

DEBATES

IN THE

LEGISLATIVE COUNCIL OF CEYLON,

On Thursday, October 8, 1925.

Pursuant to adjournment the Honourable the Members of the Legislative Council met at the Council Chamber at 2.30 P.M. this day.

PRESENT :

- THE HONOURABLE SIR JAMES PEIRIS, KT. (COLOMBO TOWN, SOUTH),
VICE-PRESIDENT.
- THE HONOURABLE COLONEL H. W. HIGGINSON, C.B., D.S.O., A.D.C.,
OFFICER COMMANDING THE TROOPS.
- THE HONOURABLE MR. E. B. ALEXANDER, C.M.G., ACTING COLONIAL
SECRETARY.
- THE HONOURABLE MR. L. H. ELPHINSTONE, K.C., ATTORNEY-GENERAL.
- THE HONOURABLE MR. H. W. CODRINGTON, ACTING CONTROLLER OF
REVENUE.
- THE HONOURABLE MR. W. W. WOODS, TREASURER.
- THE HONOURABLE MR. F. A. STOCKDALE, C.B.E., DIRECTOR OF
AGRICULTURE.
- THE HONOURABLE MR. N. H. M. ABDUL CADER (SECOND MUSLIM
MEMBER).
- THE HONOURABLE SIR PONNAMBALAM RAMANATHAN, KT., K.C.,
C.M.G. (NORTHERN PROVINCE, NORTHERN DIVISION).
- THE HONOURABLE MR. L. MACRAE, DIRECTOR OF EDUCATION.
- THE HONOURABLE MR. T. Y. WRIGHT (EUROPEAN RURAL MEMBER).
- THE HONOURABLE MR. W. DURAISWAMY (NORTHERN PROVINCE,
WESTERN DIVISION).
- THE HONOURABLE MR. D. H. KOTALAWALA (PROVINCE OF UVA).
- THE HONOURABLE MR. E. W. PERERA (KALUTARA REVENUE DISTRICT).
- THE HONOURABLE MR. E. R. TAMBIMUTTU (BATTICALOA REVENUE
DISTRICT).
- THE HONOURABLE MR. A. C. G. WIJEYEKOON (NOMINATED UNOFFICIAL
MEMBER).
- THE HONOURABLE MR. E. J. HAYWARD, C.B.E., V.D. (COMMERCIAL
MEMBER).
- THE HONOURABLE MR. W. L. KINDERSLEY, GOVERNMENT AGENT,
CENTRAL PROVINCE.
- THE HONOURABLE MR. C. W. W. KANNANGARA (SOUTHERN PROVINCE,
WESTERN DIVISION).
- THE HONOURABLE MR. N. J. MARTIN (SECOND BURGHIER MEMBER).
- THE HONOURABLE MR. J. STRACHAN (DIRECTOR OF PUBLIC WORKS).

- THE HONOURABLE MR. W. T. SOUTHORN, PRINCIPAL COLLECTOR OF CUSTOMS.
- THE HONOURABLE MR. M. T. AKBAR, K.C., SOLICITOR-GENERAL.
- THE HONOURABLE MR. K. BALASINGHAM (NOMINATED UNOFFICIAL MEMBER).
- THE HONOURABLE DR. J. F. E. BRIDGER, DIRECTOR OF MEDICAL AND SANITARY SERVICES.
- THE HONOURABLE MR. A. CANAGARATNAM (NORTHERN PROVINCE, SOUTHERN DIVISION).
- THE HONOURABLE MR. C. E. VICTOR COREA (COLOMBO TOWN, NORTH).
- THE HONOURABLE MR. H. R. FREEMAN (NORTH-CENTRAL PROVINCE).
- THE HONOURABLE MR. T. B. JAYAH (THIRD MUSLIM MEMBER).
- THE HONOURABLE MR. D. B. JAYATILAKA (COLOMBO DISTRICT).
- THE HONOURABLE MR. H. M. MACAN MARKAR (FIRST MUSLIM MEMBER).
- THE HONOURABLE MR. G. E. MADAWALA (NORTH-WESTERN PROVINCE, EASTERN DIVISION).
- THE HONOURABLE MR. A. MAHADEVA (WESTERN PROVINCE, CEYLON TAMIL).
- THE HONOURABLE MR. A. F. MOLAMURE (KEGALLA REVENUE DISTRICT).
- THE HONOURABLE MR. A. H. E. MOLAMURE (RATNAPURA REVENUE DISTRICT).
- THE HONOURABLE MR. F. A. OBEYESEKERE (SOUTHERN PROVINCE, CENTRAL DIVISION).
- THE HONOURABLE MR. I. X. PEREIRA (FIRST INDIAN MEMBER).
- THE HONOURABLE MR. D. S. SENANAYAKE (NEGOMBO DISTRICT).
- THE HONOURABLE MR. M. M. SUBRAMANIAM (TRINCOMALEE REVENUE DISTRICT).
- THE HONOURABLE MR. V. S. DE S. WIKREMANAYAKE (SOUTHERN PROVINCE, EASTERN DIVISION).
- THE HONOURABLE MR. G. A. H. WILLE (FIRST BURGER MEMBER).
- THE HONOURABLE SIR J. THOMSON BROOM, KT. (EUROPEAN URBAN MEMBER).
- THE HONOURABLE MR. W. A. DE SILVA (CENTRAL PROVINCE, URBAN).
- THE HONOURABLE MR. P. B. RAMBUKWELLE (CENTRAL PROVINCE, RURAL).
- THE HONOURABLE MR. T. M. SABA RUTNAM (NORTHERN PROVINCE, EASTERN DIVISION).

MR. J. A. MAYBIN, *Clerk to the Council.*

Minutes.

The Minutes of the Meeting held on October 1, 1925, were confirmed.

Papers laid.

THE HON. THE ACTING COLONIAL SECRETARY :—I beg to lay on the table, Sir, the following papers :—

Administration Reports, 1924 :—

Part II., Revenue : Report of the General Manager of the Railway.

Minutes of the meeting of the Standing Committee on Finance dated September 18, 1925.

By-laws made by the Municipal Council of Colombo, under section 109 (1) of "The Municipal Councils Ordinance, No. 6 of 1910," regarding the rules and conditions of service of the Colombo Fire Brigade.

Rule made by His Excellency the Officer Administering the Government in Executive Council, under section 31 of "The Excise Ordinance, No. 8 of 1912," amending rule 2 of the rules for the conduct of voting by ballot for or against the existence of arrack, toddy, and foreign liquor taverns, bar liquor licences for hotels, and places licensed for the sale of beer and porter by retail.

Statement showing the figures of cash transactions during the financial year 1924-25, to the end of August, 1925, at the Colombo, Kandy, Galle, and Jaffna Kacheheries, and the salaries, &c., of the shroffs at these Kacheheries.

Statement regarding the clearing and repairing of canals in rural areas.

Petitions.

THE HON. MR. N. J. MARTIN (Second Burgher Member) :—I rise, Sir, to submit a petition from Mrs. Lucy Fernando of Chilaw town, who lost everything she had as a result of a fire. The fire has been traced to a spark from an engine of the Ceylon Government Railway which passed her garden and destroyed tenements with everything they contained, from which she derived an income which enabled her to maintain herself and her six children. The people of the town subscribed and gave her some relief, and the Urban Council also voted a sum of money after due inquiry—I might mention that I myself held the inquiry—and reported the matter to the Local Government Board, which, however, felt that under the Ordinance it would not be legal for the Council to pay any money at all. I then approached the Government through the Local Government Board but without any success. Mrs. Fernando now begs that His Excellency the Governor and this Council will recommend, after due inquiry, anything that may be thought fit to enable her to rebuild her tenements. The damages have been assessed at Rs. 2,721. She will be thankful for any assistance Government can render her.

Petition from Inhabitants of Villages in the Ramnad District.

THE HON. MR. I. X. PEREIRA (First Indian Member) :—I rise to present a petition, Sir, from the inhabitants of several villages in Ramnad District, South India. They pray for the restoration of the steamer service between Tondi and Colombo. They state that Tondi is a convenient port, and that during the time the steamer service existed they were able to proceed to Ceylon in perfect safety. Since the discontinuance of the steamer service, they state that their lives and property are not safe, besides, that travel by land is inconvenient, as the nearest railway station is more than 40 miles away. They pray that Government will be pleased to re-establish a steamer service between Tondi and Colombo.

NOTICE OF QUESTIONS.

Reply to His Excellency the Governor's Address.

THE HON. MR. E. R. TAMBIMUTTU (Batticaloa Revenue District) :—I give notice, Sir, of the following questions :—

- (1) Why was the long established custom of reading a reply to His Excellency the Governor's address to this Council abandoned during recent years?
- (2) Has the Government any objection to reviving this old custom?

Acquisition of Land for building Quarters for Government Officers.

(1) Will the Government be pleased to furnish a statement of the several instances during the financial year that lands were acquired under provisions of Ordinance No. 6 of 1876 for building quarters for Government officers, including overseers and coolies?

(2) Does the Government consider building quarters for Government servants, including overseers and coolies, a public purpose?

Recovery of Fees on Kurakkan Chena Permits.

THE HON. MR. C. E. VICTOR COREA (Colombo Town, North) :—I give notice, Sir, of the following questions :—

(1) Arising out of the reply to question No. 162, that Government does not intend to order recovery of fees on kurakkan chena permits, will Government be pleased to remit the recovery of quarter share of the produce on chenas in Nariagama in the Chilaw District, which were settled on certain claimants for chena cultivation under the Ordinance No. 10 of 1885, subject to the condition they would be liable, *if called upon*, to pay to the Crown quarter share of fine grain crops as they had paid before the fine grain taxes were abolished?

(2) By the judgment in the Nariagama Forest Settlement Case (No. 1, District Court, Chilaw), the claimants having been allotted for chena cultivation 3 acres per annum for each man and 2 acres per annum for each woman and child, why have permits been given only for 1 acre for each applicant under the rules under Ordinance No. 16 of 1907?

(3) The Supreme Court having held that the judgment of the Forest Settlement Officer gave the lands to the claimants for chena cultivation "free of all charges and tax," why is the fee of Re. 1 to the Crown and the fee of 50 cents to the headman leviable under the rules under Ordinance No. 16 of 1907 charged from these claimants on permits granted to them?

Fence Sticks on Chenas in Nariagama.

Is it true that a Forest Officer this year removed for sale as firewood the fence sticks from the fences on the chenas in Nariagama after the crops were reaped? Are not the sticks of the jungle cut on these chenas the property of the cultivators, which they have the right to use as firewood or otherwise according to their needs? Does Government expect these villagers to buy firewood from the Forest Department?

Land reserved for Firewood in the Chilaw District.

What land has been reserved for the villagers of Mugunuvatavana and Talgahavela in the Chilaw District for the supply of firewood and timber for agricultural implements and house building?

Sums allocated for Village Works in Chilaw District.

What sums were allocated to the Chilaw District out of the following votes in the Budget for 1924-25, viz., Head 54, 2—Village Works, Rs. 18,000; Head 55, 25—Improvements and Repairs to Village Irrigation Works, Rs. 120,000; Appendix 1, Head 55, Rs. 120,000? What works have been carried out or commenced for the sums so allocated, if any?

Restoration of Elas in the Chilaw District.

What steps have been taken towards the restoration of the Manuangama-ela and Yoda-ela in the Chilaw District?

Elas and Irrigation Streams requiring Attention.

