

East Africa Protectorate.

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

Fourth Session,

November 25th, 1912.

Nairobi

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East Africa Protectorate.

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

Held at Nairobi on the 25th, 26th and 27th November, 1912.

FIRST DAY.

The Council assembled on the 25th November at 10 a.m., HIS EXCELLENCY THE GOVERNOR (HENRY CONWAY BELFIELD, C.M.G.) presiding.

Present :—

THE HON. THE CHIEF SECRETARY (C. C. BOWRING, C.M.G.).
THE HON. THE TREASURER (H. A. SMALLWOOD).
THE HON. THE ATTORNEY GENERAL (R. M. COMBE).
THE HON. F. W. MAJOR, I.S.O.
THE HON. C. W. HOBLEY, C.M.G.
THE HON. B. G. ALLEN.
THE HON. P. G. DICKINSON.
THE HON. R. C. BAYLDON.
THE HON. W. A. M. SIM.

Absent :—

THE HON. THE ACTING GENERAL MANAGER OF THE UGANDA RAILWAY (C. T. SANDIFORD, C.B.)
THE HON. THE DIRECTOR OF AGRICULTURE (A. C. MACDONALD).
THE HON. DR. A. E. ATKINSON.

MINUTES: The Minutes of the Council Meeting of September 16th, 1912, which had been printed and circulated amongst the Hon. Members were taken as read and were confirmed subject to the inclusion of the name of the Hon. Dr. A. E. ATKINSON in the list of Absentees.

THE PRESIDENT, before proceeding with the Orders of the Day, asked the indulgence of the Hon. Members for a few minutes. It appeared to him to be useful on the first occasion of his taking the Chair to make a few remarks on those questions which were foremost in the mind of the Government, and of the community. Whilst not prepared to formulate or suggest any sort of policy, he wished to offer a few personal impressions on what he had noticed during his comparatively short stay in the Protectorate, and also to state what had been done with regard to arrangements recently completed to meet some of the most urgent of the present requirements.

Regarding the question of Sanitation, he was fully aware that this subject had been agitating the minds of everyone in the Protectorate for a considerable time.

He had satisfied himself in respect of those stations, which he had had the opportunity of visiting, that reforms and improvements were badly required to bring about such a standard of sanitation as could be considered satisfactory.

They would notice in the Estimates that provision had been made for the formation of a Sanitation Department to be attached to the Medical Department, and he believed that he might go so far as to say that the steps the Government intended to adopt would meet with the approval of the Secretary of State. Such a Department would relieve the Medical Officers to a very large extent of the heavy work that had fallen to their hands, and permit of their paying more attention to the duties that pertained to their office.

It would be noticed from the proposal referred to that Government intended to pay specific attention to the larger stations, *viz.*, Nairobi, Mombasa, Nakuru and Kisumu, and in addition to have at least one Sanitary Officer who would be able to travel throughout the country visiting the smaller stations, and who would be able to give the local Medical Officers and Sanitary staffs that expert advice which they would no doubt gladly welcome.

The reforms needed in Nairobi had been effectively dealt with in the scheme brought forward by Mr. Williams. The Government had been making every effort to carry out the work, and it was only a question of funds that had prevented its being pushed through with greater rapidity. A sum, as large as could safely be allotted, was to be devoted to the further prosecution of the scheme.

Various proposals had been made with regard to the Indian Bazaar: it appeared to him that the Government must either effect the removal of the Bazaar, or make such arrangements as would minimise its danger.

There was one other question that called for attention, and that was the condition of the Nairobi River. In his opinion, gained from previous experience, it would appear to be almost impossible to prevent outbreaks of Enteric Fever as long as careless natives had access to the river water. It was a matter that was receiving the earnest consideration of the Government.

With regard to the sixty odd acres of land in the centre of the town that was at present occupied by the Railway Subordinate Staff, he had recently intimated to the Acting General Manager of the Uganda Railway that the Department would be required to vacate the same as soon as it might be convenient to remove, and that in the meantime no further buildings of a permanent nature were to be erected. The staff in question would be located on some other site, and by this means the area now occupied by them would become available for municipal purposes, and afford further accommodation for the commercial community.

During the fortnight that he had spent at the Coast, he had made a point of personally inspecting the town of Mombasa. He was far from being satisfied with what he had seen. He pointed out that isolated efforts would effect very little improvement—it would be necessary to have the report of a Sanitary Expert before embarking on a comprehensive scheme.

The Abattoir was in a most unsuitable position, and a new site would have to be arranged for.

With regard to the Piggott Market, Hon. Members would find that provision was being made for its removal in the course of next year.

Whilst at Mombasa he had given instructions that an immediate start should be made with the erection of the Infectious Diseases Hospital, and he had been informed that the work had already been taken in hand.

In connection with Nakuru the question of the town's water supply, which was urgently needed, was to receive the necessary attention.

At Kisumu they had the same question relating to the removal of the Indian Bazaar, and he understood that there was less likelihood of troublesome obstacles being encountered in connection with this matter.

In referring to the subject of Labour, THE PRESIDENT pointed out that he had no desire to anticipate the results of the Native Labour Commission. He was, however, of the opinion, as a result of his investigations on the Coast, that there were plenty of tribes in the Protectorate from which Native Labour could be supplied, but the members of which for one reason or another declined to come out and work. He referred to the Giriama tribe who would be able to supply a large proportion of the labour required at the Coast, and yet who absolutely declined to come out of their country and do a hand's turn for anybody. He was hopeful however that this disinclination might be dispelled later by the appointment of additional officers to administer such tribes.

Allied to the question of Labour was the question of Native Reserves, and movement of the Native Population. He thought it would be desirable if some sort of supervision were exercised so as to check the irresponsible wandering of the unattached members of tribes. Speaking generally the proper place for the Native Population should be within their Reserves, where they should be engaged in improving the same by agricultural labour and only be outside for the purpose of seeking employment. Later on it might be necessary to take measures

to deal with that class who would not remain in their Reserves, nor undertake regular employment outside of them. It would be necessary to bring home to the Native Population generally that as they are gradually brought under Administration it is their duty to contribute something either by means of labour or pecuniary equivalent towards the development of the Protectorate.

He wished Hon. Members to understand that these were merely present impressions, and that after he had devoted more time and study to the subject he would be enabled to either modify or augment the views now expressed.

In dealing with the subject of the movement of the Masai, THE PRESIDENT stated that he thought they might look forward with confidence to the completion of the move in a few months' time. A certain amount of delay had occurred through disease amongst the stock and sheep, but owing to the assiduous and intelligent manner in which the Veterinary Officials had worked, the difficulties were being overcome.

In regard to the allotment of Land, he pointed out that the draft Land Ordinance had been considered by him whilst in London, and he had offered certain recommendations to the Secretary of State. On his arrival in the Protectorate he found that the allotment of lands had been held over for a considerable period. He had granted interviews to a large number of gentlemen who had been anxiously enquiring when such allotment would recommence. He knew that the Secretary of State was considering the Land Ordinance with great care and some anxiety, and action would be taken here as soon as he received his instructions from home; until then it was impracticable for him to say anything on the matter.

With reference to Railway matters he had noticed that owing to the deficiency of rolling stock, and paucity of the number of steamers on the Lake, there was considerable difficulty in expediting the carriage of the increasing amount of export produce. He was pleased however to be able to inform Hon. Members that indents had already been sent to England for large quantities of rolling stock, as also for two new Lake steamers, and as soon as the indents in question had been complied with others would be forwarded.

Prior to his leaving England he had had the pleasure of meeting Mr. TAYLOR, the new General Manager of the Uganda Railway, who would be arriving in the Country in the course of the next day or two, and was entirely satisfied with his mature experience and personal energy. He hoped and believed that Hon. Members would find him a worthy successor to his popular and lamented predecessor.

THE PRESIDENT then referred to the recent visit he had made, in company with the Director of Public Works, to the Thika Tramway, and was generally satisfied with the progress that was being made. In spite of the fact that the work was suffering through scarcity of labour, it was anticipated that the line would be open by July next.

With regard to future railways, this was naturally a rather difficult matter to talk about, as they were very much in the air at present. It had been arranged some time back that a rough preliminary survey should be made for a possible line of railway between Kisumu and Mumias, as it had been considered advisable to obtain some information of the country in anticipation of the necessity for a line in this District being established.

From information supplied to him by those intimate with the Country, it also appeared possible that an extension of the line through North Kavirondo would be of advantage in opening up a large grain-producing area, whilst its possible prolongation to Eldoret would be of material assistance to the farmers on the Uasin Gishu, who were badly handicapped at present through having no means of getting their produce on to the rail at Londiani.

Whilst at Mombasa he had visited the Kilindini Harbour, and was very satisfied to find that there was a large and sufficient area of land for extension as time and money permitted.

Hon. Members would be aware that the amount available for the prosecution of the Harbour Works was £100,000 from the first loan and £40,000 from the second. As they knew these funds were to be utilised in connection with the erection of a deep water Pier. Mr. Gailey, the Engineer, was engaged at present in taking borings, and in preparing a report dealing with the site and form of the Pier. It was apparent that a Pier which will adequately meet requirements

would have to be considerably larger than was originally anticipated. Reference to the Estimates would show that balances were anticipated to the extent of some £100,000 at the end of the present financial year, and it might be possible to utilise some or all of those balances for further expenditure in connection with the Harbour Works. Though no expenditure on the main project had yet been undertaken, it had been found necessary to obtain the sanction of the Secretary of State to increase immediately the available accommodation at the present wharf. Some £20,000 would be expended in connection with the providing of a new Baggage Room, Custom House, Siding outside Goods Shed, and quick-working straddle cranes, also the provision of electric light so that the handling of cargo can be carried on by light and day. Indents for this material had already been sent home, and as soon as the same was received the work would be put in hand at once.

It would also be advisable to arrange in the near future for the transfer of the Customs Offices from Mombasa to Kilindini, as it was inconvenient to control the work from Mombasa. The Customs work at the latter place would have to be confined to Indian and Persian Gulf trade, and retained merely as a Branch Office.

Hon. Members would notice that it had not been possible to allot more than £16,600 in the Estimates for the coming year for general Road work throughout the Protectorate. He was fully aware that it would not be possible to make any material advance with so small a sum. The amount eventually approved would be expended upon such works as might appear of greater urgency. He had instructed the Director of Public Works to utilise a sufficient sum to put the Coast road from Mombasa to Sabaki in such a condition as to be passable for cycle and foot traffic at all times of the year: he had satisfied himself that such improvement was essential.

