at a satisfactory rate of interest by the Crown Agents for the Colonies in London, and they are available on demand as required for expenditure on the authorised works.”

MARKETING OF NATIVE PRODUCE.

BY CAPT. THE HON. H. F. WARD :

“ Will the hon. the Colonial Secretary please state what steps Government have taken towards instituting some modern system for the better marketing of native produce in the Native Reserves? ”

Reply :

Since this question was raised by the hon. Member during the last session the Government has devoted serious attention to various aspects of this problem and opportunity was taken to consult Mr. Stockdale, the Agricultural Adviser to the Colonial Office, and Mr. Strickland, late of the Indian Civil Service, an expert in the organisation and management of co-operative associations, on the policy to be adopted. In the light of these deliberations and discussions, the Director of Agriculture has formulated certain proposals for a scheme of marketing organisation of which the first step will be the investigation by officers of the Administration and of the Agricultural Department of the practicability of organised marketing of particular products in particular areas, and the next step, if the investigation justifies it, will be the organisation of bulk sales of graded products. Government is also considering the advisability, if funds permit, of arranging for some selected administrative officer to make a special study of marketing conditions during his next leave.

Under the Crop Production and Live Stock Ordinance, Rules have been promulgated to control the marketing of groundnuts, maize (in the Nyanza Province), simsim (in the Nyanza Province), and wattle bark, for the purpose of improving the quality of these products, and under the same Ordinance, Rules have been approved and will shortly be published, designed to control the treatment and marketing of hides and skins.

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