Has Government received a communication from the Executive Committee of the Ceylon National Congress forwarding a list of elas and other village irrigation streams requiring attention in different parts of the Island? What steps has Government taken in the matter?

Labugama High Flood Level Road.

(1) Has the trace of the proposed Labugama high flood level road been finally settled? And if so, what has been the cause of delay in completing the acquisition of land from Kirillapone?

(2) Is the Government aware that a certain District Engineer has been interested directly or indirectly in the purchase of land along the proposed road trace?

Water Supply for Badulla Town.

THE HON. MR. D. H. KOTALAWALA (Province of Uva):— I give notice, Sir, of the following questions:—

(1) Is Government aware of the fact that the town of Badulla has been without an adequate water supply for many years past?

(2) Is Government aware of the fact that Sir William Manning when he last visited Badulla in connection with the opening of the railway to Badulla promised all assistance in the procuring of the necessary supply of water for the town?

(3) Has the Local Board, Badulla, made repeated requests to Government for the services of a special officer to investigate and prepare a scheme for an adequate supply of water for the town?

(4) Will Government be pleased to explain why, in view of the urgency of this matter, Government is unable to detail an officer to investigate and prepare a scheme for such a supply?

NOTICE OF MOTIONS.

Licence applied for by Mr. A. W. Winter for distilling Spirits.

THE HON. MR. D. B. JAYATILAKA (Colombo District):—I give notice, Sir, that at the next meeting of Council I shall move the following motion:—

That in the opinion of this Council the Government should refuse to grant the licence applied for by Mr. A. W. Winter of Baddegama for distilling spirits.

Village Tribunals and Village Committees in Towns.

THE HON. MR. M. M. SUBRAMANIAM (Trincomalee Revenue District):—I give notice, Sir, that at the next meeting of Council I shall move the following motions:—

That in the opinion of this Council the Village Tribunal and Village Committee should not be established in towns where the Local Board exists, and it recommends their exclusion from the Local Board area of the town of Trincomalee.

Whole-time Officer for Judicial Duties in Trincomalee District.

That for greater efficiency and expedition in the administration of justice in the District of Trincomalee, where there is a marked increase of work now in the law courts, this Council recommends the appointment of a whole-time officer unconnected with revenue work to attend to judicial duties.

QUESTIONS.

Cash Transactions at Provincial Kacheheries.

THE HON. MR. N. H. M. ABDUL CADER (Second Muslim Member):—I rise, Sir, to ask—(1) The figures of actual cash transaction during the financial year 1924-25 (a) By receipts from the general public; (b) By payments of the shroffs of the following Provincial Kacheheries, namely, Colombo, Kandy, Galle, and Jaffna.

(2) The amount of securities tendered by each of them for the safe performance of their duties. (3) On what data their securities are fixed. (4) Their class, and salaries of each per annum.

THE HON. THE TREASURER :—(1), (2), and (4) A statement giving the desired information is laid on the table.

(3) The amount of security which shroffs and other persons in the Government service are required to give has been fixed by Government from time to time upon a general view of the circumstances of each case.

Permits to board Steamers.

THE HON. MR. F. A. OBEYESEKERE (Southern Province, Central Division) :—I rise, Sir, to ask—Will the Government be pleased to remove the restriction of issuing to individuals only four permits to enable friends and relatives to go on board a steamer to see them off ?

THE HON. MR. W. T. SOUTHORN (Principal Collector of Customs) :—The friends and relatives of passengers have ample opportunity to see passengers off from the jetty, and the Government sees no reason to interfere with the arrangements which have been made by the Principal Collector of Customs in conjunction with the Shipping Agents to restrict within reasonable limits the number of persons allowed to go on board vessels in harbour. At present four permits can be obtained on application at the passenger jetty by the friends of each passenger or family group of passengers, and, if approved by the Steamer Agents, further permits are obtainable on application to the Supervising Officers of the Customs.

Abolition of the Kacheheri at Vavuniya.

THE HON. MR. T. M. SABA RUTNAM (Northern Province, Eastern Division) :—I rise, Sir, to ask—(a) Were there separate Kacheheries at Vavuniya and at Mullaittivu about twenty-five years ago under one Assistant Government Agent ? (b) When and why was the Kacheheri at Vavuniya abolished ? (c) Will the Government be pleased to table the papers connected with the abolition of the Kacheheri at Vavuniya, and also the papers connected with the proposal to transfer the Kacheheri from Mullaittivu to Vavuniya ?

THE HON. THE ACTING COLONIAL SECRETARY :—Government intends to lay all the available information on this subject before the Council on completion of certain inquiries which are now being made.

Ayurvedic System of Medicine.

In the absence of the Hon. Mr. S. Rajaratnam (Northern Province, Central Division), the Hon. Mr. T. M. Saba Rutnam (Northern Province, Eastern Division) :—I rise, Sir, to ask—Will the Government be pleased to state the number of persons who practise the Ayurvedic system of medicine in (a) the District of Jaffna ; (b) the District of Colombo ; (c) the Municipality of Colombo ?

THE HON. THE ACTING COLONIAL SECRETARY :—A return on the subject has been called for and will be tabled when ready.

Salt destroyed at Mullaittivu.

THE HON. MR. H. R. FREEMAN (North-Central Province) :—I rise, Sir, to ask—Arising out of the reply to question No. 160, why could not the 40,000 cwt. of salt destroyed at Mullaittivu be collected, and was not salt being imported from India at the same time ?

THE HON. THE ACTING CONTROLLER OF REVENUE :—
(1) The 40,000 cwt. of salt to which the Honourable Member refers were destroyed in the course of the years 1923, 1924, and 1925. The destruction of the salt was carried out in accordance with the decision of Government in May, 1920, in regard to naturally-formed salt in the Northern Province.

(2) In the years 1923 and 1924 there was no importation of salt from India. In July of the present year importation of Indian salt had to be undertaken. Of the 10,000 cwt. salt destroyed this year at Mullaittivu, 5,000 cwt. only were regarded as fit for collection. The question of collecting this small quantity was considered in September, but it was decided that it was then too late to collect the salt in view of the imminence of rain.

Railway Extension to Tangalla : Halts and Sites for Stations.

THE HON. MR. F. A. OBEYESEKERE (Southern Province, Central Division) :—I rise, Sir, to ask—In view of the motion accepted by the Council by an almost unanimous vote of Unofficials to the effect that early steps be taken to construct the railway extension to Tangalla, will the Government be pleased to consult the Unofficials in regard to all halts and sites for stations before arriving at a decision thereto ?

THE HON. THE ACTING COLONIAL SECRETARY :—Government will be glad to have the views of Unofficial Members of Council on the questions referred to, and their views will receive the careful consideration of Government before a final decision is taken.

Pension.

THE HON. THE ACTING COLONIAL SECRETARY :—I beg to move, Sir, that in terms of section 31 (i.) of the Pension Minute the following payments be made to the widow and child of the late Mr. M. J. Chandrasekera, Assistant Foreman Platelayer, Railway Department, who died on May 23, 1925, as a result of injuries sustained whilst in the discharge of his duties :—

To the widow a pension of Rs. 258.33 per annum from May 24, 1925.

To the child, Udulawathi Angenetta, aged 6 years, a gratuity of Rs. 90.

The deceased was travelling on December 12, 1924, in the brake van of goods train No. 337. When nearing Padukka, the deceased felt an inequality in the permanent way and walked along the footboard to look at the track. As the train passed the bridge at 28 miles 6 chains the main girder swept him off the footboard. He sustained a fracture of both bones of the left leg and was admitted to the General Hospital, Colombo, for treatment. He subsequently left the hospital, but died as a result of the injuries on May 23, 1925.

THE HON. THE TREASURER seconded.

THE HON. MR. G. A. H. WILLE (First Burgher Member) :— There are one or two points arising out of this motion to which I should like to call attention. In another connection I have made a suggestion which I trust Government will give effect to, and that is towards making more liberal the scale of allowances under this minute, because the cases that usually come before us under this minute relate to workmen. The case we have before us to-day is that of an Assistant Foreman Platelayer, and what I wish to call the attention of the House to is the fact that the scale of allowances is very meagre.

An officer who has the good fortune to live out his official life retires on a pension equivalent to two-thirds of his salary. Here is the widow of an officer who died prematurely, while engaged in his official duties, being given the maximum which is allowed under this minute of one-sixth, that is, one-fourth of the ratio allowed in the case of a man who completes his full service. Honourable Members have heard the circumstances which resulted in the death of this officer as related by the Honourable the Acting Colonial Secretary. This officer appears to have been in hospital from December, 1924, to May, 1925. There must have been a good deal of expense incurred, and yet this widow gets only a pension equivalent to one-sixth of the officer's salary.

With regard to the child, the allowance to the child is the maximum allowed under this minute.

THE HON. THE ACTING COLONIAL SECRETARY :—May I be allowed to say a word? Government has waived payment of hospital charges by that family.

THE HON. MR. G. A. H. WILLE (First Burgher Member) :—I am raising the general question of the scale allowed under the Pension Minute. For a child a maximum of Rs. 10 is allowed for the number of years between the child's age when the father was killed and fifteen years of age. Honourable Members will, therefore, see that this child being six years of age gets Rs. 90, that is, nine times the Rs. 10 allowed for each year. I think that is as low a scale as you can have to meet circumstances of this kind.

There is another point that I wish to mention in connection with this case, and that is that the portion of this Pension Minute which deals with gratuities to children has a certain ambiguity in it. This child should have the benefit of that ambiguity. The maximum gratuity provided, as I have said, is Rs. 10 for each year; but the minute also provides that the total gratuity for the child of an officer killed while on duty shall be not less than Rs. 100. I have no doubt that the Government was on the horns of a dilemma in connection with this case; but I submit that they should have violated the first part of this rule and given the child Rs. 100. It is a small matter. I do not think that the extra Rs. 10 would have alleviated the misfortune of this family, but I wish to call the attention of the House, and through it the attention of Government, to the very poor scale allowed in the Pension Minute.

I am aware that the Secretary of State exercises great vigilance and jealousy in regard to the Pension Minute. We do not mind that so long as the scale provided in the Pension Minute is adequate to do justice to the cases that are dealt with. It is generally the poor

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class of officers who suffer in the course of their duties being exposed to dangers, and that is all the more reason why this section of the Pension Minute should be made more liberal.

THE HON. THE VICE-PRESIDENT :—I think the Honourable Member only wishes to draw the attention of Government to the scale.

THE HON. THE ACTING COLONIAL SECRETARY :—The matter is noted.

The motion was agreed to.

Standing Committee on Finance.

THE HON. THE ACTING COLONIAL SECRETARY :—With apologies to the House I will now move the first motion standing in my name, namely, “That the report of the Standing Committee on Finance dated September 18, 1925, be adopted.”

THE HON. THE TREASURER seconded, and the motion was agreed to.

Tea Research Institute.

THE HON. MR. F. A. STOCKDALE, C.B.E. (Director of Agriculture) :—I rise, Sir, to move the second reading of “An Ordinance to provide for the Establishment of a Tea Research Institute and for the Incorporation of the Board of Management thereof.” At the last meeting of Council I explained the objects and reasons of this Ordinance, and it is therefore unnecessary for me to go into full detail again to-day. I therefore formally move the second reading of the Ordinance.

THE HON. MR. L. MACRAE (Director of Education) seconded.