THE PRESIDENT then referred to Jubaland and the Northern Frontier District, where the Government was now commencing the early stages of administration of the vast area comprised by those two Provinces. It was work as Hon. Members were aware that entailed the permanent presence of a considerable number of our troops, and also provision for patrols and constabulary. It was not probable that it would produce any advantageous results in the immediate future, but it nevertheless necessitated an expenditure which absorbed a considerable proportion of funds available for purposes of general administration. He confidently expected, however, that in years to come when the complete settlement of these Provinces had been effected, and the more accessible portions had been opened up, the Protectorate would reap the advantage of the increased trade that would then ensue.

In making a few remarks with regard to the Estimates, THE PRESIDENT did not desire in any way to anticipate the Budget Statement to be made by the HON. THE TREASURER, but he wished to refer in general terms to the results deducible from the figures that would be submitted.

In November of last year the then President had expressed to the Council the anticipation that the Estimates for the coming year might be at least as good as those then put forward. HIS EXCELLENCY was of the opinion that Hon. Members would agree with him in saying that not only had this been realised, but that there was prospect of a material improvement.

The revised Estimates for the Financial Year, 1912-1913, revealed a total of £855,600, being an increase of £75,000. The excess of assets over liabilities at the end of the present Financial Year was estimated to amount to £155,000.

The Revenue Estimates indicated local receipts of nearly £936,000, being an increase of 20 per cent over the Revenue Estimate for the current year. To this must be added revenue of a special nature from Magadi, and from the Busoga Railway and Marine—amounting to nearly £50,000—giving a total estimated revenue of £985,000.

The expenditure was estimated at £1,035,000—or an excess over estimated revenue of nearly £50,000. Such excess could if necessary be met from available balances, but he was under the impression that the revenue figures had been calculated on a somewhat conservative basis, and that it would probably be found later on that it would not be necessary to trench upon their balances to the extent indicated.

THE PRESIDENT wished to point out that he accepted a good deal of responsibility with regard to the provision that had been made in the Estimates for the formation of a Volunteer Corps. He had gone into this question when in London, and on his arrival in the Protectorate had had the opportunity of seeing the papers dealing with this subject.

The Volunteer Reserve movement was useful up to a certain point, but Hon. Members would agree with him that present arrangements in the Protectorate offered scope for improvement.

In return for a somewhat indefinite promise to turn out in the event of war or serious disturbance, the members of the Volunteer Reserve were supplied with ranges, ammunition and prize money, free of all cost to themselves, but received no training of any kind, so that the Reserve was little more than an ordinary Rifle Club. He questioned very much whether a scattered and undisciplined force of this nature would be of any real value in a case of sudden emergency. He had asked for and received the views of COLONELS BREADING and GRAHAM, which coincided with his own.

There was little doubt that in Nairobi there were a sufficient number of men to form two companies of Volunteers—the formation of such a corps would receive his entire support. They would agree with him in stating that proficiency in shooting was not sufficient in itself unless combined with discipline and a knowledge of tactical movements. He trusted and anticipated that the community would come forward so that two companies of Volunteers could be got together as a nucleus of a really good volunteer force.

With regard to the Volunteer Reserve made up of men scattered about in outlying parts of the country, he had been asked to, and had made provision for the continuation of the same. At the same time he hoped that as means of communication increased and opportunities of centralization improved it would be found practicable to absorb the Reserves into the Volunteer Force proper.

In conclusion, THE PRESIDENT desired to refer to that whole-hearted and enthusiastic body of men known as the Legion of Frontiersmen. They represented a very valuable addendum to the military organization. He understood that the Headquarters of this movement was at Mombasa, and whilst there he had taken the opportunity of discussing the matter with COLONEL MILLET.

It was not proposed to enlist the Legion with the Volunteer Force proper, but it would work on lines parallel with the Volunteer Reserve organization, and he was quite sure should the occasion arise that they could look forward to receiving very material assistance.

THE HON. CHIEF SECRETARY laid the following papers on the Table:

The Annual Report of the Customs Department for 1911-1912.

A copy of Draft Mining Regulations to be issued by His Excellency the Governor under the powers conferred by the Mining Ordinance, 1912.

THE HON. CHIEF SECRETARY stated that it was proposed to publish the Mining Regulations in an early issue of the Gazette, after due consideration had been given to any suggestions which might be made in connection with the same.

THE HON. TREASURER laid on the Table:

A copy of the Statement of Expenditure incurred during the Quarter ending 30th June, 1912, and for which no provision was made in the approved Estimates.

Motions.

In pursuance of notice given the HON. TREASURER proposed the following motion:—

“Whereas it was found necessary to incur expenditure for which no provision was made in the approved estimates for the current year, amounting to £5,607-11-7 during the period 1st April, 1912, to 30th June, 1912, as more particularly set forth in the statement laid on the table, it is hereby resolved that this Council do approve such expenditure.”

He pointed out that this was a departure from the practice hitherto followed, and wished to explain the reason. It must always happen when estimates of expenditure are framed some six months before even the beginning

of the year to which they relate, that during the year expenditure had to be incurred on services that were unforeseen and therefore not provided for at the time the estimates were actually drawn up. Hitherto, authority for such unforeseen expenditure had been obtained by means of a supplementary estimate, and last year no less than four such supplementary estimates were passed. In future, unforeseen expenditure for which no definite provision had been made would be shown on the usual Quarterly Return rendered in accordance with Colonial Office Regulation, and this Return would be laid before the Council at the earliest convenient date and a resolution moved approving of the expenditure therein; this was the practice inaugurated that day. The actual sum, £5,607-11-7, would be met from savings on heads of expenditure or from balances in cases of expenditure of certain uncompleted works of last year. He wished to take the opportunity of stating that towards the end of the current financial year there would probably be excesses on certain votes, and to provide for these a supplementary estimate would be presented but that would be the only one. Subsequently, when the actual excess on any vote was ascertained, that is when the accounts for the financial year had been closed, any such excess would be covered by a Supplementary Appropriation Bill.

It would thus be seen that the new system under which this resolution was moved did not in any way diminish the usual safe-guards against over expenditure nor detract from the authority of the Council—it only simplified procedure.

THE HON. CHIEF SECRETARY seconded, and the motion was carried.

THE HON. R. C. BAYLDON proposed the following motion :

“Whereas the insanitary condition at present prevailing in Nairobi is a source of grave danger to the Community and the provision for housing the artizan and labouring classes is wholly inadequate, it is hereby resolved that His Excellency be asked to appoint a Commission to enquire into and report as to what steps should be taken to remedy the existing state of affairs.”

He welcomed the remarks that had been made by the President on the subject of the sanitation of Nairobi, and was glad to hear that the Government realised the gravity of the situation—and trusted that his motion for the appointment of a Commission would be accepted.

The principal reasons for the insanitary state of Nairobi were the lack of drainage and the inadequate provision made for the housing of the Indian and Native population.

They had had the Williams' Scheme before them for many years, and knew that it could not be completed on account of the lack of funds.

As Hon. Members were aware there was a good deal of apprehension in the minds of the public at the present time, and it would be of advantage to everyone for such a Commission to go thoroughly into the whole question and to draw up a comprehensive scheme—touching especially on such points as might be found to be of exceptional urgency.

There were many matters that called for immediate action on the part of the Government, and he desired to draw the attention of Hon. Members to the congested state of the Indian Bazaar—where in an area of about six acres some 3,000 people were crowded together.

Plague he understood was now endemic in Nairobi.

The question of a Native Location had been before the Government for some years, but nothing had yet been done, with the result that Natives lived in the heart of the town under most disgraceful conditions.

He also referred to the fact that ten years ago mosquitoes were not known in Nairobi, whilst now it was a well known fact that malaria was prevalent. Typhoid was also on the increase.

In conclusion he trusted that the Government would allow of the proposed investigation taking place, and also permit of the Commission's report being published so that it could be read by everyone, and if necessary criticised.

THE HON. B. G. ALLEN seconded the motion.

THE HON. P. G. DICKINSON desired to point out that with regard to the outbreak of plague in Nairobi, the disease was appearing in other parts of the Country. There was no doubt that the Indian traders were partly responsible for the spread of the infection, and should the infection once get into the Reserves it would be difficult to control.

THE HON. CHIEF SECRETARY stated that he did not intend to oppose the motion brought forward by the Hon. Member. The Government were fully aware that there was very strong feeling on the subject and did not wish to put any obstacles in the way of the proposed investigations. He did not think however that any useful purpose would be served by the appointment of such a Commission, and considered that the Hon. Member might have attained his object by requesting the Government to furnish a statement.

He entirely agreed with the view that had been expressed with regard to the public being kept informed as to what was going on. In examining the records of the past eleven years dealing with the sanitation of Nairobi, he found a good deal had been done by the Government that was not known to the public, who seemed to be under the impression that the Government had adopted the policy of shutting its eyes and doing nothing.

THE HON. C. W. HOBLEY said that he had been associated with a number of Commissions, and his experience went to prove that the same obstacle was always encountered in the end—*viz*: lack of funds.

With reference to what had been stated regarding the Nairobi River, he wished to inform Hon. Members that he had enquired of the Medical Officer of Health on the matter at various times and had been advised that no Typhoid germs had been discovered in the water up to the present.

In regard to the site that had been fixed on for the Native Location, he considered it could begin to be occupied when the type of house had been settled by the Medical Department, but considerable expenditure on roads was necessary and this work would probably take a couple of years. When the time for occupation arrived, tact and patience would be necessary in inducing the Natives to occupy their new quarters.

THE HON. B. G. ALLEN considered that the appointment of a Commission was the only solution likely to satisfy the public of Nairobi, and also of the surrounding District.

The motion was then put and carried.

Appropriation Ordinance.

THE HON. TREASURER, in pursuance of notice given, introduced and moved the first reading of a Bill intituled "An Ordinance to apply a Sum of Money for the Service of the Year ending the 31st day of March, 1914," and read the Budget Statement.

THE HON. CHIEF SECRETARY seconded.

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

THE HON. TREASURER moved the suspension of so much of the Standing Orders as would enable the Bill to be read a second time.

THE HON. CHIEF SECRETARY seconded.

The question was put and carried.

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

THE HON. CHIEF SECRETARY seconded.

The motion was put and carried.

THE HON. TREASURER moved that Council go into Committee to consider the Bill. He explained it would be convenient to consider the Schedule first.

THE HON. CHIEF SECRETARY seconded.

The question was put and carried.

The Council resolved itself into a Committee of the whole Council, His EXCELLENCY THE GOVERNOR presiding.

IN COMMITTEE.

THE HON. TREASURER moved the Suspension of so much of Standing Order No. 16 as would allow Hon. Members to remain seated during the debate, should they so desire.

THE HON. CHIEF SECRETARY seconded.

The question was put and carried.

The various items in the Schedule were discussed *seriatim* as follows:—

VOTE 3 (£8,116).—HIS EXCELLENCY THE GOVERNOR.

THE HON. R. C. BAYLDON, referring to the item of £700 for a new Motor Car, stated that he did not wish to raise any question as to the necessity of this expenditure. In view, however, of the amount of £770 voted last year for the purchase of a car, which had turned out to be so unsatisfactory, he considered that the matter should be taken up with the makers.

THE PRESIDENT asked to be allowed to make a personal explanation to the Committee. It was with much-hesitation that he had included this provision in the Estimates—but on account of the unreliability of the motor at present at his disposal it was essential that a new car should be obtained. In view of a cable that he had received from home advising him that a car of the type he had asked for could be obtained at a lower figure than anticipated he would ask the HON. TREASURER to reduce the item by £100.

VOTE 9a (£2,535).—PORT AND MARINE DEPARTMENTS (SPECIAL EXPENDITURE).

THE HON. R. C. BAYLDON enquired whether it would not be advisable for certain provision being made to enable ships to enter the Harbour at night.

THE PRESIDENT asked MR. SIM if he could give any information. MR. SIM stated that provided notice was given to the Port Authorities the lights could be lit and vessels could both enter and leave the Port at night.

THE HON. F. W. MAJOR stated that during the S. W. Monsoon the light buoys had to be removed owing to the force of the surf. He admitted that it would be better if permanent lights at the entrance to the channel could be maintained but he understood from the Port Officer that with the leading marks, the lights on which were always lit on notice being given him, it should be quite possible for ships to enter and leave Kilindini Harbour at night and to do so within certain limitation with safety.

VOTE 11 (£16,724).—LEGAL DEPARTMENTS (JUDICIAL).

THE HON. B. G. ALLEN wished to draw the attention of the Council to the desirability of provision being made to enable the appointment of a European clerk in the Magistrate's Office, in Nairobi. The amount of work going through that office was increasing, and the time of the Magistrate was taken up very often in doing clerical work of a nature that could not be entrusted to the class of Indian clerical assistance available.

THE HON. TREASURER pointed out that no suggestions on the matter had been received by him from the Legal Department.

THE PRESIDENT promised that the matter should be enquired into.

THE HON. B. G. ALLEN in dealing with the item of Registration of Documents considered that the whole system should be altered. He pointed out to Hon. Members that at present every small District Office throughout the Protectorate was an office for the Registration of Documents—whereas, in his opinion, at the most there should not be more than two central offices at which documents could be registered. The office in Nairobi could not cope with the work, and it was only fair to the public that some relief should be afforded. The average time taken in obtaining the registration of a document was from two to three months and in some cases as much as six. Another very serious drawback was the untrustworthy nature of information obtainable from the offices in outlying districts as to charges registered against land.

THE HON. ATTORNEY GENERAL, in replying, stated that it was the intention of the Government to alter the law where desirable in order that different methods could be introduced with regard to the methods of registration complained of by the Hon. Member. Registration by means of copying was to be abolished—and it was hoped that a new and improved scheme would be brought into vogue at an early date.

THE PRESIDENT assured the HON. B. G. ALLEN that the Government desired to simplify and centralise the system to as large an extent as was compatible with sound methods, and facilities of communication.

VOTE 12 (£49, 209).—POLICE.

THE HON. P. G. DICKINSON referred to the inadequacy of white police in the Protectorate. There were a number of small Police posts dotted about the country consisting of askaris—these men, where not in charge of a white constable, were useless. He advocated a Police Force being established somewhat on the lines of the Natal Police in South Africa—and would like to see the number of native police reduced by 50% and some 80 white police engaged in their place. As a rough estimate he considered that the expenditure would be increased by some £10,000 but the increased efficiency gained thereby would more than compensate for the cost.

THE PRESIDENT desired to know whether the Hon. Member considered that the utility of the native police in the Protectorate would be enhanced by the appointment of a larger number of white police in out-stations.

THE HON. P. G. DICKINSON replied in the affirmative.

VOTE 14 (27,483).—MEDICAL DEPARTMENT (SANITATION).

THE HON. B. G. ALLEN advocated provision being allowed for in this vote for the appointment of one or more Female Sanitary Inspectors. As Hon. Members would readily understand this would do away with a good deal of friction that had occurred in Mombasa where inspection had been carried out by the present staff of the Medical Department of such quarters as were occupied by secluded Indian women.

THE HON. CHIEF SECRETARY pointed out that provision had been made for one Female Inspector, and it was anticipated that she would be able to spend part of her time in visiting the different places—such as Mombasa, Nairobi and Kisumu, etc.

THE HON. W. A. M. SIM in desiring further information with regard to the item of £750 in connection with the Sanitary Station at Zanzibar, pointed out that a large amount of money had been spent on this Station since its establishment and about £18,000 had been paid by this Government. He wished to know how much longer these payments were to be made.

THE CHIEF SECRETARY stated that as soon as the Protectorate had its own Sanitary Station at the Coast the expenditure referred to would cease. The Government had to make use of the Station at Zanzibar—and formerly had to pay an annual charge of £1,500—this had recently been reduced to £750.

VOTE 15 (£17,253).—HOSPITALS AND DISPENSARIES.

THE HON. R. C. BAYLDON wished to draw attention to the serious dissatisfaction felt with regard to patients not being allowed to call in their own medical practitioner to operate. He considered that the regulations under which this restriction was imposed should be done away with.

THE HON. CHIEF SECRETARY pointed out that the question of the treatment of private patients was under the consideration of Government, and had been receiving attention from the time that representations had been made to them. The reason why nothing had been finally decided was the absence of the P. M. O., who had only recently returned.

THE PRESIDENT desired to inform the Hon. Member that the practice complained of was in accordance with methods in vogue in other parts of the Empire.

VOTE 16 (£8,186).—EDUCATION.

THE HON. P. G. DICKINSON enquired why the Head Master of the Machakos School should have a bigger salary than the Head Master of the School at Uasin Gishu—the one being a Native and the other a European establishment.

THE HON. TREASURER explained that the position of Head Master at the Machakos School required special qualifications in the way of languages—and also with regard to the technical nature of the training afforded. He might also state that the Officer holding the position had had a longer service in the Education Department.

VOTE 18 (£52,143).—MILITARY EXPENDITURE.

In reply to a question by the HON. R. C. BAYLDON, the HON. CHIEF SECRETARY explained that as the Special Constabulary for Jubaland and the Northern Frontier District came into being, the K. A. R. would to a great extent be relieved of keeping detachments stationed in the Districts referred to.

In view of the cutting down of the vote for ammunition the HON. P. G. DICKINSON enquired whether the Government kept a reserve supply of same.

THE HON. TREASURER pointed out that the reduction in the votes referred to were brought about on account of the establishment having been reduced and had nothing to do with the ammunition reserve.

THE HON. CHIEF SECRETARY stated that the Government kept a reserved supply.

VOTE 21 (£40,028).—POST OFFICE AND TELEGRAPHS.

THE HON. R. C. BAYLDON, with reference to the item "Deputy Postmaster General and Chief Telegraph Engineer £600, half payable by Uganda," enquired on what basis this matter had been arranged.

THE HON. CHIEF SECRETARY explained that with regard to Postal work the Protectorate bore all the expense, and received all the revenue. The expenses and receipts, however, in respect to the telegraphic administration were shared with Uganda. The former title of Superintendent of Telegraphs had been altered to Deputy Postmaster General and Chief Telegraph Engineer and had taken place in connection with the re-organization that had taken place last year.

THE HON. R. C. BAYLDON advocated that the present telegraphic charges should be reduced. He thought that if the charge were fixed at 75 cents for 10 words any loss in revenue would be more than made up by the increased use of the telegraph.

THE HON. CHIEF SECRETARY stated that a recommendation to that effect had already been sent to the Secretary of State, and that the Estimates had been based on such a reduction being allowed. Provision had also been made for increasing the staff to cope with the extra work.

COUNCIL adjourned until 9.30 a.m. on Tuesday, 26th November, 1912.

SECOND DAY

The Council assembled on the 26th November, 1912, at 9.30 a.m. THE HON. THE CHIEF SECRETARY (C. C. BOWRING, C.M.G.) presiding.

Present:—

THE HON. THE TREASURER (H. A. SMALLWOOD).
 THE HON. THE ATTORNEY GENERAL (R. M. COMBE).
 THE HON. F. W. MAJOR, I.S.O.
 THE HON. C. W. HOBLEY, C.M.G.
 THE HON. B. G. ALLEN.
 THE HON. P. G. DICKINSON.
 THE HON. R. C. BAYLDON.
 THE HON. W. A. M. SIM.

Absent:—

THE HON. THE ACTING GENERAL MANAGER OF THE UGANDA RAILWAY (C. T. SANDIFORD, C.B.).
 THE HON. THE DIRECTOR OF AGRICULTURE (A. C. MACDONALD).
 THE HON. DR. A. E. ATKINSON.

IN COMMITTEE.

THE HON. CHIEF SECRETARY stated that His EXCELLENCY had requested him to take the Chair.

VOTE 23 (£32,610).—AGRICULTURAL DEPARTMENT (VETERINARY DIVISION).

THE HON. B. G. ALLEN enquired whether the Government was satisfied that it could obtain the services of competent Veterinary Officers at the salaries indicated on the Estimates. He had heard rumours to the effect that some of the best men at present engaged were likely to leave, and if that was the case he would like to see the Estimates increased.

THE HON. CHIEF SECRETARY drew the attention of the Hon. Member to the various increases that had been provided in the items shown on the Estimates allowing for an incremental scale of salary, as also for certain additional emoluments in the form of increased horse allowances.

Before leaving the Agricultural Vote the HON. CHIEF SECRETARY desired to inform Hon. Members that the Government was in correspondence with the Secretary of State regarding the appointment of an Inspector of Coffee Plantations.

VOTE 27 (£26,138).—SURVEY DEPARTMENT.

Replying to a question put by the HON. R. C. BAYLDON as to whether the staff of the Survey Department was up to its full strength, the HON. CHIEF SECRETARY stated that there were two vacancies in the Cadastral Branch, *i.e.*, one Draughtsman and one District Surveyor, and that the necessary steps were being taken with regard to the filling up of the appointments.

VOTE 28 (£7,278).—LAND OFFICE.

THE HON. B. G. ALLEN stated that he wished to call the attention of the Government to the delays that occurred in the Land Office. It was a hardship to many settlers who had fulfilled the necessary conditions that they were unable to obtain their leases because the farms could not be inspected. A number had made arrangements with regard to the transfer of their holdings but were unable to take any steps in the matter until they had received the necessary documents from the Land Office. He considered that if the Land Officer could not arrange for inspection as soon as a farmer was entitled to receive his lease, it should be issued to him without inspection and he should not be kept waiting until his land had been visited and reported upon.