THE HON. MR. T. Y. WRIGHT (European Rural Member) :—Sir, I have much pleasure in supporting this Bill. Honourable Members may be aware that it was intended to bring in a Tea Research Scheme with Government financial assistance about a year ago, but owing to the unexpected opposition to the Coconut Research Scheme it was dropped and reconsidered. The promoters have come to the conclusion that it is advisable to run the scheme without financial assistance from Government, and all they are asking Government to do is to collect the money for them. The objects of the scheme, which have been mentioned by the mover, are more or less the following :—

- (1) To carry on tea research begun by the Department of Agriculture.
- (2) To expand the study of diseases and pests and their effects on crops.
- (3) To initiate methods of cure and prevention.
- (4) To study the chemistry of tea, which, if successful, will add considerably to the welfare of the industry and incidentally to the Colony as a whole.

Some people may wonder why the Department of Agriculture does not carry out these objects. I wish to state definitely that we do not want to interfere in any way with this department ; we want to co-operate as much as we can ; but we do feel that the department is cramped, it has no tea worth speaking about on which to make experiments, and it has no tea factory where the chemistry of tea manufacture can be carried out ; sufficient money is not voted to this department to enable it to carry out all these things. And, if I may say it, there is plenty of scope for the department for many years to come to tackle the question of food production in this Island.

I would like to support what my honourable friend the mover mentioned at the first reading of the Bill. I have heard that some Honourable Members are apprehensive that if Government assist us by imposing an extra cess, that it may interfere with future taxation. I can assure Honourable Members that this is not so ; we should never bring forward the argument that because we have asked for this cess that it should be considered a tax ; we ask that the cess should be imposed for the benefit of the industry, and no doubt eventually for the good of the Island ; we shall not consider this cess a tax in the ordinary sense of the word. I do not think I need go into the organization of the scheme, except to say that the staff will be composed of the best scientists we can get.

The appointment of the staff has something to do with the apparent hurry in which this Bill has lately been pushed forward. As I mentioned at the first reading, if there is delay it may mean we shall lose the services of Mr. Petch, whom the promoters consider to be the best man they can get to be the Director of Tea Research. There is a question regarding the constitution of the Board. If it is thought that the small holder is not adequately represented by the Planters' Association or the Low-country Products Association, then I am quite prepared to move an amendment to clause 5, that an additional member to represent the small holder be appointed by the Governor.

As regards the financial part of the scheme, I do not think any one can object to one-tenth of a cent per lb., it cannot do any one any harm ; to the small holder who sells green leaf it would only mean one-fortieth cent per lb., which is so infinitesimal that no trader could take advantage of it. It is expected that the proposed cess will bring in, roughly, two lakhs, and all we are asking Government to do is to collect this money for us. There is a cess on the export of tea already, and the addition will entail no further expense whatever. There will be no need whatever to increase the staff required for the collection of the present cess, and it will cost Government nothing at all bar the printing of this Bill. As regards the purchase of a property, this will also cost Government nothing whatever, arrangements will be made by the promoters of the scheme. It has been suggested that an annual vote would meet the situation, but that would be of no use at all, as there would be no certainty that the vote would be voted annually, and it might lead to no end of difficulties. As mentioned by the honourable the mover, this scheme has almost unanimous support from the industry—the total acreage under tea is almost 404,000 acres. Out of this, London controls 218,000 acres, Colombo controls 119,000 acres, and there are about 66,000 acres privately owned ; the Planters' Association undertook to find out if the last group were in favour of the scheme, and the response was practically

unanimous. A referendum was taken, and 378,572 acres were in favour of the scheme, no replies being received from 17,000 acres. We are grateful to the Low-country Products Association for their support; though not affecting this association to any great extent, they extended their sympathy to the scheme. I am also very glad to see the complimentary articles which have appeared in the Press on the scheme; it is a form of assistance which we much appreciate. Under these circumstances, I appeal to the House to make no objections to or alterations in this Bill. I think the Colony should be grateful to the tea interests for financing the scheme; after all it is really the duty of Government to finance the whole of the money required. It is, as I have previously pointed out in this House, really a form of insurance on the revenue of the Colony.

THE HON. MR. D. S. SENANAYAKE (Negombo District) :—Sir, I have carefully followed the speeches that have been made in favour of the Tea Research Scheme both in Council and outside, but I regret that I am still of opinion that no case has been made out to secure the support of this Council to this scheme. I am at one with the promoters and supporters of this proposal in desiring to secure the future services of Mr. Petch for the Island. It will indeed be a pity, and a very severe loss to Ceylon, if the experience, knowledge, and industry of such a distinguished scientific agriculturist cannot be secured. I trust an effort will be made, whether this scheme is adopted by Council or not, to engage him on terms satisfactory both to him and the country.

This is certainly not the only point on which I agree with them. That tea has been one of the main sources of Ceylon's wealth, that it has substantially contributed to the present prosperity of the Island, and that any serious adversity to this industry cannot but prove a calamity are obvious facts that need no laboured arguments to support them. Further, I am also in agreement when they say there is a great and open field for further scientific investigation, and that the industry itself must be safeguarded in every possible way. That there is room for investigation, and in different directions too, needs no assertion. These and similar arguments have been repeatedly urged both from the platform and the Press. But constant repetition of universally admitted facts does not carry us any further. Nor can insinuations and charges of ignorance or malice bring conviction to those who do not see the wisdom of the proposal. I consider that whenever and for whatever reason the Legislature authorizes the collection of funds, whether we impose it as a tax or customs duty; even if we call it a cess, it becomes the duty of this Council to see that those funds are properly expended. No Legislature has the right to divest itself of that duty. In this instance we are asked to authorize the collection of a special cess from the tea industry to be handed over to a private body, over which neither the Government nor the Legislative Council has the slightest control.

I agree with the Director of Agriculture when he said that Government cannot and should not undertake all possible experiments connected with a trade or industry. It has been proved by experience that a Government cannot satisfactorily perform some function which should be undertaken by private persons either individually or collectively. If the nature of the experiments under the present scheme are expected to fall under this category, why is this Council asked to sanction it? The law does not prevent

the Planters' Association and the proprietary planters from carrying on these experiments. Funds can be collected by the Chamber of Commerce. The tea trade is controlled by it. This powerful body, organized by a ring to maintain and support the business interest of a particular section of the people, has in the case of the tea trade succeeded in creating a monopoly. I do not see when all the tea is sold in the Chamber, why this cess should not be collected there instead of at the Customs. It will certainly relieve this Council of all responsibility. If this Ordinance is only meant to incorporate a Board of Management under the name of Tea Research Institute this objection will not apply. But the promoters of this scheme desire much more than that. They desire us to sanction the collection of funds. But my objection is not purely constitutional or theoretical. I do not oppose it because of this extraordinary procedure. I seriously consider that this scheme is undesirable, and is really not in the best interests of the country.

As I said, the tea trade has become a monopoly, and I do not wish this Council to assist in making tea planting a monopoly as well. The tea trade has been made the monopoly of a group by the Chamber of Commerce. All tea is sold by the members of the Chamber of Commerce to members of the Chamber of Commerce only. Outsiders have to pay an extra fee for the privilege of purchasing tea at the sales. This extra cost very effectively closes the door of the trade to outsiders. I presume that experiments are necessary, and that these necessary experiments will result in useful knowledge, but I do not want that knowledge or that experience to be in the exclusive possession of a group. There is no provision in the Ordinance to compel the publication of the nature of experiments undertaken, or to secure the publication of the results of any experiments. That is left to the discretion of this incorporated institute. Further, that the public may be kept in ignorance of information gathered by this institute is not an unreasonable fear founded on mere suspicion. The Rubber Research Scheme is aided by Government, but I consider the full benefit of the experiments were not placed before the public until the Board realized there was a possibility of this Council refusing aid at the expiration of the three years agreed upon.

Besides, Sir, this incorporated institute will have the right to choose all its employees. This means our students will be deprived of the opportunities of securing knowledge on the most important industry in the Island. When we are turning out increasing numbers of youths seeking employment, I consider a scheme that may effectively close the door to them does not deserve our support.

Then, Sir, we know, and every Councillor knows, the opening up of land in tea and rubber has certainly not been a particular blessing to paddy cultivators. Large tracts of paddy lands have been silted and much damage occasioned thereby. We know, as a matter of fact, that practically the whole of up-country has come under tea, and that the native cultivator who went in for minor industries has been almost wiped out.

Let me make it quite clear that I consider that that is no reason why the Government should refuse to aid these industries, but that is a cogent reason for State control of State-aided experiments. There is a further and very serious objection to this proposal. If separate institutions are established for tea, rubber, and coconut—the only three industries that can possibly pay for them—I am sure the minor industries, which have been so long neglected, will never receive any

attention. After all, paddy, tobacco, citronella, plantains, and other similar industries are in greater need of scientific study than these three. Although we hear to-day of the readiness of the framers and promoters of this scheme to merge it in a general scheme for the Island, I can safely prophesy that when the time comes innumerable difficulties will be discovered. Not only will there be difficulties in incorporating it in a general scheme, but claim for exemption from taxation will also probably be made on the plea that they are bearing the burden of carrying on experiments already.

Then I ask you, Sir, is there no danger of the country being committed to much more than this cess? This Board will have the necessary authority to borrow money. Supposing costly experiments, but very desirable experiments, are carried out, and the Board borrows the necessary money for it, will not the Council be compelled to come to its aid? What is the position of this Council? A short time back a coconut research scheme was submitted to this Council, but after due deliberation it was withdrawn. It was withdrawn after the Council had clearly indicated that it desires a comprehensive scheme for the reorganization of the Agricultural Department. Undeterred by the fate of that proposal, one more audacious is now submitted to us. I cannot understand, now that the tea and coconut industries have indicated their desire for fuller experiments, why two stations cannot be immediately organized—one in a coconut district and the other in the tea. But any such scheme will have to provide for other industries of the district. If the Director of Agriculture has not the time to prepare such a scheme, there is no reason why Mr. Petch's services should not be requisitioned for the purpose. It is possible that I might be met with the reply that the experiments this institute is intended to conduct are of a nature that a Government cannot or should not undertake. The reply I can make to this is contained in the speech of the Chairman of the Planters' Association, Kandy.

"There will be nothing," Mr. Oldfield says, "to prevent our scheme when, once launched, being incorporated in any general research proposals for the industries of the Island as a whole when that desirable position is reached."

This statement by an experienced and recognized practical planter is inconsistent with the view expressed by the Director of Agriculture that this institute will carry out experiments that cannot properly be undertaken by Government institutions. I make bold to say that that desirable position will never be attained if the needs of the powerful industries are exclusively attended to. Let me assure the House that I am not opposed to scientific study of the problems connected with these industries. Nor am I actuated by any malicious desire to injure an industry or to disappoint any individual. I realize quite as much as any one here that we are essentially an agricultural community, and that our knowledge of the different agricultural products in the Island should be as extensive as possible. Scientific study and experiments should be carried out to the fullest extent. I want it, and I long for it, and the genuineness of my desire will become apparent when Government decides to place a comprehensive scheme before the Council. But in the meantime, at the risk of being misunderstood, I must oppose the present proposal.

In conclusion, I wish to say I consider we have a duty to perform, and that duty is to look to the prosperity of the Island as a whole, and not to confine our attention to the more powerfully backed industries.

THE HON. MR. E. J. HAYWARD, C.B.E., V.D. (Commercial Member):—I wish, Sir, to very strongly support the Ordinance before Council, to establish a Tea Research Institute. The last honourable speaker said that he did not think a case had been made out for this institute. Although I agree with a great deal with what he said, I do not think he has made out a good case for opposing this very excellent measure. At every opportunity I have strongly advocated the necessity of introducing research facilities, not only for tea and rubber, but also for coconuts and the minor industries. I am glad that the last honourable speaker admitted that there was a great deal of good to be obtained from research. I have felt, and I have said time after time, that it is only by research that we can secure the best methods of production and the best protection against dangers. In agricultural pursuits, more than in other things, the old proverb "To be forewarned is to be forearmed" distinctly applies. We do not want to wait till disasters and blight come upon us to introduce measures, which would most likely be of a panicky nature, to inquire into causes and cures. What we want to have is all possible information in advance, which will enable us to anticipate difficulties and problems and to apply the remedies that are required. I could never understand why opposition was put forward in this Council to a coconut research scheme so effectually as to put the scheme on the shelf indefinitely. Now that those who are interested in tea have come forward with a cut-and-dry scheme which they are prepared to carry out at their own cost, I really cannot see how there can be any objection to it. The planters ask for a research organization, and they are prepared to pay for it; and surely their energy and their foresight should be encouraged.

The wheels of Government may work very surely, but they also work terribly slowly, as those of us who have tried to get any scheme carried through by Government are aware, and, probably, the tea planters are wise in wishing to have an organization of their own, and to keep the control of this organization as much as possible in their own hands. They can probably have their work done much more quickly in this way than if the institute were attached to the Department of Agriculture. Look at what the Dutch have done in Java, and what they are still doing in the way of tea research! Surely Ceylon, which is dependent so much upon the prosperity of its principal industry, tea, should not be behind Java. The Honourable Member who has just spoken in opposition of this Ordinance has mentioned several points. I have no doubt that the mover of the motion will deal with these later on, and probably much more effectively than myself; but there are two or three points to which I would wish to refer.

The cess which is proposed can hardly be called a tax. It is voluntary; it is something which the tea planters themselves have asked to be imposed on themselves. Therefore, it can hardly be called a tax.

The last honourable speaker also made a connection between the proposed Tea Research Institute and the Rubber Restriction Board. They are entirely different; their objects are different, and a comparison cannot, therefore, be made between the two. The Rubber Restriction Board controls the production of rubber. The Tea Research Institute will have nothing whatever to do with the production of tea. It will only try to make better tea and to save tea from the many dangers which might threaten it.

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As regards the remark of the Honourable Member, that the owners of a number of estates have not agreed to pay the cess and that therefore they should not be compelled to pay, the same argument would apply if the whole of the Island were clamouring for this organization and offering to pay for it and one single man with five acres of tea stood out of it. That man will automatically benefit by the operations of the institute whether he likes it or not. I hardly think that if a big proportion are in favour of such a measure for the general good of the tea industry, and therefore for the general good of the whole Island, it should be held back for the sake of a few small holders who are so shortsighted that they cannot see that they themselves will benefit.

As regards individual shareholders in companies not having agreed to the measure, there are very few detail matters in connection with any company on which individual shareholders express their opinion. They act through the directors, and the directors act through the agents. I do not, therefore, think that there is anything in the argument that each shareholder has not had a chance of saying yes or no.

I do not think that the proposed institute intends to selfishly hold up valuable information which it will acquire and put it upon its shelves in its library. Surely the information acquired by investigations will be for the benefit of the whole of the community and for the benefit of the whole Colony.

The last honourable speaker also tried to make out that lands which in the dim past belonged to other owners have been secured for tea purposes, and that as a result of this Institute more lands may be taken over for the same purpose. After all, the tea industry is an established asset of the Colony, and a very valuable asset—in fact, the most important asset that this Colony has at the present moment. The whole object of this research institute is to improve the conditions of that asset. It is not intended to enable big people to acquire more land, or acquire land dishonestly or unsympathetically from the people of the country; but it is entirely for the purpose of improving the existing conditions; and by improving the existing conditions of tea, improve the position of the Colony. I therefore do hope that this Council will support and pass this most necessary and excellent measure.

THE HON. MR. A. H. E. MOLAMURE (Ratnapura Revenue District):—I rise, Sir, to offer a few remarks on this very important question. I represent a district largely planted with tea owned both by Europeans and Ceylonese. I have had the advantage of having spoken to a very large number of these proprietors, including the very small holders of two and three acres in my district, and I can conscientiously say that although there has not been what is called unanimous support of this scheme, there has certainly been 97 per cent. support given to it.

I am glad to say that during my inquiries I came across some very small holders too. They were very glad indeed that they were to be given the opportunity of improving their plantations, and they said that they would be very pleased if any society or association or body would undertake to look after their interests.

As pointed out by the Honourable the European Rural Member, the cost of this scheme will be very small. All the small holders are

sellers of green leaf, and, as also pointed out by the Honourable Mr. Wright, they will only have to pay one-fortieth of a cent per pound of green leaf. This is a very small sum indeed. The brunt of the tax is undoubtedly going to be borne by the promoters of the scheme ; and, therefore, I do not see any strong reason why we in this House should oppose it. On the contrary, I think there is every reason why strong support should be given to it. There is no getting over the fact that tea forms a very large factor in the revenue of this Island, and it is nothing but fair that we should give the industry all the support we can ; and, considering what the promoters are asking for, I do not think there is anything to grouse about.

When the question of a coconut research scheme came up it was turned down because money out of general revenue was going to be spent on it—money taken out of the contributions, not only of the coconut grower, but also of the gem dealer, the rubber planter, and others not concerned at all with the coconut industry. But even in the case of that scheme, if it was to be for the permanent benefit of the industry, and for the uplifting of the industry, even those who had no interest whatever in it should have supported the scheme. Quite the contrary is the case of the Tea Research Scheme. It is to be what we may call a self-supporting scheme. The tea growers want it, and they will pay for it. Not a single taxpayer is going to contribute towards it.

The only point that struck me as being arguable was that urged by the Honourable Member for the Negombo District, namely, that the owners of 17,000 acres are opposed to the scheme. I do not know whether they are opposed to it or not. The Honourable Mr. Senanayake tried to make out that it would not be fair for us to give legal power to this scheme to compel these owners to pay.

THE HON. MR. D. S. SENANAYAKE (Negombo District) :—What I said was that after having collected the money from these owners we should not hand it over to the Board and not be responsible for its expenditure ourselves. We should be responsible for its expenditure.

THE HON. MR. A. H. E. MOLAMURE (Ratnapura Revenue District) :—I did not understand the Honourable Member to say that. But even so, it is an infinitesimal dot in the whole scheme, and much weight should not be given to that consideration. After all, it is not possible in this world, more so in this Council, to agree on anything unanimously ; and in a scheme of this sort I think that there must be some people who either through ignorance of the benefits to be afforded to them, or through cussedness will object to this kind of thing. If we are going to be led by a small minority like that nothing could be done. I think that it is absolutely fair and legitimate of this Council to support the tea industry, not only in this measure, but also support it in such a way that it may last and be a source of increasing revenue and prosperity to this country. I heartily support the motion.

THE HON. MR. D. H. KOTALAWALA (Province of Uva) :—I desire, Sir, to say just a few words in support of this motion. It cannot, I think, be seriously contended that the present prosperity of the Island is to a very great extent due to the tea industry. If we look back upon the depression and financial chaos that

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followed the failure of coffee, and contemplate what a situation will arise if the tea industry fails, I am certain that Honourable Members will not hesitate to give the Bill before the House their wholehearted support. It is the duty of those who have the interest and welfare of the country at heart to give their support to the proposed scheme, which is intended to ensure the safety of one of the principal industries of the Island. The Bill has my entire support.

THE HON. MR. P. B. RAMBUKWELLE (Central Province, Rural) :—The importance of the Bill before the House cannot be exaggerated. It provides for the protection and promotion of an industry which is well established in the Island. One of the chief features in the Bill is that the industry proposes to tax itself, that is, by the cess provided in the Ordinance. My honourable friend the Member for the Negombo District tried to make out that the cess is to be recovered, not with the unanimous consent of all concerned in the industry; but, as the Honourable Member for the Ratnapura District pointed out, we can never be unanimous in anything of this nature. We have, therefore, to accept the wish of the majority. A referendum was taken, and 97 per cent. signified their consent to the cess being levied to provide the funds for financing the scheme and the institute.

Another point that the Honourable Member for the Negombo District made out was that this is a scheme to take lands from the peasantry.

THE HON. MR. D. S. SENANAYAKE (Negombo District) :—I did not say that. What I said was that this scheme encourages people who are in a more advantageous position than the people of the country, and at the same time it is not intended to impart to them the information that would be available. The result would be that they would lose their lands.

THE HON. MR. P. B. RAMBUKWELLE (Central Province, Rural) :—I am glad to be corrected. If the scheme is intended to take away lands from the people of the country and give them to others I would gladly support the Honourable Member. But this is a scheme which has been propounded to protect and further an industry which has already been established in the country, and upon which the Island depends very much for its progress and prosperity.

Another point which the Honourable Member raised in opposition was that a case had not been made out for this Bill, because the representatives of the tea industry are keen on getting Mr. Petch out here for the purpose of the institute but that Mr. Petch ought to be got out, not only for the benefit of a particular industry, but for the benefit of all agriculture. I would certainly support him on that point, but the difficulty, as I understand it, is this. Here is a cut-and-dry scheme which has been carefully and very thoughtfully prepared and brought before us while the other industries are lagging far behind; and while they are making up their minds, perhaps Mr. Petch may be taken up by some other Colony or enterprising country, and we may not be able to avail ourselves of such a capable scientist as he.

As regards this scheme and its relation to other industries, the Chairman of the Planters' Association made it clear at a meeting last month, that when once this scheme is launched there is nothing to prevent it from being brought into any general research proposals for the industries of the Island as a whole. That is a point which we must all welcome and bear in mind in supporting this scheme, and I trust that all Honourable Members of this House will bear that in mind and support the scheme as it stands. I feel certain that once this institute is established, its results will benefit, not only the large proprietor, but the humble peasant proprietor as well. I strongly support the scheme and the institute.

THE HON. MR. G. A. H. WILLE (First Burgher Member) :—I desire to say just a few words in support of the scheme. In a matter of this kind we have to take into consideration the feeling of the country, and so far as evidence goes there is practically unanimity as regards this scheme. It has received the approval of the Low-country Products Association, which comprises many Ceylonese proprietors. We need not, therefore, hesitate to support this scheme on the ground that Ceylonese who are interested in tea and other products are not in favour of the scheme. The scheme also appeals to me on the ground that it will meet the complaint which has been made against the Department of Agriculture that it has devoted too much time to the major industries. When this scheme is in working, I expect that the Department of Agriculture will be relieved of a good deal of its work, and that it will be able to devote far more of its attention than it has done in the past to certain minor industries.

Another favourable point in the scheme is that it is a very impressive lesson to the Ceylonese in self-help. The tea proprietors have combined to help themselves to a very reasonable scheme, and being able to help themselves they have not come to Government for any pecuniary assistance at the expense of the Colony. It is true that they have asked for a certain sum to be collected for them at the Customs, but that is only a matter of ministerial arrangement. It is simply a means of conveniently getting in the resources necessary for carrying out the scheme. It is not correct to talk of this extra export duty as an imposition, although there has been no other way of finding the money for the scheme than through the Customs Ordinance.