He also drew attention to the great delay that took place in granting consent to transfers and subletting of land both in town and country especially in cases where it was known that the consent was formal and could not be refused.

THE HON. CHIEF SECRETARY informed the Hon. Member that his representations would be considered, and that the attention of the Land Officer would be drawn to the same.

VOTE 29 (23,394).—PUBLIC WORKS DEPARTMENT.

Replying to the HON. P. G. DICKINSON, the HON. CHIEF SECRETARY stated that the item of £500—"Recruitment of Labour" was necessitated as the Government had decided not to recruit any more of its own labour by means of District Commissioners. Such labour as might be required would be obtained either through a private recruiter or by means of some special agent.

In response to a suggestion made by the HON. R. C. BAYLDON, he agreed that the matter under discussion might be modified subsequent to the report having been received from the Native Labour Commission.

THE HON. R. C. BAYLDON, in referring to the item of "Sea passages of Officers of the Public Works Department £1,451," trusted that the Government would endeavour to obtain some concessions from the Union Castle Co. on somewhat the same lines as had been obtained from that Company by the South African Government. With regard to maize, the South African farmer was only charged 10/- a ton freight from Cape Town to England, whereas this country had to pay 25/- per ton from Mombasa to London—the distance in both instances being practically identical.

THE HON. CHIEF SECRETARY pointed out that the South African Government had been enabled to obtain the various concessions referred to in consideration of the placing of a large mail contract. He was not prepared, however, to enter into the question at the moment, and suggested that the Hon. Member should send in his suggestions to the Government when they would be duly considered.

VOTE 30 (£29,630).—PUBLIC WORKS RECURRENT.

With regard to the item of £9,500 for the Maintenance and Repairs of Roads and Bridges, the HON. P. G. DICKINSON enquired whether it would not be possible for the item in this case to be increased, and referred to the practically impassable state of many of the roads in the Protectorate.

THE HON. CHIEF SECRETARY pointed out that the item referred to should be considered in connection with Item 54—£16,636 for New Roads and Bridges. He stated that the Government were well aware of the absolute inadequacy of the provision made, and would be willing to consider any suggestion whereby this vote might be increased.

VOTE 31 (£80,238).—PUBLIC WORKS EXTRAORDINARY.

Item 12. £8,835.—Buildings and Works in the Southern Masai Reserve: in replying to the question put by the HON. P. G. DICKINSON, the HON. CHIEF SECRETARY explained that the Buildings referred to consisted of houses and offices for the staff. The site for the station and the general details had yet to be gone into. The works were in respect of providing dams and other water-works in those parts of the territory now being occupied by the Masai which owing to scarcity of water could not be fully utilised for grazing purposes.

THE HON. P. G. DICKINSON considered it extraordinary that an amount of over £8,000 should be spent on a tribe that was practically useless to the Country, especially in view of the inability of the Government to provide more means for the upkeep and repair of the roads.

THE HON. CHIEF SECRETARY enquired whether the Hon. Member was aware of the circumstances leading to the movement of the Masai from their Reserve at Likipia to their present area. The move had meant that a portion of the tribe had been moved from an area surrounded by lands which had been alienated for European occupation. This move would assist in the control of the tribe who would thereby be concentrated in one large Reserve and would not be constantly crossing Europeans' farms to visit one another. Later on when the question of extending the taxation of Natives came up for consideration, the form of same in respect to the Masai would probably take the form of a cattle and sheep tax. The tribe owned some 350,000 head of cattle, and estimating the tax at Re. 1/- per head, this would bring in over £20,000 as their contribution to the revenue of the Country, apart from any tax on sheep.

THE HON. B. G. ALLEN advocated an effort should be made to induce the Masai to supply at least a part of the labour required in connection with the erecting of the dams and other works intended for their sole benefit.

THE HON. CHIEF SECRETARY promised to forward the suggestion of the Hon. Member to the Provincial Commissioner of the District in question.

ITEM 50 (£750).—TRAINING OF APPRENTICES.

In reply to the HON. R. C. BAYLON's request for some information on this item, the HON. C. W. HOBLEY explained that at the present time there were twenty to thirty apprentices being trained. Such apprentices were employed under the supervision of a European Superintendent and an Indian Foreman, and were employed on Public Works. It was intended that a certain number should work in the Railway shops,

THE HON. CHIEF SECRETARY promised that a statement would be provided showing in what manner the amount appearing in the Estimates was expended.

THE HON. R. C. BAYLON asked to be allowed to refer back to Item 54—£16,636 "New Roads and Bridges"—and enquired whether the Government would inform the Committee in what way the expenditure was to be allocated.

THE HON. CHIEF SECRETARY stated that the matter was still under the consideration of the Government. He read a list sent in by the Director of Public Works showing various works on which the Director thought the amount

should be utilised. From the information supplied, Hon. Members would realise that a good deal of pressing work would remain untouched—but in this case the Government had to cut their coat according to the cloth in their possession.

VOTE 33 (£11,406).—COAST LAND SETTLEMENT.

THE HON. B. G. ALLEN enquired whether Government thought that there would be any hope of obtaining Surveyors at the salaries indicated. He did not think men would be willing to come forward at such a low rate of pay and be stationed on the Coast.

THE HON. TREASURER stated that it had not been easy to obtain men from England but several had been obtained from South Africa, as also from Australia. He further stated that the Director of Surveys had had more or less a free hand with regard to the amounts that had been allocated for salaries.

THE HON. CHIEF SECRETARY stated that the posts were being gradually filled, the prospects held out for a young surveyor were good, he would be able to rise, providing he were competent, to the position of Senior Staff Surveyor.

THE HON. CHIEF SECRETARY enquired whether any Hon. Member desired to make any remarks with regard to the Revenue Estimates.

THE HON. R. C. BAYLDON referring to the estimated balance of £155,000 at the end of the present financial year, and to the possibility of a certain portion of the same being utilised in meeting other expenditure, desired to know what balance Government proposed to keep as a kind of standing balance.

THE HON. CHIEF SECRETARY replied that in accordance with the opinion of the Lords of the Treasury such balance should be between £20,000 and £30,000.

THE HON. R. C. BAYLDON wished to draw the attention of the Government to the desirability of improving the London Advertising Agency.

THE CHIEF SECRETARY promised that the matter would be gone into.

The Bill was left in Committee. Council resumed.

HIS EXCELLENCY THE GOVERNOR took the chair, the Hon. CHIEF SECRETARY resuming his own seat.

A BILL INTITULED AN ORDINANCE TO PREVENT THE
INTRODUCTION OF DISEASES INTO THE EAST
AFRICA PROTECTORATE.

THE HON. CHIEF SECRETARY, in pursuance of notice given, introduced and moved the first reading of a Bill intituled "An Ordinance to Prevent the Introduction of Diseases into the East Africa Protectorate."

He said that the Bill was based on legislation in force at Home, as also in the British Colonies and Tropical Dependencies.

It repealed the East Africa Plague and Cholera Ordinance of 1907. Under the provisions proposed, the Governor would be able to take such steps as he saw fit for the safeguarding of the spread of infecticus diseases. Provision was also made for the establishment of their own Quarantine Station, but he pointed out that until that Station was ready the Government would continue using the Sanitary Station at Zanzibar.

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

THE HON. CHIEF SECRETARY moved that so much of the Standing Orders be suspended as would enable the Bill to pass through its several stages.

THE HON. ATTORNEY GENERAL seconded and the motion was carried.

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

THE HON. ATTORNEY GENERAL seconded, and the Bill was read a second time.

THE HON. CHIEF SECRETARY moved that the Council go into Committee to consider this Bill.

THE HON. ATTORNEY GENERAL seconded and the motion was put and carried.

The Council resolved itself into a Committee of the whole Council, His EXCELLENCY THE GOVERNOR presiding.

IN COMMITTEE.

CLAUSE 2. PARA. 1.

THE HON. B. G. ALLEN considered that before any Regulations were promulgated, as provided for under this clause they should be submitted to the Council before becoming law. He considered that it practically took all power of legislation on this matter out of the hands of the Council.

THE HON. CHIEF SECRETARY pointed out that to accept the suggestion put forward by the Hon. Member would create serious delay—it was the object of the Bill to obviate any loss of time.

THE PRESIDENT pointed out that the procedure complained of was in accordance with that which obtains in other Colonies. He assured the Hon. Member that every publicity would be given whenever such regulations were promulgated, so that both the Press and the Public would have the opportunity of making any representations they saw fit on the matter.

THE HON. B. G. ALLEN did not wish to press the point as he was not supported.

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

The Council resumed its sitting.

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

THE HON. ATTORNEY GENERAL seconded.

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

A BILL INTITULED AN ORDINANCE TO ENABLE THE
GOVERNOR TO ISSUE COMMISSIONS OF INQUIRY
WITH SPECIAL POWERS.

THE HON. CHIEF SECRETARY in pursuance of notice given, introduced and moved the first reading of a Bill intituled "An Ordinance to enable the Governor to issue Commissions of Inquiry with Special Powers."

He stated that the Bill was based on similar legislation to that in vogue at Home and in the Colonies. Its object was to enable the Governor to appoint Commissions and to give them special powers. It also provided for the summoning of witnesses, and affording the usual protection to such persons as might have to appear to give evidence.

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

THE HON. CHIEF SECRETARY moved that so much of the Standing Orders be suspended as would enable the Bill to pass through its several stages.

THE HON. ATTORNEY GENERAL seconded, and the motion was carried.

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

THE HON. ATTORNEY GENERAL seconded, and the Bill was read a second time.

THE HON. CHIEF SECRETARY moved that the Council go into Committee to consider this Bill.

THE HON. ATTORNEY GENERAL seconded, and the motion was put and carried.

The Council resolved itself into a Committee of the whole Council, His EXCELLENCY THE GOVERNOR presiding.

IN COMMITTEE.

CLAUSE 9.

THE HON. CHIEF SECRETARY moved that the word Commissioner at the commencement of this clause should be altered to "Commissioners."

CLAUSE 17.

THE HON. B. G. ALLEN moved that this clause should read "No proceedings shall be commenced for any penalty under this Ordinance except by the direction of the Attorney General" and that the remainder of the clause should be deleted. He considered that any proceedings of the nature referred to should only be taken on the direction of the Hon. Attorney General, and should not be left to the Commissioners who might not be acquainted with the usual practice in such matters, and who might give such directions in a moment of heat.

THE HON. CHIEF SECRETARY stated that he was quite prepared to accept the suggestion of the Hon. Member, and the proposed amendment would be made.

CLAUSE 5.

THE HON. TREASURER enquired whether it would not be advisable for a form of oath to be added to the Schedule in connection with this clause—the wording of the clause to be altered accordingly.

THE HON. CHIEF SECRETARY moved that the Committee stand adjourned until the next day to enable the proposed amendments being prepared.