As regards the fears which have been expressed by the Honourable Member for the Negombo District, we can certainly watch the progress of this scheme and its working, and if such evils as he has conjured up are ever realized—I do not think they will ever be—we have the power to have this Ordinance abrogated. So far as I can see there is every reason to support this Bill. I expect that it will result in great benefits not only to the large proprietors, who happen to be Europeans, but to the Ceylonese proprietors as well. The tea industry is a highly specialized one, and I do not think that too much attention could be devoted to it on the scientific side. It is impossible to believe that those who will be responsible for the carrying out of the scheme will practise a petty secrecy, which is so foreign to those engaged in scientific research. It is reasonable to expect that the whole Island will benefit from the results of the researches carried out by this institute. As I said before, if such evils as have been anticipated become realities we are not without the power to take action. I have very great pleasure in supporting the Bill.

THE HON. MR. D. B. JAYATILAKA (Colombo District):—I rise, Sir, to make a few observations merely for the purpose of eliciting further information on one or two points. It is hardly necessary I think for us to dilate upon the tea industry in connection with the welfare of this progressive Colony. Everybody admits the importance of the tea industry. We are assured that a large majority of the tea planters have agreed upon a scheme for research, and that they are prepared to pay the cost of it. If the representatives of the tea industry came before the Government and said "We want to establish a Board of Management, and we want you to incorporate it" the matter would have been acceptable to all concerned; but the present proposal goes much further, and the trouble is due to that. If there is opposition on the part of any Members present, it is due to the fact that those who want this research scheme introduced want the Government to go very much further than incorporating their Board of Management. The planters are willing to pay for the scheme, and I am sure that every Member of this House will say that the tea planters are taking the right step in seeking to establish a research institute which will not only protect the industry but also promote it.

As was stated by the Honourable Mr. Wille, the tea planters have set a splendid example of self-help. But, when the proposal before us is that the Government should undertake to collect the cess, which, in spite of what the Honourable Member representing the European Rural Constituency said, is the imposition of a tax upon all the tea planters in the country, and compel them to pay a certain amount for all time or as long as the Ordinance remains in force, I think it is the duty of this Council to look into the matter more closely and see whether it is the right course to adopt. I think the Honourable Member for the Negombo District raised this question for that very reason.

A further reason why we should be careful is that it is proposed that the Principal Collector of Customs should be the tax-gatherer, and at the end of each month he should hand over the proceeds of this collection to the Board of Management to be established; and after that the Government is to have no control over the operations of the Board. The Board, I expect, will conduct its business very efficiently. The planters can be relied upon to do that. But there is a principle involved. It is not this particular instance that we are concerned with. Is it a right principle for Government to impose any tax on any section of the community and hand over the proceeds of the tax to a body over which they have no control whatever? That is the point before this House, and upon this point I want a definite answer from the Government. Shall we not be creating a precedent which it will be difficult and sometimes dangerous to follow hereafter?

The next point is this. By undertaking to legislate in regard to this cess, does the Government undertake any further liability? If I am correctly informed, it is proposed by those who are interested in this scheme to float a company to buy an estate for the purpose of this institute by issuing debenture bonds. The estate will become the property of a limited liability company. What will be the relationship between that company which may be floated and the Board of Management? Supposing that company is wound up for some reason or another, supposing that the shareholders of the company some years hence propose to wind up the company, what

will happen to the scheme? Will the Government be called upon to take the responsibility of continuing the scheme? These are matters upon which we want information.

It is proposed that on the Board of Management there should be two Government officials, the Treasurer and the Director of Agriculture. I want to know what their position on that Board will be. This is a private enterprise admittedly. The representative of the planting community very properly prides himself upon the fact that it is going to be a planters' business. That being so, I want to know what will be the position of these two officials on the Board. Again I ask, are we not creating a precedent in this instance which it may be difficult and sometimes dangerous to follow hereafter? In private ventures of this kind, however desirable they may be, is not the Government taking too much responsibility by appointing their officials to the Board? That is another point on which I desire information.

Lastly, what relationship will there exist between the Department of Agriculture and the Research Institute? What is going to be the position of the Department of Agriculture in regard to the tea industry hereafter? Will it say "Well, the research institute has been started for the purpose of carrying on experiments in connection with the tea industry; we need not therefore carry on further experiments," or, will the research institute begin where the Department of Agriculture ends? I am not surprised that the planting community is not prepared to wait until the Agricultural Department takes up research work. I have often complained that the Agricultural Department is moving very, very slowly indeed, and it is, therefore, quite right that the tea planters should take up this matter themselves, but we should like to know what is to happen to the Department of Agriculture, which is now perhaps dealing with this question of research. Perhaps the Director of Agriculture in his reply may give us further information as regards this matter.

Then there are the agricultural students who are being trained by the Department of Agriculture. Would they have any chance of pursuing their studies in higher research which would be carried on by the institute? If on these various points the official spokesman or any other member would be able to give us satisfactory assurance I would not have the slightest objection to giving my support to the scheme.

THE HON. MR. W. DURAISWAMY (Northern Province, Western Division):—I wish to say a few words, Sir, on this Bill, but before I do so I must congratulate my honourable friend who represents the Negombo District for the full and masterly manner in which he brought his points before the House. It is only on occasions of this sort that the mettle of a member, who is prepared fearlessly to put forward his views, is seen. I have not made a study of this question, but the Honourable Member for Negombo District, who apparently has, asks why this scheme should be brought before this Council. Two principles which have been mentioned in the course of the debate appeal to me. One is that the people who are responsible for bringing forward a scheme of this kind ask the assistance of the Legislature in order to impose taxation. The majority of the section of the people, no doubt, are agreed that they should have an institute of this kind, and that they should contribute towards its maintenance and management; but when the aid of the Legislature

is asked to give authority for the imposition of a tax—it may be called an export duty or a cess, it makes no difference—there is a big principle involved.

Here is a section of people interested in promoting their industry. It is a very good thing, because they are doing the right thing in helping themselves. But what is it that should be done by the industry and those interested in it? They should make the proprietors, who are well organized, to voluntarily contribute towards this institution. But when it comes to a question of imposing a duty, they ask for the aid of legislation. As regards this, I say that we must carefully consider the matter. From what I have heard from the Honourable Member for the Negombo District, there are the proprietors of 91,000 acres whose views have not been properly ascertained, or who have not given an expression in favour of the scheme. Having, therefore, such a large number who are unwilling to join, what is the position of the Legislature? It is true that all men cannot agree on a subject, but it is our duty to weigh the requests of the majority and the minority, and also to consider under what circumstances we are to impose this tax. If we impose a tax and have control of the money, then the question of the majority and of the minority does not come into play, because the money would be in the hands of this Legislature. But here we are asked to impose a tax and collect the money with our power and authority, hand the money over to this body as constituted in this draft Ordinance, and to have no other control except as provided in section 13 of this draft Ordinance, which reads as follows: "Within one month after each December 31 the Board shall cause to be prepared a statement of the receipts and disbursements during the previous year, and the same shall be subject to such audit and published in such manner as the Governor may direct." That is the only control we will have over Rs. 200,000 each year. Is this a right attitude to take?

There was another point raised by the Honourable Member for the Colombo District. What is to be the position of the Official Members, the Director of Agriculture and the Treasurer or his nominee? In the draft Bill brought forward by the Honourable Sir P. Ramanathan to incorporate Parameshvara College, the Director of Education or his nominee was to be represented on the Board, but many objections were raised to this. It was said that Government officers should have no place on Boards concerned with private institutions, and, as a matter of fact, I believe the Director of Education refused to be a member of that Board and his name was removed. Here, not only is the Director of Agriculture to be on the Board, but also the Treasurer or his nominee. This is a matter on which there should be an explanation by the Government. We are entirely in sympathy with the desire of the tea planters to help themselves and promote their industry. The tea industry has done a great deal for the country; but let us not sidetrack the points brought forward by the Honourable Member for the Negombo District. I want the Government representatives and others who support the Bill to give us direct answers to the questions regarding the constitutional position of this House to vote money and pass it on to a Board to be constituted as appears in the draft Ordinance without giving us every opportunity of controlling the expenditure; and also, how it comes about that in this case members of Government have been placed on a private Board, while in the case of Parameshvara College they were not allowed to be on the Board.

In general, I should like to observe that cases of this kind take away from the Department of Agriculture, which is strictly interested in agriculture, their full responsibility to see to research and development of agriculture generally. Here is a research institute proposed to be started by the planters in connection with the tea industry. But what about other agricultural produce? Are they not to have researches of this kind? I say that there is too much of a tendency on the part of the Government to allow matters of this kind to be attended to by Boards. There is another instance which I can give in this connection. It was only last year or the year before last that we wished the Government to start a Borstal Institute. But did Government undertake that responsibility? No. Instead, we were asked for a vote, which we refused, to the Salvation Army or a body of that kind, and as a result nothing has been done in connection with that matter. And now the Government is trying to bring in an Ordinance to provide for the grant of money to societies which are prepared to build institutions for carrying on work of that nature. Even if such institutions are established, there should be Government control and close co-operation between the Government and the bodies concerned. In the Education Department and other departments I find the work scattered about, and I agree with the Honourable Member for the Negombo District when he says that the whole Island should be divided up and that there must be Boards for the different areas, and that there must be responsible officers to advise Government and the department as to what produce can be grown in the various areas. That is what should be done instead of taking the various areas separately.

I entirely agree with the Honourable Member for the Colombo District when he asks what will be the relation between the institute and the students of the Agricultural Department. Will they have the right to have a training in the tea research institute? These matters should be explained to us before we are asked to vote. I must congratulate the Honourable Member for the Negombo District once again for having brought forward his views in such a way as to show the principles which are involved in this Bill.

THE HON. THE ATTORNEY-GENERAL :—Sir, I think it may possibly be of assistance to Council if I endeavour to deal with some of the constitutional questions raised during the debate; but I will not attempt to deal with the direct question whether the institute should be run by private influence or Government influence. The first question raised is whether it is right for this Council to impose a tax when there is apparently a minority—although a small minority—opposed to the scheme. From the legal point of view, so far as the rights and prerogatives of this Council are concerned there can be no doubt at all. The Council has the right; and I think that one can safely say that in no tax that has ever been imposed or will be imposed will there not be a minority of the voters of the country who will not oppose it. The only possible doubt there can be as to the expediency of voting the money, assuming the scheme to be a good one, is whether the Council will have sufficient control over the expenditure to ensure that the expenditure of the money is in no way abused. Let us consider what is the control which the Council have over the expenditure of general revenue which is voted in the ordinary way. As Honourable Members are

aware, the Councillors themselves do not spend the money in any way. A sum of money is voted for a specific purpose, and it is handed over to Government—perhaps some members may say to the tender mercies of Government. After the money has been expended, Honourable Members have the right of criticism, and ultimately they have the right to refuse to vote any more money for a similar purpose. It is perfectly correct to say that the latter right will be to some extent abrogated by this Ordinance, but I venture to suggest that the difference which will remain with the Council if this Ordinance is passed and the ordinary control over general expenditure is not quite so great as would appear at first sight. It is obvious that, if any abuse of expenditure took place, if the affairs of this institute are not managed properly, the members of this Council will get wind of it. By means of questions and motions such abuse would very soon be very effectively ventilated.