THE HON. ATTORNEY GENERAL seconded, and the motion was carried.

The Council resumed its sitting.

IN COUNCIL.

A BILL INTITULED AN ORDINANCE TO MAKE FURTHER AND BETTER PROVISION FOR THE PREVENTION OF THE THEFT OF STOCK AND PRODUCE.

THE HON. CHIEF SECRETARY, in pursuance of notice given, introduced and moved the first reading of a Bill intituled "An Ordinance to make Further and Better Provision for the Prevention of the Theft of Stock and Produce." He said it was hoped that the penalties imposed under the provisions of this Bill would act as a deterrent with regard to stock lifting and theft of produce. The matter had been gone into by the Government on the representations made by a local organization, *viz.*, the Convention of Associations. He pointed out that since the Bill had been published it had attracted a good deal of attention, and from the suggestions that had been made it would be necessary to modify certain of the provisions. For that reason he would have to ask the President to refer the Bill to a Special Committee.

With reference to the clause providing for the imposing of a fine ten times the value of the stock or produce stolen, he intended bringing forward yet another provision on this subject—*i.e.*, where the value was under Rs. 10/-, the minimum fine to be inflicted would be Rs. 100/-.

In the case where a native was unable to pay the fine it was intended to recover the same from the offender's family, sub-tribe or tribe—in this connection, however, provision had not been made to meet the case of a de-tribalised native, or a native who had been away for a number of years, and who was clearly outside of the tribal jurisdiction, and some safe-guards would have to be provided.

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

THE HON. CHIEF SECRETARY moved that a Special Committee consisting of THE ATTORNEY GENERAL, THE HON. C. W. HOBLEY C.M.G., THE HON. P. G. DICKINSON, THE HON. B. G. ALLEN, and himself be appointed to consider the provisions of the Bill.

THE HON. ATTORNEY GENERAL seconded, and the motion was put and carried. THE HON. CHIEF SECRETARY was appointed Chairman.

THE HON. CHIEF SECRETARY gave notice that he would move the second reading, as also the suspension of the Standing Orders, at a later stage to enable the Bill being passed during the present Session.

A BILL INTITULED AN ORDINANCE TO MAKE PROVISION FOR PROCEDURE IN CRIMINAL COURTS.

THE HON. ATTORNEY GENERAL, in pursuance of notice given, introduced and moved the first reading of a Bill intituled "An Ordinance to make provision for Procedure in Criminal Courts."

He pointed out that the provisions of this Bill were as Hon. Members knew based to great extent on the Indian Code. They had to bear in mind that criminal jurisdiction in this country was exercised by some 80 officers who had, generally speaking, very little experience in legal matters, and for that reason the Government considered that the code referred to provided suitable guidance relating to the procedure of trial and investigation of offences for the conditions prevailing in the Protectorate. He stated that the Council would have the opportunity at a later stage of considering each of the 450 clauses in detail.

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

THE HON. ATTORNEY GENERAL moved that a Special Committee to consider the Provisions of the Bill should be appointed consisting of himself as Chairman, THE HON. CHIEF SECRETARY, THE HON. B. G. ALLEN, and THE HON. R. C. BAYLDON. The report of the Committee to be submitted to the Council at its next session, when he would move the second reading.

THE HON. CHIEF SECRETARY seconded, and the motion was put and carried.

A BILL INTITULED AN ORDINANCE TO CONFER POWERS
ON THE GOVERNMENT TO LAY SEWERS, DRAINS
AND WATER PIPES IN PRIVATE LANDS.

THE CLERK OF THE COUNCIL read the certificate of emergency :

“Whereas no powers are conferred upon the Government by any law in force in the Protectorate to carry sewers, drains and water pipes through lands other than Crown Lands without the leave and licence of the owner of the land, and whereas such powers are immediately required to enable the Government to carry on and complete the works now being undertaken by the Government for and in connection with the supply of water to the Township of Mombasa and to the Ports of Kilindini and Mombasa, I, HENRY CONWAY BELFIELD, C.M.G., do hereby certify that, by reason of the premises, and in order that there should be no undue delay in carrying out works which are necessary for the health of Mombasa Township and the said Ports, a sufficient emergency exists, and in my opinion it is necessary and desirable in the public interest, that the Standing Rules and Orders of this HON. COUNCIL be suspended to permit of the introduction and passing by the HON. COUNCIL of a Bill for an Ordinance to confer powers on the Government to lay Sewers, Drains and Water Pipes in Private Lands.

Nairobi,
23rd November, 1912.

H. C. BELFIELD,
Governor.

THE HON. ATTORNEY GENERAL, under the power granted by the Certificate of Emergency that had been read, moved that so much of the Standing Orders be suspended as would enable the Bill intituled “An Ordinance to confer powers on the Government to lay sewers, drains and water pipes in Private Lands” to be passed through its various stages.

THE HON. CHIEF SECRETARY seconded.

The question was put and carried.

THE HON. ATTORNEY GENERAL, in pursuance of notice given, introduced and moved the first reading of a Bill intituled “An Ordinance to Confer Powers on the Government to Lay Sewers, Drains and Water Pipes in Private Lands.” He stated that the reason for introducing this Bill had to some extent been explained in the Certificate of Emergency. Under the Crown Lands Ordinance the right was reserved to the Government for the laying down of drains and water pipes, but the same right did not apply to the lands which the Government desired to enter upon in connection with the works that were being undertaken for the supplying of water to Mombasa Island. He pointed out to Hon. Members the difficulties of ascertaining the ownership of certain lands with reference to obtaining the permission of the owner, and it was necessary therefore that Government should have the power that was now being asked for. Local bodies in England were granted similar powers to those the Government was desirous of obtaining in the Protectorate.

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

THE HON. ATTORNEY GENERAL moved that the Bill be read a second time.

THE HON. CHIEF SECRETARY seconded.

Before the motion was put the HON. R. C. BAYLDON referred to the difficulty of accepting the Bill without knowing a little more about it.

THE HON. B. G. ALLEN recognised the necessity for the Government to obtain “Way-leaves” in connection with the work they were undertaking in Mombasa, but considered that the powers conveyed by the Ordinance enabling

the Government to exercise rights over private lands without compensation were very broad, and might give rise to great hardship in some cases. He would like the HON. ATTORNEY GENERAL to provide some safe-guards when the Bill was in the Committee stage.

THE HON. ATTORNEY GENERAL pointed out to the Hon. Member that the Government had the power of doing in Nairobi what it desired to do at Mombasa, and suggested that the Hon. Member should bring forward any suggestions when the Bill was in Committee.

The question that the Bill be read a second time was put and carried.

THE HON. ATTORNEY GENERAL moved that the Council go into Committee to consider the provisions of this Bill.

THE HON. CHIEF SECRETARY seconded.

The question was put and carried, and the Council resolved itself into a Committee of the whole Council, HIS EXCELLENCY THE GOVERNOR presiding.

IN COMMITTEE.

CLAUSE 2. SECTION 3.

THE HON. R. C. BAYLDON thought that appeal should be had to the Court rather than to the District Commissioner.

THE PRESIDENT replied that this would lead to undue prolongation of the proceedings. The District Commissioner should have better knowledge of the circumstances of the case, and he doubted whether any advantage would accrue from reference to Court.

CLAUSE 2. SECTION 1.

THE HON. P. G. DICKINSON considered that some other word should be substituted for " Dwelling-House "—it was quite possible that a Warehouse might be materially damaged in the event of its foundations having to be interfered with.

THE HON. ATTORNEY GENERAL stated that he would be willing to insert the word " Building " in the place of " Dwelling-House."

In order to allow of further amendments being made, the HON. ATTORNEY GENERAL moved that a Special Committee be appointed to consider the same. Such Committee to consist of himself as Chairman, THE HON. R. C. BAYLDON, THE HON. B. G. ALLEN, THE HON. W. A. M. SIM, and THE HON. TREASURER. THE HON. CHIEF SECRETARY seconded the motion, which was put and carried.

THE HON. CHIEF SECRETARY moved the adjournment of the Committee until the next day.

THE HON. ATTORNEY GENERAL seconded, and the motion was put and carried.

The Council resumed its sitting.

IN COUNCIL.

A BILL INTITULED AN ORDINANCE TO MAKE FURTHER AND BETTER PROVISION FOR THE ORGANIZATION OF THE PRISON STAFF AND THE MANAGEMENT OF PRISONS.

THE HON. ATTORNEY GENERAL in recommitting a Bill intituled " An Ordinance to make Further and Better Provision for the Organization of the Prisons Staff and the Management of Prisons " stated that it had been found necessary to make various alterations, and he therefore desired that the same should be considered and adopted by the Council. He pointed out that the Bill as drafted had provided for the administration of prisons throughout the Protectorate to be vested in a Board.

It had now been decided to appoint a Commissioner of Prisons at as early a date as possible, who was to take over the duties of the Prison Board referred to and it was consequently advisable for the Bill to be amended accordingly.

It was desirable that provision should be made with regard to the removal of insane prisoners into a lunatic asylum. Hon. Members would also be asked to consider certain amendments more particularly to prescribe the duties of Visiting Justices. He then moved that the Council go into Committee to consider the proposed amendments.

THE HON. CHIEF SECRETARY seconded, and the motion was put and carried.

THE COUNCIL resolved itself into a Committee of the whole Council, HIS EXCELLENCY THE GOVERNOR presiding.

IN COMMITTEE.

The following Amendments were approved of :

THE EAST AFRICA PRISONS ORDINANCE, 1912.

Proposed Amendments.

- Section 2 Delete the interpretation of " Board " and substitute the following :—
" Commissioner means the Commissioner of Prisons and includes an Assistant Commissioner of Prisons."
- Section 5. Delete " Board " and substitute " Commissioner " throughout.
- Section 8. Delete " The " also " unless otherwise ordered."
- Section 9. Delete and substitute :
9. The Governor may from time to time appoint a Commissioner of Prisons with such Assistant Commissioners as he may deem fit.
The administration of Prisons throughout the Protectorate shall be vested in the Commissioner, subject to the directions of the Governor.
Any Assistant Commissioner may, subject to the directions of the Commissioner, perform any of the duties and exercise any of the powers of the Commissioner.
- Section 10. Delete " the directions of the Board " and substitute " such directions of the Commissioner as may be approved by the Governor."
- Sections 13 & 14. Delete " Board " and substitute " Commissioner."
- Head Note before Section 20. Substitute " Commissioner " for " Board."
- Section 21. Substitute " Commissioner " for " Board."
- Section 22. Delete " Subject to the directions of the Board."*
Delete " a " before " control."
Add at end of Section :
" Subject to such directions of the Commissioner as may be approved by the Governor."
- Section 32. In line 3 delete " for a " and substitute " at."
- Section 34. In line 2 substitute " at least " before " twice a week."
- Sections 38, 43, 49, 52 and 54. Substitute " Commissioner " for " Board " throughout.
- Head Note before Section 56. To read " ADMISSION, REMOVAL AND DISCHARGE OF PRISONERS."
- Section 56. Delete " In the case of a convicted prisoner."
- Section 59 to become Section 59 (1)
- Section 60 to become Sub-section (2) of Section 59.
- Insert the following Section :—
60. If any prisoner shall become or be found to be of unsound mind in any prison, the Deputy Superintendent shall forthwith report to the Medical Officer and the Medical Officer shall visit and enquire into the state of mind of such prisoner and if the Medical Officer shall sign a certificate with respect to such prisoner according to the Form in the Schedule, and the Deputy Superintendent shall forward a copy of such certificate to the Chief Secretary, it shall be lawful for the Chief Secretary, by order in writing under his hand directed to the Deputy Superintendent of such prison, to order that such prisoner shall be forthwith removed to any fit place for the custody and treatment of lunatics, which may from time to time be appointed by the Governor for that purpose either within any prison or elsewhere. Any person so removed shall remain in such place until it shall be certified by a Medical Officer in the service of the Government that such prisoner hath become of sound mind, whereupon he shall by order of the Chief Secretary be re-delivered into the custody of the Deputy Superintendent of such prison if still liable to be confined there, and if not so liable released.
- Removal of Lunatic prisoners. Substitute " Commissioner " for " Board."
- Sections 82, 88 & 90. Delete paragraph (c) and substitute the following :—
(c) The Governor may, in the case of any prison, and shall, in the case of every prison of the first class, appoint such other persons as he may deem expedient to be Visiting Justices for the prison to which they are appointed.
- Section 100. (d) Every Visiting Justice appointed by the Governor shall cease to hold office on the 31st day of December in the year in which he is appointed or re-appointed. Provided that any retiring Visiting Justice may be re-appointed by the Governor.

(e) In the case of a prison of the first class the Governor shall in every year appoint one of the appointed Visiting Justices to be the Chairman of such Visiting Justices, whose duty it shall be to prepare a roster of such Visiting Justices and to arrange that not less than two appointed Visiting Justices shall visit the prison once at least in every week.

It shall be the duty of every Visiting Justice, unless prevented by sickness or other sufficient reason, to visit the prison once at least in every week allotted to him by such roster, and when practicable two Visiting Justices shall together visit the prison.

Section 105.
Section 117.

Delete "Board" and substitute "Governor."

After (f) insert a new paragraph as follows:—

(g) "No sentence of corporal punishment shall be carried out in instalments."

Section 119.

In sub-section (2) delete "whipping" and substitute "corporal punishment."

Section 122.

In sub-section (2), line 4, delete "are" before "enforced" and substitute "is."

In sub-section (3), line 1, substitute "when" for "where."

In line 2 insert "enforcement of the later" before "order."

Delete "later in date" and "as to their enforcement."

Section 123.

After para. (c) of sub-section (3) insert:—

"(4) Such other purpose as may from time to time be approved by the Governor."

Add Schedule:

Schedule.

Medical Certificate

I, the undersigned....., hereby certify that I, on the.....day of.....191 , at the Gaol at.....in the East Africa Protectorate, personally examined..... a prisoner in the said Gaol, and that the said.....is a (a) and a proper person to be taken charge of and detained under care and treatment, and that I have formed this opinion on the following facts:—

(a) Lunatic or an idiot or a person of unsound mind.

(b) Here state the facts.

1. Facts indicating insanity observed by myself, (b)
2. Other facts (if any) indicating insanity communicated to me by others (c)

(c) Here state the information and from whom.

Dated this.....day of.....191 .

.....
Medical Officer.

SECTION 60.

THE HON. C. W. HOBLEY enquired whether similar provision could not be made in the case of Lepers.

THE HON. ATTORNEY GENERAL stated that a Bill had been drafted for an Ordinance to make provision for the appointment of Leper Settlements and the matter of the custody of Leper Prisoners had been dealt with in the Bill.

THE HON. F. W. MAJOR enquired whether it would not be advisable for the Certificate certifying as to a prisoner being insane to be endorsed by the Principal Medical Officer.

THE PRESIDENT pointed out that the safeguards provided for in the Bill should prove sufficient.

THE HON. ATTORNEY GENERAL moved that the Bill as amended be reported to Council.

THE HON. CHIEF SECRETARY seconded—the motion was put and carried.

Council adjourned until 2-30 p.m. on Wednesday, 27th November, 1912.

The Council assembled on the 27th November, 1912, at 2-30 p.m. HIS EXCELLENCY THE GOVERNOR (HENRY CONWAY BELFIELD, C.M.G.) presiding.

Present:

THE HON. THE CHIEF SECRETARY (C. C. BOWRING C.M.G.)

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

THE HON. THE ATTORNEY GENERAL (R. M. COMBE.)

THE HON. F. W. MAJOR, I.S.O.

THE HON. C. W. HOBLEY, C.M.G.

THE HON. P. G. DICKINSON.

THE HON. R. C. BAYLDON

THE HON. W. A. M. SIM.

Absent:

THE HON. THE ACTING GENERAL MANAGER OF THE UGANDA RAILWAY (C. T. SANDIFORD, C.B.)

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

THE HON. DR. A. E. ATKINSON.

THE HON. B. G. ALLEN.

THE HON. CHIEF SECRETARY read the report of the Special Committee appointed to consider a Bill intituled an Ordinance to make Further and Better Provision for the Prevention of the Theft of Stock and Produce, as follows:—

REPORT OF SPECIAL COMMITTEE OF THE LEGISLATIVE COUNCIL
ON A BILL INTITULED AN ORDINANCE TO MAKE FURTHER
AND BETTER PROVISION FOR THE PREVENTION OF THE
THEFT OF STOCK AND PRODUCE.

The Committee consisted of the CHIEF SECRETARY (Chairman), the ATTORNEY GENERAL, HON. C. W. HOBLEY, C.M.G., HON. P. G. DICKINSON and HON. B. G. ALLEN.

2. After the provisions of the Bill had been carefully considered it was unanimously agreed that amendments were desirable in more than one direction.

3. The Committee consider that, as the object of the proposed enactment is primarily to prevent the theft of stock, ostrich feathers and produce, the special punishments provided therein should be confined to such offences and should not be made applicable in the case of theft of other property.

4. It is therefore recommended that the definition of the expressions "produce" and "stock" be limited so as to include in the former agricultural produce and ostrich feathers only and to exclude, in the latter, carcasses or portions of carcasses.

5. With regard to Section 4 which provides that a fine of 10 times the value of the stolen property must be inflicted in the event of a conviction being secured, the Committee consider that a limit should be fixed to the value of any one animal stolen for the purposes of the Ordinance. They recommend that such limit of value be fixed at Rs. 300/-.

6. The reasons which prompt the Committee to make this recommendation are as follows:—

The fine of 10 times the value of stolen property is based on the native custom of demanding the replacement of stolen stock by a fixed number of similar stock but for the purposes of this Ordinance it is necessary to fix some outside value within reasonable limits in order that the penalty of 10 times such value may not fall too heavily on the family, sub-tribe or tribe of the offender in cases where the offender is unable to pay the fine himself. The Committee agree that natives would not understand how any single animal could be worth 15 or 20 times more than another animal of the same species and would regard

a fine based on such value as extortion.—The effect of the enforcement of such a fine might lead to the most serious dislocation of local administration and would in the opinion of the Committee have a grave effect on the labour supply, since the Chiefs and Elders would not care to take the risk of their young men being convicted of theft under the Ordinance while away from their direct control and would consequently discourage them from leaving their Reserves for work.

7. The Committee have carefully considered the proposal of the imposition of a minimum monetary fine in cases where the value of the stolen stock does not amount to Rs. 10/- but do not recommend its adoption. They consider that such a provision would be antagonistic to the principles of replacement of stolen stock to which allusion has already been made.

8. The Committee consider that it is necessary to include in the Ordinance some provision which will safeguard the interests of the families and tribes of natives who are obviously not subject to family or tribal control such as a native who may have severed all connection with his tribe for several years, a Kavirondo working on Magadi Railway, or a Kikuyu who may be working on the Coast. They therefore recommend that the provisions for carrying the incidence of the fine beyond the offender himself shall be subject to the acquiescence of the Provincial Commissioner in whose jurisdiction the offender's tribe is situate, such Provincial Commissioner being in the opinion of the Committee the individual best able to judge of the relations between the offender and his family.

9. Finally the Committee recommend the deletion of Section 8 of the Bill. They consider that such provision whereby the onus of proof of innocence rests with the accused is contrary to the principles of British law and justice. They are apprehensive that the retention of this clause might lead to grave abuse and, by restricting the free movement of natives, seriously affect the labour supply. They recommend that this matter be dealt with when a fencing law is enacted.

Nairobi,

27th November, 1912.

C. C. BOWRING,

Chairman.

THE HON. CHIEF SECRETARY stated that arising out of this report there were a number of amendments which would be dealt with by the Council when in Committee.

THE HON. ATTORNEY GENERAL read the report of the Special Committee appointed to report on the provisions of a Bill intituled an Ordinance to confer powers on the Government to lay Sewers, Drains and Water Pipes on Private Lands, as follows :

REPORT OF THE SPECIAL COMMITTEE OF THE LEGISLATIVE
COUNCIL APPOINTED TO REPORT TO THE COUNCIL ON THE
PROVISIONS OF A BILL INTITULED AN ORDINANCE
TO CONFER POWERS ON THE GOVERNMENT TO
LAY SEWERS, DRAINS AND WATER PIPES
ON PRIVATE LANDS.

The Committee recommends that provisions should be made in the Bill to prescribe that no work authorised by the proposed Ordinance shall be commenced so as to affect private lands unless and until public notice of the proposed works shall have been given and the owners of private lands shall have been given the opportunity to lay before His Excellency the Governor their objections, if any, to the proposed works.

The Committee considers that, provided an opportunity is given to persons interested to place before His Excellency any objections they may hold to the proposed works, or any suggestions for any alterations in the proposed line of the intended sewers, drains or pipes, and that the works are not carried out until after His Excellency has considered such objections and suggestions, it is unnecessary and it would be inadvisable to alter the provisions of the Bill in so far as they relate to the payment of compensation for damage done in the execution of the authorised works.

Nairobi.

27th November, 1912.

R. M. COMBE,

Chairman.

THE HON. ATTORNEY GENERAL stated that he would move the necessary amendments when the Bill was in the Committee stage.

A BILL INTITULED AN ORDINANCE TO ENABLE THE GOVERNOR TO ISSUE COMMISSIONS OF INQUIRY WITH SPECIAL POWERS.