The next point raised was, why are the Director of Agriculture and the Treasurer put on this Board of Management? As regards the Director of Agriculture, I think it is fairly obvious that it is of the utmost use to the community and Government that the Director of Agriculture should be on it if only as it might be called, a liaison officer for practical purposes between his own department and this institute. As regards the Honourable the Treasurer, he is the financial adviser of Government, and he is supposed to know all the details of expenditure and to be able to answer all criticisms. I think that the presence of the Treasurer on the Board of Management will in itself be, indirectly, a very effective source of control by the Council. The Treasurer will be expected to know, and I have no doubt will know, all that is being done by the Council, and he will be liable to interrogation in this Council as to what is actually happening. In that connection, it has occurred to me that possibly, if necessary, further control can be ensured by a small amendment to the Ordinance providing that detailed accounts and a detailed report are to be laid annually before the Council. Then, at any rate, Council will have as much information, if not more than they do get, as to the expenditure of the ordinary general revenue. It is, I think, already specifically provided that accounts are to be prepared, audited, and published in such manner as the Governor may direct. The only reason for not having the Government Auditor to audit the accounts is that the latter is a very busy man and there might be difficulties in always securing his services for such a purpose; but Honourable Members can be quite sure that an efficient audit will always be made.

Now, Sir, even supposing that that is not a sufficient remedy, and supposing that this institute abuses its rights and expends its money so badly that further money had to be withheld from it. I may remind Honourable Members of what happened some years ago on the same point. There was a tea cess imposed on very much the same circumstances, I think. It was imposed, as it appears to us now, in order to advertise tea throughout the world. The cess went on for some years, and far be it from me to offer an opinion whether it acted very well or not.

THE HON. MR. T. Y. WRIGHT (European Rural Member):—Very well, indeed.

THE HON. THE ATTORNEY-GENERAL:—But opposition to it arose—opposition by a minority, but an insistent minority, who said that it was all rubbish, and that the tax should not be imposed

against their wishes. As a result of that, some time after—I will not commit myself to saying whether it was months or years—the Ordinance was repealed on a Government motion. If in 1906 or 1907 the Government felt itself compelled to remove a tax which, as far as I can make out from the correspondence, they themselves were in favour of, feeling that they were bound to give in to the wishes of the people, how much more would they be compelled to do so in these days? This Council undoubtedly has the power, if circumstances came to such a pitch, to demand the repeal of the Ordinance.

There is only one other minor point to which I should like to refer. I am quite sure that the promoters of the Bill would not object, if necessary, to a statutory liability being imposed on them of publishing information from time to time.

THE HON. MR. C. E. VICTOR COREA (Colombo Town, North):— I had not intended taking part in this debate; but from certain remarks which fell from the Honourable Member for the Negombo District I gather that there is a serious menace to the welfare of the peasantry lurking in this scheme. The Honourable Member for the Ratnapura District told us that he had gone among two-acre and three-acre holders and that he found that there was no opposition to the scheme; but I am not disposed to take the Honourable Member seriously. I can imagine him going from his Walauwa on the hills among his hereditary tenants, and saying to one or two of them “*Yakko, may neethiata kemethi-veyan* ;” and the peasants replying “*Ehei hamuduruwanay*.” I would rather accept the opinion of my honourable friend for the Negombo District, who has studied this question very well indeed, that the interests of the poor classes—the peasantry—would be jeopardized by this scheme. He does not for a moment insinuate that there is any sinister motive behind this scheme, that the promoters have in mind the undoing of the peasantry. The fact that my honourable friend on my left (the Hon. Mr. T. Y. Wright) supports the scheme is a guarantee that there is no such object. But not one of the speakers in support of the motion has yet been able to give us the assurance that the Honourable Mr. Senanayake’s fears are unfounded and that there is no menace to the peasantry in this scheme. Should the supporters of the scheme convince me that there is no such danger I will gladly support it.

Council adjourned for tea.

On resuming—

THE HON. MR. C. W. W. KANNANGARA (Southern Province, Western Division):—Rising so soon after the tea interval, Sir, I must admit that tea is a very refreshing beverage and that therefore the Tea Research Scheme deserves every encouragement. The Galle District Planters’ Association has unanimously approved of this scheme, and I have been asked to state their opinion in this Council. I do so gladly, Sir; but as certain fears have been expressed by the Honourable Member for the Negombo District and by the Honourable Member for the Colombo District, I would wish to see a special provision made in the Ordinance to meet those fears.

Now that we are legislating about this matter, it is nothing but right that we should make proper provision for students at the Agricultural School at Peradeniya to prosecute their studies further in tea research under this scheme. There should be some kind of provision to enable classes to be held. I also wish to see some kind of Government control over the business, so that there will be no racial discrimination in the matter of making appointments under the scheme. The point brought forward by the Honourable Member for the Colombo District about the purchase of an estate by a company which may some years later be wound up has not yet been met.

In section 5 of the Ordinance Honourable Members will find provision for the constitution of the Board. There are to be two official members and the Chairman of the Planters' Association and the Chairman of the Ceylon Estates Proprietary Association as *ex officio* members. I would also wish to see there the Chairman of the Low-country Products Association. As regards the nominated members, Honourable Members will find that they are to be composed of three members of the Planters' Association, three members of the Ceylon Estates Proprietary Association, and only one member of the Low-country Products Association. I think that the three members of the two former bodies might be reduced to two, and that there might be two members for the Low-country Products Association and one member to represent the small holders.

Most of the salient points have been touched upon by the previous speakers, and I do not wish to refer to them; but I hope that the Ordinance will be sent to a Select Committee, and I also hope that Government will make provision to safeguard the interests of the permanent population of this Island.

THE HON. MR. F. A. STOCKDALE, C.B.E. (Director of Agriculture):—Sir, I rise to reply to various points which have been raised by Honourable Members in opposition to this Bill, and in doing so I am afraid I must go over some of the ground which has already been covered by Honourable Members who have supported the Bill and also by the Honourable the Attorney-General.

The first point which has been made by the Honourable Member for the Negombo District is the constitutional right to the levy of the cess. That has been dealt with by the Honourable the Attorney-General, and he has instanced that in this Colony a precedent exists for such a cess. As I tried to make plain in my opening remarks, the industry did not wish this cess to be considered in any way a tax, it was a voluntary contribution that they were proposing to make themselves in order that this institute might be started and this work begun. The Honourable Member for the Negombo District treated it throughout as a tax, and said that this Legislative Council has no right to delegate moneys collected as a tax to another body over which this Council had no control. But this is a proposal by the industry, which says it wants an institute started for certain special research for which it is prepared to pay, and it is purely a matter of convenience to collect this money at the port of Colombo as an export cess on tea exported. I might say that there are numerous precedents for such an action. I will instance a few of them. Malaya has recently constituted a Rubber Research Institute much on the lines on which the tea industry desire to have an institute established in this Colony, and they have agreed to an export duty on

rubber which amounts to about 7 rupee cents per 100 lbs. That is to be collected at the port of export and the money handed over to a Board, which is constituted by the Government of Malaya on the same lines as the tea industry now proposes for this Colony. Then again there is the instance of Mauritius. The sugar industry of Mauritius during the period of the war desired to establish a special college for the teaching of the technology and chemistry of sugar, and it volunteered to provide the Government with a sum of Rs. 55,000 to be collected as export duty on sugar. That was passed in 1922. The duty collected constitutes the fund from which moneys are expended on the college.

Turn to India, and Honourable Members will find that even there those industries, which are now specialized and of considerable importance, are realizing the advantage of research. They have agreed to special duties on these industries being levied in order to provide funds for Central Committees or Boards for research work. Such has been done by the cotton industry, which has agreed to an export duty on all Indian cotton exported from India and a special excise duty on cotton used in Indian mills. The money is handed over to the Central Cotton Committee, which is similar to the Board under discussion, and which has full powers to spend money. The Committee submits annually, as is proposed in this Bill, a statement of the work done and of expenditure.

Honourable Members will find that the same sort of thing is done in several other countries. Take Java, which was referred to by the Honourable the Commercial Member. The Dutch have throughout supported research institutes from taxes on the industry. There is also another instance in the Indian Tea Research Association which gets its funds from the tea industry. There are, therefore, a number of instances where the industries themselves have volunteered to pay moneys to be utilized for special purposes, and there are instances where Governments have agreed to collect those moneys and to place them at the disposal of the Boards.

The Honourable Member for the Negombo District also referred to the referendum, and he laid down the axiom that because a certain number had objected to the scheme this Legislative Council should not contemplate passing any Bill which would enforce a payment by that minority. Well, Sir, I think that this Council recognizes that in many matters the majority rule is essential, and would only instance for the benefit of consideration by the Honourable Member for the Negombo District the local option rules which have been adopted by this Council and which have been enforced on the country because it is thought to be to their benefit that the majority should rule in that matter.

With regard to the figures quoted by him, he has not, I think, represented the case fully, and I will, therefore, take the liberty of reading the actual figures of the referendum. The referendum held by the Ceylon Association in London representing those estates controlled in England were 210,442 acres in favour and 7,928 against; the Ceylon Estates Proprietary Association 102,138 acres in favour and 740 against; the Planters' Association of Ceylon, with the proviso that certain small acreages are unrepresented, 66,000 in favour and 17,000 acres which did not reply. What can we conclude from those figures? The greatest opposition as far as these figures are concerned is in London, and I think it is perfectly safe to assume that the whole significance of the scheme was not fully understood

and that the opposition was not very great for that acreage. However, what is 8,000 out of a total of 404,000 acres or 2.3 per cent. of the total acreage under tea? I think this is a sufficient majority for the Council to act on without any fear.

The next point dealt with by the Honourable Member for the Negombo District was the question of publications, and on that point he instanced the Rubber Research Scheme, which I have told him personally has been altered in recent years. I can assure him and other Honourable Members of this Council that the publications of this institute will not be confined to the Board, which the Honourable Member tried to make out would be the case, but that they will be available for the whole of the tea industry, and I will go further and say that they will be offered for sale to the general public; and, as I sense the feeling of this House, I will give the undertaking that portions of them shall be published in the vernaculars for the information of small holders.

The Honourable Member for the Negombo District then stressed the point that this was an industry which occupied only a section of the country, and he twitted me and the Agricultural Department for not progressing faster with the Coconut Research Scheme and other industries of the Colony. I am in entire sympathy with the Honourable Member in that respect, but one individual cannot do everything; and I can assure Honourable Members of this House that I have not wasted my time since I have been in this Colony, and that I have in preparation that memorandum which the Honourable Member has asked for with regard to reorganization and the furtherance of the scheme which I outlined in draft in 1919.

The Honourable Member made a great point of the small holder, and the necessity of much greater attention being given to the small holder and to his agriculture in this Colony. I am second to none in that desire to give the utmost that is possible to the small holder in order that he may be more prosperous. There is no doubt that the small holder to-day finds himself in a difficult economic position, and I fully realize that his position will be increasingly difficult unless his agriculture can be developed.

The Agricultural Department has been asked to develop that agriculture. We shall be the better able to do it if we are relieved to a certain extent of the work of the major industries. It is that point I would like to make in regard to the development of this institute, because this institute will take over a certain portion of the work and a good deal of the responsibility in regard to a particular industry, namely, the tea industry, and it will therefore enable us to give much greater attention to the minor products and to the agriculture of the smaller man. On that account alone I think the scheme deserves the support of this Council.

The Honourable Member for the Colombo District asked a question as to what would be the relationship between the Department of Agriculture and the institute. I tried to make that plain in moving the first reading of this Bill. I indicated that the Government of any State could not delegate to any industry the control of pests and diseases, particularly where the revenues of the Colony are derived largely from that industry, and I do not intend that the Department of Agriculture shall hand over any of its duties in regard to the control of pests and diseases to the institute which it is proposed to constitute. In agricultural research the department can get to a certain point and publish results, and then it must leave

it to the industry to adopt its recommendations. It is then that this institute will come in. It will have the men who will be able to make investigations in the field which are necessary for the carrying out of the direct measures against disease, for manuring, and for the general treatment of the tea bush. I can instance to Honourable Members two or three problems which might arise.

In recent years we had the serious problem of shothole borer. Five years ago we had worked out the whole of the life history of that borer and we knew what damage it did to the tea bush, but the question was, how could we deal with it in the field? It has taken us five years to satisfy ourselves as to how that should be done. In the tea industry there are many like cases. We know the life history of the pests, but it is up to the industry to try out the measures which we have recommended in the field. That will be the duty of this institute.

Then there is the question of manures. At the present moment we have some information with regard to manuring of tea, but it should really be the duty of the industry itself to ascertain the scientific principles which underlie the manuring of tea. Further, there is the whole question of the quality of tea, which is dependent on soil, and factory conditions. These technological questions are the duty of the industry, and should be carried out by them. It is not the duty of the Government to enter into matters of that kind. I have based that opinion on views held in many countries, and particularly in the United Kingdom in recent years. Since the war there has been a considerably changed outlook in connection with the question of research; and it is now felt that industries which are well organized and which have become specialized should themselves provide for research. One cannot expect, where there is a specialized industry, for one man to be able to answer all questions and problems which the industry demands, nor can one expect the Department of Agriculture, which has to cover a wide field, and which it is the desire of Council should specialize in minor products, to answer those questions which an organized industry such as tea is asking to-day. The tea industry is asking for further assistance, but the Department of Agriculture is unable to give it, because in recent years I have tried to organize other departments dealing with minor products. We have secured certain results, but with these I will not detain the House. In our work in connection with seed paddy, tobacco in the Northern Province, and sisal we have done solid work which should be of material benefit to small holders.

I will pass on to other questions raised by the Honourable Member for the Colombo District. The Honourable Member referred to the question of the purchase of an estate and formation of a company. That is not the proposal, as I understand it, which was discussed by the Committee which considered the formulation of the Bill. The difficulty of securing land for an experimental station for this institute was recognized, and it was there stated that certain members interested in the tea industry were prepared to put up a certain amount of money on debentures for the purchase of an estate with the object of handing it over to the institute when the institute was in a position to pay for it. They realized that the funds of the institute at the beginning would not be sufficient to warrant the purchase of an estate, and therefore certain public spirited gentlemen came forward with the suggestion that they would finance this

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project and hand it over to the institute when it was prepared to pay for it. There is no question of legal difficulty about winding up of any company connected with the institute.

With regard to the question of the officials on the Board, I think that has already been answered to a certain extent, but I would add that the reason for the appointment of the Director of Agriculture on the Board was to ensure that there would be no overlapping between the work of the institute and the work of the Department of Agriculture, in other words, that the Department should not carry on the work which the institute should do and that the institute should not carry on work that the department should do. It will also ensure that the general policy of this Council in regard to agriculture will be kept in view by that Board when it is considering various matters in regard to its administration and its duties. For the same reason the Treasurer or his nominee was specified as a member of the Board, because it was felt that he being familiar with all the financial organizations of Government and with the various rules and regulations of those organizations would be in a position to prevent the Board doing what the Honourable Member for Negombo fears, namely, carrying on work which would be contrary to the general wishes of the Council.

The Honourable Member for the Northern Province, Western Division, has asked me why the Director of Agriculture is on the Board, and he has instanced the case of the Director of Education who refused to sit on the Board of Parameshvara College. That college is only one of a large number of colleges which receive grants from this Council, and the Director of Education is responsible to this Council to see that those grants are properly expended, and it would therefore be irregular for him to be a member of the council of that college when he is responsible to the Government and to this Legislative Council for seeing that the money was expended in the way that Council desired. That does not hold in regard to this Board. The money in this case is put up by the industry, and not by the Legislature, and therefore the cases are not parallel.

The only point I have not dealt with is the employment of Ceylonese and the training of students. On that point I may say that this institute will be a research institute, as I have explained before, for the technology of tea, dealing with questions of quality of tea, and of manufacture; and if students who qualify in the Agricultural Colleges desire to prosecute their studies in the line of tea research and tea technology, then I can assure Honourable Members of this Council that they will be given facilities to do so.

The only other question which I would deal with is the question of the position of the peasantry in regard to this scheme. The Honourable Member for Negombo feared that this scheme would help to place the peasantry, particularly in the tea-growing districts, in a more unfavourable position than they are to-day. But this scheme will help the peasantry; it will not be a menace to them, but it will help them to improve their cultivation. If the Honourable Mr. Senanayake will go to the Central Province to-day, he will find thousands of acres that have been sold in recent years to small holders for the development of tea, and he will also find that tea planters are helping the small holders in cultivation. I have seen very great improvement in the cultivation of tea by small holders in the Central Province, and the work done by the Agricultural Department in connection with plant pests and diseases has gone far to help

the peasantry of that Province. To-day Honourable Members will find their tea cultivations weeded and clean, they will find them pruned and manured—a state of things they did not find ten years ago. This has been brought about to a considerable extent by the work of the Department of Agriculture. The peasantry have also been helped by the higher prices of tea, and in consequence the greater amount of money available. But there are a number of what may be called small growers who come regularly to the department for help and assistance against pests and diseases. The work which the institute will carry on in regard to soil and manuring will help the peasantry to develop the lands they hold.

With regard to the suggestion that the Chairman of the Low-country Products Association should be made a member of the Board, I would refer Honourable Members to the communication which the Low-country Products Association sent to the Planters' Association. They were asked whether they would favour and support the institute. They replied that they had every sympathy with the objects of the institute and would support it to their utmost. They further said that their members who were interested in tea were members of the District Planters' Associations, and that therefore they had the representation that was required through the Planters' Association. When, however, the question of representation was being considered by the Sub-committee of the Planters' Association, it was recognized that the Ceylonese interests should be represented on this Board and, although the Low-country Products Association did not ask for it, the members of the Committee recommended that one member should be nominated by the Low-country Products Association on the Board. Further, they are prepared, as the Honourable the Rural Member has said to-day, to have another member to represent the small holders.

With these remarks I recommend to Council the motion which stands in my name, and I say that I feel sure that if this institute is established, it will go far, not only to help in the prosperity and welfare of the tea industry and to insure it against disaster, but also help the revenue of this Colony and also help the people; and in doing so it will help the Department of Agriculture very considerably, because it will relieve it of a certain amount of work which is now asked from the department for the tea industry, and will enable it to concentrate on the work which it has before it in regard to the agriculture of the small growers.

The motion that the Bill be read a second time was adopted.
The Bill was read a second time.

THE HON. MR. F. A. STOCKDALE, C.B.E. (Director of Agriculture):—I move, Sir, that the House do go into Committee to consider the Bill clause by clause.

Council in Committee.
The Clerk read clause 1.

THE HON. MR. D. S. SENANAYAKE (Negombo District):—I move, Sir, that the Bill be referred to a Select Committee.

THE HON. THE ATTORNEY-GENERAL:—Clause 1 has already been called.

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THE HON. THE VICE-PRESIDENT :—I agree that clause 1 has been called ; and unless there is a general desire, I do not think that the amendment need be put to the House.

THE HON. MR. C. W. W. KANNANGARA (Southern Province, Western Division) :—I second the amendment, Sir, that the Bill be referred to a Select Committee. It is not possible to make amendments to this Bill all of a sudden.

THE HON. MR. T. Y. WRIGHT (European Rural Member) :—I oppose the amendment, Sir. Reasons have already been given why the Bill should be passed as soon as possible.

THE HON. THE VICE-PRESIDENT :—The Honourable Member for the Negombo District has moved his amendment after the proper time. He should have done it immediately after the second reading was passed. I do not think that there is a general desire for a Select Committee.

THE HON. THE ATTORNEY-GENERAL :—I may possibly be able to remove certain misapprehensions on the part of Honourable Members. I have prepared two or three amendments which I think will meet the points raised during the debate. Anything which could be done in Committee by way of amendments will be done.

THE HON. MR. D. S. SENANAYAKE (Negombo District) :—May we have a division, Sir, on my amendment ? Many points have been urged during the debate, and it is not possible to make amendments at this stage.

THE HON. THE VICE-PRESIDENT :—With the leave of the House I will put the amendment.

THE HON. THE ACTING COLONIAL SECRETARY :—It will be very difficult to have another meeting on a date in the near future.

THE HON. THE VICE-PRESIDENT :—I believe the Council is in possession of those facts. I will put the amendment to the House.

THE HON. THE ATTORNEY-GENERAL :—I do not think Council is in favour of a division. A division will only be a waste of time.

THE HON. THE VICE-PRESIDENT :—Those in favour of the amendment that the Bill be referred to a Select Committee instead of its being referred to a Committee of the whole House say Aye ; those of the contrary opinion say No. I think the Noes have it.

THE HON. MR. D. S. SENANAYAKE (Negombo District) :—
Divide.

Council divided as follows :—

Ayes—8.

The Hon. Mr. W. Duraiswamy (Northern Province, Western Division).

The Hon. Mr. E. W. Perera (Kalutara Revenue District).

The Hon. Mr. C. W. W. Kannangara (Southern Province, Western Division).

The Hon. Mr. C. E. Victor Corea (Colombo Town, North).

The Hon. Mr. A. F. Molamure (Kegalla Revenue District).

The Hon. Mr. D. S. Senanayake (Negombo District).

The Hon. Mr. V. S. de S. Wikremanayake (Southern Province, Eastern Division).

The Hon. Mr. T. M. Saba Rutnam (Northern Province, Eastern Division).

Noes—36.

The Hon. the Officer Commanding the Troops.

The Hon. the Acting Colonial Secretary.

The Hon. the Attorney-General.

The Hon. the Acting Controller of Revenue.

The Hon. the Treasurer.

The Hon. Mr. F. A. Stockdale, C.B.E. (Director of Agriculture).

The Hon. Mr. N. H. M. Abdul Cader (Second Muslim Member).

The Hon. Sir P. Ramanathan, Kt., K.C., C.M.G. (Northern Province, Northern Division).

The Hon. Mr. L. Macrae (Director of Education).

The Hon. Mr. T. Y. Wright (European Rural Member).

The Hon. Mr. D. H. Kotalawala (Province of Uva).

The Hon. Mr. E. R. Tambimuttu (Batticaloa Revenue District).

The Hon. Mr. A. C. G. Wijeyekoon (Nominated Unofficial Member).

The Hon. Mr. E. J. Hayward, C.B.E., V.D. (Commercial Member).

The Hon. Mr. W. L. Kindersley (Government Agent, Central Province).

The Hon. Mr. N. J. Martin (Second Burgher Member).

The Hon. Mr. J. Strachan (Director of Public Works).

The Hon. Mr. W. T. Southorn (Principal Collector of Customs).

The Hon. Mr. M. T. Akbar, K.C. (Solicitor-General).

The Hon. Mr. K. Balasingham (Nominated Unofficial Member).

The Hon. Dr. J. F. E. Bridger (Director of Medical and Sanitary Services).

The Hon. Mr. A. Canagaratnam (Northern Province, Southern Division).