THE HON. CHIEF SECRETARY moved that the Council go into Committee in order that the discussion on the Bill intituled "An Ordinance to enable the Governor to issue Commissions of Inquiry with Special Powers" might be continued.

THE HON. ATTORNEY GENERAL seconded, and the motion was put and carried.

The Council resolved itself into a Committee of the whole Council, His EXCELLENCY THE GOVERNOR presiding.

IN COMMITTEE.

CLAUSE 5.

THE HON. ATTORNEY GENERAL moved that this clause should read as follows:

"It shall be the duty of each Commissioner appointed under this Ordinance to make and subscribe an oath in the form in the Schedule hereto, which oath may be taken before the Governor, or before such person as the Governor may appoint and shall be deposited by the Commissioner with the Chief Secretary."

THE HON. CHIEF SECRETARY seconded, and the motion was put and carried.

THE HON. ATTORNEY GENERAL moved the adoption of the Form of Oath referred to, as follows:—

FORM OF OATH TO BE TAKEN BY A COMMISSIONER.

I, _____, having been appointed under a Commission dated the _____ day of _____ 191_____ issued by the Governor to be a Commissioner to enquire into the matters specified in the said Commission, do swear that I will faithfully, fully, impartially and to the best of my ability, discharge the trust, and perform the duties devolving upon me by virtue of the said Commission,

SO HELP ME GOD.

.....
Commissioner.

THE HON. CHIEF SECRETARY seconded, and the motion was put and carried.

THE HON. CHIEF SECRETARY moved that the Bill as amended be reported to Council.

THE HON. ATTORNEY GENERAL seconded.

The Council resumed its sitting.

IN COUNCIL.

THE HON. CHIEF SECRETARY moved that the Bill intituled "An Ordinance to enable the Governor to issue Commissions of Inquiry with Special Powers" be read a third time.

THE HON. ATTORNEY GENERAL seconded the motion which was put and carried, and the Bill was read a third time and passed.

A BILL INTITULED AN ORDINANCE TO CONFER POWERS ON THE GOVERNMENT TO LAY SEWERS, DRAINS AND WATER PIPES IN PRIVATE LANDS.

THE HON. ATTORNEY GENERAL moved that the Council go into Committee to consider the recommendation of the Special Committee on the Bill intituled "An Ordinance to confer Powers on the Government to lay Sewers, Drains and Water Pipes in Private Lands".

THE HON. CHIEF SECRETARY seconded, and the motion was put and carried.

The Council resolved itself into a Committee of the whole Council, His EXCELLENCY THE GOVERNOR presiding.

IN COMMITTEE.

CLAUSE 2, SECTION 1.

THE HON. ATTORNEY GENERAL moved the deletion of the word "dwelling-house" and the substitution of the words "existing buildings."

THE HON. CHIEF SECRETARY seconded, and the motion was put and carried.

The following amendments moved by the HON. ATTORNEY GENERAL, duly seconded by the HON. CHIEF SECRETARY, were adopted.

Amendments.

Delete "dwelling-house" and substitute "existing building."

Delete and substitute:—

- (2) The Government shall, one month at least before carrying any sewer, drain or water pipe into through over or under any private land without the consent of the owner of such land, give notice of the intended work either by advertisement in one or more of the local newspapers circulated within the District in which the work is to be made, or in such other manner as the Governor may in any case direct.

Such notice shall describe the nature of the intended work and shall name a place where the plan of the intended work is open for inspection at all reasonable hours; and a copy of such notice shall either be served on every person resident in the Protectorate, whose place of residence is known, and who is known or believed to be the owner of any private land through over or under which it is intended that any sewer drain or water pipe shall be carried, or shall be posted in a conspicuous position on such land.

- (3) If any owner, lessee, or occupier of any private land through over or under which it is intended that any sewer, drain or water pipe shall be carried, objects to the intended work and serves notice in writing of such objection at the office of the District Commissioner of the District in which such land is situate at any time within the said month, the intended work, in so far as it affects the land of the person serving such notice of objection, shall not be commenced without the sanction of the Governor.

- (4) The Governor may appoint such person or persons as he may think fit to make enquiry on the spot into the propriety of the intended work, and into the objections thereto, and to report to the Governor on the matters with respect to which such enquiry was directed, and on receiving the report of such person or persons may make an order disallowing or allowing with such modifications (if any) as he may deem necessary, the intended work.

Becomes Section 2.

In the first line insert before "pay" the words "make good all damage done and shall."

In the third line delete "Section" and substitute "Ordinance."

Becomes Section 4.

In line 3 after the words "the purpose of" insert "surveying setting out, and marking the line of any intended sewer, drain, or water pipe or for the purpose of."

Becomes Section 5.

Add an additional Section 6 as follows:—

6. In this Ordinance the term "private land" shall not include any land sold or leased under the Crown Lands Ordinance, 1902, or under any Ordinance which may hereafter be substituted therefor.

Section 2 (1)

Section 2 (2)

Section 2 (3)

Section 3

Section 4

Interpretation.

CLAUSE 4.

THE HON. ATTORNEY GENERAL accepted the suggestion of THE PRESIDENT that the words "pulled down" appearing in clause 4, be deleted, and the word "demolished" be substituted.

THE HON. ATTORNEY GENERAL moved that the Bill be reported to Council.

THE HON. CHIEF SECRETARY seconded, and the question was put and carried.

The Council resumed its sitting.

IN COUNCIL.

THE HON. ATTORNEY GENERAL reported the Bill, as amended, to Council.

THE HON. ATTORNEY GENERAL moved that the Bill intituled "An Ordinance to confer Powers on the Government to lay Sewers, Drains and Water Pipes in Private Lands" be read a third time.

THE HON. CHIEF SECRETARY seconded, and the motion was put and carried, and the Bill was read a third time and passed.

A BILL INTITULED AN ORDINANCE TO MAKE FURTHER
AND BETTER PROVISION FOR THE PREVENTION OF
THE THEFT OF STOCK AND PRODUCE.

THE HON. CHIEF SECRETARY moved that so much of the Standing Orders be suspended as would enable the Bill intituled "An Ordinance to make Further and Better Provision for the Prevention of the Theft of Stock and Produce" to pass through its several stages.

THE HON. ATTORNEY GENERAL seconded.

Before the question was put, the HON. R. C. BAYLBON asked to be allowed to make a few remarks. He had hoped to be able to thank the Government whole-heartedly for having brought in the measure, but now could not help regretting that the Special Committee should desire so many alterations to be made. The Bill as it stood would have met the requirements of the stock-owners, but as amended he doubted whether it would do so.

He was aware that there had been cases of Natives being found in possession of slaughtered meat where the charge of theft may not have been proved, but he considered that the provision should not be done away with as recommended by the Committee.

With regard to the proposal that the circumstances should be enquired into by a local Provincial Commissioner before warrant was issued in the case of a Native being unable to pay the fine imposed, he considered this a fair proposal, but no provision was made as to what should happen where the endorsement of the warrant was refused by the Commissioner. He was in favour of the reasons of the Provincial Commissioner's refusal being published—the sentence was public property, and he thought its revocation should receive similar publicity.

In respect to the deletion of Clause 8, he stated that he would not be able to vote for the same without more explanation. Regulations were in force, he believed, that made it incumbent for a Native travelling from one part of the country to another to be provided with a pass. Under those circumstances he did not see that it would be an injustice for proceedings to be taken against a Native who might be caught in a boma, or wandering through a farm who was not provided with such a permit. In the event of any cases of hardship occurring, His Excellency could always exercise his prerogative. In his opinion it would be better for the Bill to be made as strong as possible, and if necessary it could be modified later. It was necessary for something drastic to be done to put a stop to the many cases of stock thieving.

THE HON. CHIEF SECRETARY pointed out to the Hon. Member that under the provisions of the Bill as amended, if a Native were found with some meat in his possession, and sufficient proof was forthcoming that it had been a portion of an animal stolen by the Native, the fine of ten times the value of the animal would be imposed. As the Ordinance stood it meant that if a Native in Nairobi stole a ham or a leg of mutton from a butcher's shop he came under the penalty provided, which the Special Committee felt was not the intention of the Government, nor of the Organization who had asked for this legislation.

He also desired to draw the attention of the Hon. Member that the Organization in question in forwarding their Resolution to the Government had made no mention at all as to the thieving of produce, nor of trespassing within

fenced areas. The Government, however, in considering the Resolution endeavoured to meet the wishes of others interested and had considered whether it might not be possible to go further and had therefore included various measures in the Draft Bill.

Since the Bill had been published the Government had received a number of representations on the subject, and he had to confess that in drafting the Bill the Government had not taken into account the variety of interests affected. Stock owners were possibly in favour of the clause providing for the punishment of Natives found in fenced-in enclosures—whereas others interested in labour considered that it would be a hardship and deterrent on such Natives as might be seeking work. As the Bill stood, a Native opening a gate and walking into a farm might be charged by the owner, and the onus of proving himself not guilty of intent to steal would rest on the Native. This point had been brought forward by the HON. B. C. ALLEN in Committee as incompatible with the British idea of law and justice.

It had also been found necessary to impose some safeguards in the case where a de-tribalised Native was being dealt with. As referred to in the Report it was impossible for a Native Chief in the Kavirondo country to exercise control over a Native working, say on the Magadi Railway, or of a Kikuyu family head over a Native looking for a work at Kibwezi or the Coast. If it became widely known that Government intended to impose this tribal fine generally and without exception, the result would be that the Chiefs would probably place some restriction on the young men going out at all. The indiscriminate fining of families, whether they were in a position to prevent the offence or not, might lead to very serious trouble, and a general dislocation of business would not be to the interest of the employer of labour.

In conclusion he trusted that the Hon. Member would withdraw his objections to the amendments proposed by the Special Committee.

THE HON. R. C. BAYLDON stated that he was in favour of what had been stated in the case of the de-tribalised Native. He had nothing further to say with regard to the Native found with slaughtered meat in his possession.

He still considered, however, that the reasons leading to a Provincial Commissioner refusing to endorse a warrant should be given publicity.

He admitted the provisions provided by Clause 8 had not been mentioned in the Resolution referred to by the Hon. Chief Secretary, owing to the fact that the question of Natives trespassing was one that had been brought to the attention of the Government on previous occasions.

He pointed out that no one wished to interfere with the supply of Native Labour, and pointed out the Government had power under clause 8 of making the provisions apply to certain parts of the Protectorate only—as an instance he mentioned the Kedong Valley—where Natives would hardly be expected to go to seek work.

At this stage THE PRESIDENT, on a point of order raised by the HON. CHIEF SECRETARY, drew the attention of the Hon. Member to the fact that he must confine himself to those subjects on which the HON. CHIEF SECRETARY had replied.

THE HON. R. C. BAYLDON, in conclusion, referred to the case of Natives travelling about the country, and pointed out that it should not be a difficult matter for a Native to prove his innocence with regard to his being found on private owned lands providing that he had taken the precaution of obtaining a permit from the District Commissioner.

THE PRESIDENT stated the Hon. Member would have made his case stronger if he had been able to bring forward any counter proposals, and suggested that the Bill be allowed to go to Committee, when he would be pleased to consider any suggestions that might be made.

The question that the Standing Orders be suspended in order to enable the Bill intitled "An Ordinance to make Further and Better Provision for the Prevention of the Theft of Stock Produce" to pass through its several stages, was then put and carried.

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

THE HON. ATTORNEY GENERAL seconded, and the Bill was read a second time.

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

THE HON. ATTORNEY GENERAL seconded, and the motion was put and carried.

The Council resolved itself into a Committee of the whole Council, His EXCELLENCY THE GOVERNOR presiding.

IN COMMITTEE.

CLAUSE 2.

THE HON. CHIEF SECRETARY moved the deletion of clause 2.

THE HON. ATTORNEY GENERAL seconded, provided the Committee were prepared to delete Clause 8. He suggested that the Committee be allowed to revert to Clause 2 after Clause 8 had been discussed.

THE HON. CHIEF SECRETARY agreed.

CLAUSE 3.

THE HON. CHIEF SECRETARY moved that subject to the deletion of Clause 2, Clause 3 should become Clause 2.

THE HON. ATTORNEY GENERAL seconded, and the motion was carried.

CLAUSE 4.

THE HON. CHIEF SECRETARY moved, subject to the deletion of Clauses already referred to, that Clause 4 should become Clause 3, and that at the end of the Clause the following words should be inserted: "And provided further no animal shall be valued for the purposes of this Section at a higher value than Rs. 300/-."

THE HON. ATTORNEY GENERAL seconded, and the motion was carried.

CLAUSE 5.

THE HON. CHIEF SECRETARY moved, subject to the deletion of Clauses already referred to, that Clause 5 should become Clause 4.

THE HON. ATTORNEY GENERAL seconded, and the motion was carried.

CLAUSE 6.

THE HON. CHIEF SECRETARY moved, subject to the deletion of the Clauses already referred to, that Clause 6 should become Clause 5. The Clause to commence with the words "Subject to the provisions hereinafter contained."

THE HON. ATTORNEY GENERAL seconded, and the motion was carried.

CLAUSE 7.

THE HON. CHIEF SECRETARY moved, subject to the deletion of the Clauses already referred to, that Clause 7 should become Clause 6, and that the following alterations should be effected:

In the first line "4" was to be substituted for "5."

In line 3 after the words "the warrant shall" the following wording was to be introduced "subject to the provisions of Sub-section (2) of this Section." and the addition of the following Sub-section (2) was to be made:

"(2) A warrant shall not be executed against any property other than the property of the offender unless and until it shall have been endorsed by the Provincial Commissioner of the Province in which the family, sub-tribe or tribe of the offender is resident. A Provincial Commissioner shall, before endorsing any such warrant, satisfy himself that the circumstances of or in connection with the offence of which the offender has been convicted are such as justify the levying of the fine or the balance of the fine, as the case may be, by the distress and sale of the property of the offender's family, sub-tribe or tribe, and a Provincial Commissioner may, if he should think fit, call upon the head of the family or the headman or headmen of the sub-tribe or tribe to show cause why the warrant should not be executed, or may hold such other enquiry as he may think proper."

THE HON. CHIEF SECRETARY stated that the Special Committee had considered the insertion of this clause as the best means of safeguarding any gross injustice against the family or tribe of the offender, and he called on the HON. W. C. HOBLEY as having had long experience with the up-country tribes to give his opinion on the matter.

THE HON. C. W. HOBLEY said that he considered that unless some such safe-guard had been provided it might have placed the Provincial Administration in a very difficult as also dangerous position. He pointed out that Magistrates had not the same knowledge or experience as the Provincial Commissioners

would have as to the circumstances where natives might be beyond family or tribal control. It would be necessary for full enquiries to be instituted before any penalty was imposed in the manner provided for in the Bill of collecting the same from the offender's family or tribe.

With reference to the attitude of the Provincial Commissioners on this matter, it would be extremely unlikely that a Provincial Commissioner would refuse to endorse the necessary warrant without communicating fully his reasons for not doing so. In his own case he would hold a full enquiry, and communicate with the Hon. Chief Secretary on the subject. As regards publicity being given to the grounds of refusal, he considered that this might be rather difficult to arrange, but thought it might safely be left in the hands of the Provincial Commissioners.

Though he welcomed the Bill he desired to point out to Hon. Members that its application must be very carefully handled as otherwise it might have a very disturbing effect in the Reserves of the Protectorate.

THE HON. R. C. BAYLDON stated that he trusted that the Hon. Member who had just spoken did not think he had wished to make any reflection on the Provincial Commissioners—but he reiterated his desire for any alteration of the sentence to be given every publicity.

THE PRESIDENT desired to inform Hon. Members that when the Bill was drafted the question of the detribalised Native had not been taken into consideration—but as soon as the omission was realised it was recognised that it would have to be rectified. In the whole course of his experience he had invariably found it advisable to trust to the man on the spot—and personally he would have confidence in the decisions of the Provincial Commissioners—he therefore did not see how the provisions put forward by the Special Committee could be improved. There would be no advantage in representation to the Governor when a Provincial Commissioner felt it incumbent on him to refuse to endorse the warrant. If such an officer, after due consideration of the circumstances of the case, was not prepared to stop the proceedings he would not be fitted for his position. He considered therefore that it would be well if the Committee would agree to leave the matter in the hands of the Provincial Commissioner.

On the question of publicity he desired to remind the Hon. Member that the sentence of the fine was imposed on the offender in the first instance, and that with regard to such imposition the decision of the Provincial Commissioner was not asked for. His intervention would only be sought when the property of the offender was insufficient to meet the amount and a levy was to be made on the offender's family or tribe.

In conclusion he advised the Committee to accept the Clause as it stood.

The motion duly seconded by the HON. ATTORNEY GENERAL was then put and carried.

CLAUSE 8.

THE HON. CHIEF SECRETARY moved the deletion of Clause 8, for the reasons already given.

THE HON. R. C. BAYLDON stated that he intended to vote against the motion.

THE HON. ATTORNEY GENERAL seconded, and the motion was carried—the HON. R. C. BAYLDON dissenting.

CLAUSE 2.

THE HON. CHIEF SECRETARY in view of the deletion of Clause 8 moved the deletion of Clause 2.

THE HON. ATTORNEY GENERAL seconded, and the motion was put and carried.

The following amendments to the Bill were made:—

AMENDMENTS TO THE STOCK AND PRODUCE THEFT
ORDINANCE, 1912.

- | | |
|----------|---|
| Clause 2 | Delete. |
| Clause 3 | Becomes Clause 2. |
| | In the interpretation of the term "Produce" delete "also all skins, hides, horns of stock, wool, mohair and" and substitute "includes." |
| Clause 4 | Becomes Clause 3. |

Add at end of clause "And provided further no animal shall be valued for the purposes of this Section at a higher value than 300 rupees.

Clause 5

Becomes Clause 4.

Clause 6

Becomes Clause 5.

The Clause to commence with the words "Subject to the provisions hereinafter contained."

Clause 7

Becomes Clause 6 (1).

In the first line substitute "4" for "5".

In line 3 after the words "the warrant shall" insert "subject to the provisions of Sub-section (2) of this Section."

Add Sub-section (2) in the terms following:—

- (2) A warrant shall not be executed against any property other than the property of the offender unless and until it shall have been endorsed by the Provincial Commissioner of the Province in which the family, sub-tribe or tribe of the offender is resident. A Provincial Commissioner shall, before endorsing any such warrant, satisfy himself that the circumstances of or in connection with the offence of which the offender has been convicted are such as to justify the levying of the fine or the balance of the fine, as the case may be, by the distress and sale of the property of the offender's family, sub-tribe or tribe, and a Provincial Commissioner may, if he should think fit, call upon the head of the family or the headman or headmen of the sub-tribe or tribe to show cause why the warrant should not be executed, or may hold such other enquiry as he may think proper.

Clause 8

Delete.

THE HON. CHIEF SECRETARY before moving that the Bill as amended be reported to Council, expressed his regret at the opposition made to the measure in its present form by the Hon. Member. Had he had any idea that the Hon. Member in question desired to be included on the Special Committee he would have had pleasure in moving accordingly. In selecting the Hon. B. G. ALLEN and the Hon. P. G. DICKINSON, he thought he was selecting those of the unofficial members who were best able to judge the interests of the stock-owners. The Hon. C. W. HOBLEY was chosen on account of his long experience of the laws affecting Natives. He regretted the absence of the Hon. B. G. ALLEN who would have been able to speak in favour of the amendments advanced by the Special Committee, and also regretted that the Hon. P. G. DICKINSON had not joined in the discussion.

He desired to suggest to His EXCELLENCY that the Bill be allowed to remain in Committee, as he would not wish that a Measure dealing with stock thieving be introduced that had not got the support of the Council as a whole. He left the matter to the Hon. Member. He pointed out that it was a matter of urgency, and that the public were looking for the Bill to be put in force. The better course would certainly be to allow of its being put into operation at once, and for any alterations to be introduced at the next Session of the Council—if necessary.

THE HON. R. C. BAYLON stated that it was not his wish to delay the Bill a single day, and that he would be prepared to withdraw his opposition if the Government was prepared to receive representations on the subject in the interval to be brought up at the next Session with regard to the possibility of introducing alterations. He quite understood that it was not possible to know the active interests of the different members of the Council—but as a matter of fact he himself was a stock-owner.

THE HON. P. G. DICKINSON pointed out that he regretted he had not joined in the discussion. He fully approved of the amendments that had been drawn up by the Special Committee.

THE PRESIDENT stated that the Government would be prepared to receive and carefully consider any representations that might be made at a later date.

THE HON. CHIEF SECRETARY moved that the Bill as amended be reported to Council.

THE HON. ATTORNEY GENERAL seconded, and the question was put and carried.

The Council Resumed its Sitting.**IN COUNCIL.**

THE HON. CHIEF SECRETARY moved that the Bill intituled "An Ordinance to make Further and Better Provision for the Prevention of the Theft of Stock and Produce" be read a third time.

THE HON. ATTORNEY GENERAL seconded and the motion was put and carried, and the Bill was read a third time and passed.

THE HON. CHIEF SECRETARY moved that the Council stand adjourned until the third Monday in March, 1913, or such other date as might be duly notified.

THE HON. ATTORNEY GENERAL seconded, and the motion was put and carried.