The Hon. Mr. H. R. Freeman (North-Central Province).

The Hon. Mr. T. B. Jayah (Third Muslim Member).

The Hon. Mr. D. B. Jayatilaka (Colombo District).

The Hon. Mr. H. M. Macan Markar (First Muslim Member).

The Hon. Mr. G. E. Madawala (North-Western Province, Eastern Division).

The Hon. Mr. A. Mahadeva (Western Province, Ceylon Tamil).

The Hon. Mr. A. H. E. Molamure (Ratnapura Revenue District).

The Hon. Mr. F. A. Obeyesekere (Southern Province, Central Division).

The Hon. Mr. I. X. Pereira (First Indian Member).

The Hon. Mr. M. M. Subramaniam (Trincomalee Revenue District).

The Hon. Mr. G. A. H. Wille (First Burgher Member).

The Hon. Sir J. Thomson Broom, Kt. (European Urban Member).

The Hon. Mr. W. A. de Silva (Central Province, Urban).

The Hon. Mr. P. B. Rambukwelle (Central Province, Rural).

THE HON. THE VICE-PRESIDENT:—Council will go into Committee.

The Clerk read clause 1.

THE HON. THE ATTORNEY-GENERAL:—I beg to move as an amendment the addition of the following words at the end of the clause: "and shall come into operation on a day to be appointed by His Excellency the Governor in Executive Council and published in the *Government Gazette*." The reason is this. Supposing the Ordinance is assented to by the Governor at, say, midday, the Ordinance having a retrospective effect and coming into effect from midnight it will affect tea which has not been cleared in the meantime.

THE HON. MR. F. A. STOCKDALE, C.B.E. (Director of Agriculture), seconded, and the amendment was agreed to.

The Clerk read clause 2.

THE HON. THE ATTORNEY-GENERAL:—I beg to move as an amendment the insertion in the fourth line, after the words "the provision of information," the words "and publication." It will now be clear that one of the fundamental objects of the institute is not only to gather information but also to disseminate it.

THE HON. MR. F. A. STOCKDALE, C.B.E. (Director of Agriculture), seconded.

THE HON. THE ATTORNEY-GENERAL:—There is one other amendment which I should wish to move to clause 2, and that is to insert at the end of the clause the following words: "and shall provide such facilities for the education of students interested in tea research as the Governor may from time to time prescribe." I do not know the details of the scheme, and I am not in a position to say whether this will be workable or not. But I put it forward for the consideration of the House.

THE HON. MR. F. A. OBEYESEKERE (Southern Province, Central Division):—I second the amendment, Sir. One of the objects of this Ordinance is to provide scientific research into agricultural problems. The Director of Agriculture in his explanation as to the kind of instruction which students in the Agricultural School may receive restricted those activities to the technology of tea. The object of the tea research institute, according to the

Statement of Objects and Reasons, is to provide scientific research into "the agricultural and factory problems which face that industry." I heartily support the amendment.

THE HON. MR. T. Y. WRIGHT (European Rural Member) :—The institute might not be able to afford this. They may have to put up buildings for the purpose.

THE HON. THE VICE-PRESIDENT :—I believe the amendment has the general approval of the House. I put the whole clause as amended.

THE HON. SIR PONNAMBALAM RAMANATHAN, K.T., K.C., C.M.G. (Northern Province, Northern Division) :—Who is to stand the expense of the education ?

THE HON. THE VICE-PRESIDENT :—That is a matter for the future.

THE HON. THE ATTORNEY-GENERAL :—Sir, I would wish to add to my amendment, after the word "Governor," the words "in Executive Council." The amendment will now read "and shall provide such facilities for the education of students interested in tea research as the Governor in Executive Council may from time to time prescribe."

Clause 2, with the amendments proposed by the Honourable the Attorney-General, was agreed to.

The Clerk read clause 3, which was agreed to.

The Clerk read clause 4, which was agreed to.

The Clerk read clause 5.

THE HON. THE ATTORNEY-GENERAL :—I propose, Sir, as an amendment, to substitute for the words "or nominee" after the words "The Colonial Treasurer," the words "or the Assistant Colonial Treasurer." It has been represented to me that the word "nominee" is rather vague, and that it is better to have something more definite.

THE HON. THE VICE-PRESIDENT :—Is there not the idea of further amending the clause by providing for a member to represent the small holders ?

THE HON. MR. T. Y. WRIGHT (European Rural Member) :—I propose as an amendment that a member to represent the small holders should be nominated by His Excellency the Governor.

THE HON. MR. F. A. STOCKDALE, C.B.E. (Director of Agriculture), seconded.

THE HON. MR. D. S. SENANAYAKE (Negombo District) :—I propose as a further amendment that three members be appointed to represent the small holders.

THE HON. MR. C. W. W. KANNANGARA (Southern Province, Western Division) seconded.

THE HON. MR. T. Y. WRIGHT (European Rural Member) :— They have not sufficient interests to be represented by three members.

THE HON. THE VICE-PRESIDENT :—I put the amendment of the Honourable Member for the Negombo District to the House, that the small holders be represented by three members. Those of that opinion say Aye, those of the contrary opinion say No. (After a pause). The Noes have it.

THE HON. MR. C. W. W. KANNANGARA (Southern Province, Western Division) :—I propose, Sir, that the Chairman of the Low-country Products Association be included in the list (a).

THE HON. MR. W. A. DE SILVA (Central Province, Urban) :—The Low-country Products Association by their regulations exclude tea from the purview of their activities.

THE HON. THE VICE-PRESIDENT :—I put the amendment of the Honourable Member for the Southern Province, Western Division, to the House. (After a pause.) I think the Noes have it.

THE HON. MR. C. W. W. KANNANGARA (Southern Province, Western Division) :—Divide.

The Council divided as follows :—

Ayes—14.

The Hon. Mr. W. Duraiswamy (Northern Province, Western Division).

The Hon. Mr. E. W. Perera (Kalutara Revenue District).

The Hon. Mr. E. J. Hayward, C.B.E., V.D. (Commercial Member).

The Hon. Mr. C. W. W. Kannangara (Southern Province, Western Division).

The Hon. Mr. C. E. Victor Corea (Colombo Town, North).

The Hon. Mr. T. B. Jayah (Third Muslim Member).

The Hon. Mr. H. M. Macan Markar (First Muslim Member).

The Hon. Mr. A. H. E. Molamure (Ratnapura Revenue District).

The Hon. Mr. F. A. Obeyesekere (Southern Province, Central Division).

The Hon. Mr. I. X. Pereira (First Indian Member).

The Hon. Mr. D. S. Senanayake (Negombo District).

The Hon. Mr. M. M. Subramaniam (Trincomalee Revenue District).

The Hon. Mr. V. S. de S. Wikremanayake (Southern Province, Eastern Division).

The Hon. Mr. T. M. Saba Rutnam (Northern Province, Eastern Division).

Noes—30.

The Hon. the Officer Commanding the Troops.

The Hon. the Acting Colonial Secretary.

The Hon. the Attorney-General.

The Hon. the Acting Controller of Revenue.

- The Hon. the Treasurer.
The Hon. Mr. F. A. Stockdale, C.B.E. (Director of Agriculture).
The Hon. Mr. N. H. M. Abdul Cader (Second Muslim Member).
The Hon. Sir P. Ramanathan, Kt., K.C., C.M.G. (Northern Province, Northern Division).
The Hon. Mr. L. Macrae (Director of Education).
The Hon. Mr. T. Y. Wright (European Rural Member).
The Hon. Mr. D. H. Kotalawala (Province of Uva).
The Hon. Mr. E. R. Tambimuttu (Batticaloa Revenue District).
The Hon. Mr. A. C. G. Wijeyekoon (Nominated Unofficial Member).
The Hon. Mr. W. L. Kindersley (Government Agent, Central Province).
The Hon. Mr. N. J. Martin (Second Burgher Member).
The Hon. Mr. J. Strachan (Director of Public Works).
The Hon. Mr. W. T. Southorn (Principal Collector of Customs).
The Hon. Mr. M. T. Akbar, K.C. (Solicitor-General).
The Hon. Mr. K. Balasingham (Nominated Unofficial Member).
The Hon. Dr. J. F. E. Bridger (Director of Medical and Sanitary Services).
The Hon. Mr. A. Canagaratnam (Northern Province, Southern Division).
The Hon. Mr. H. R. Freeman (North-Central Province).
The Hon. Mr. D. B. Jayatilaka (Colombo District).
The Hon. Mr. G. E. Madawala (North-Western Province, Eastern Division).
The Hon. Mr. A. Mahadeva (Western Province, Ceylon Tamil).
The Hon. Mr. A. F. Molamure (Kegalla Revenue District).
The Hon. Mr. G. A. H. Wille (First Burgher Member).
The Hon. Sir J. Thomson Broom, Kt. (European Urban Member).
The Hon. Mr. W. A. de Silva (Central Province, Urban).
The Hon. Mr. P. B. Rambukwelle (Central Province, Rural).

The amendment was lost.

THE HON. MR. V. S. DE S. WIKREMANAYAKE (Southern Province, Eastern Division) :—I move as an amendment to clause 5 (b) in the sixth line, the substitution of the word "two" for "one."

THE HON. MR. T. Y. WRIGHT (European Rural Member) :—May we have some reasons for this? I cannot understand why the number should be increased.

THE HON. MR. V. S. DE S. WIKREMANAYAKE (Southern Province, Eastern Division) :—We are not bound to give our reasons.

THE HON. THE VICE-PRESIDENT :—The less we have of reasons the better, and the quicker we can get on with the work.
I put the amendment to the meeting.

THE HON. MR. A. C. G. WIJEYEKOON (Nominated Unofficial Member) :—The amendment has not been seconded.

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THE HON. THE VICE-PRESIDENT :—In Committee a seconder is not necessary. Those in favour of the amendment say Aye, those against it say No. (After a pause.) I think the Noes have it.

The amendment was lost.

THE HON. THE VICE-PRESIDENT :—The amendment proposed by the Honourable the European Rural Member that the small holders be represented by one member to be nominated by His Excellency the Governor is now before the House.

The amendment was agreed to.

The clause as amended by the insertion of the amendments which had been agreed to was adopted.

The Clerk read clause 6, which was agreed to.

The Clerk read clause 7, which was agreed to.

The Clerk read clause 8, which was agreed to.

The Clerk read clause 9, which was agreed to.

The Clerk read clause 10.

THE HON. MR. F. A. STOCKDALE, C.B.E. (Director of Agriculture) :—I move, Sir, the substitution of the following new clause 10 in place of clause standing in the draft Bill :—

10. (1) The Chairman shall summon meetings of the Board when necessary and shall at any time summon a meeting upon receipt of a request signed by two members of the Board calling upon him to do so.

(2) Five members shall form a quorum. All questions shall be decided by a majority of members voting. In the case of equality of votes, the Chairman shall have a second or casting vote, and all matters decided at a meeting of the Board shall be recorded in the proceedings book kept by the Secretary to the Board. Matters may also be decided by the circulation of papers on which members of the Board may record their votes and all such decisions shall be reported to the next meeting of the Board and incorporated into the proceedings book.

The amendment was agreed to.

The Clerk read clause 11.

THE HON. THE ATTORNEY-GENERAL :—I beg, Sir, to move as an amendment to add the figure (1) after the figure (11), and to add an additional sub-section, namely, (2) "This section shall have effect as though it formed part of Ordinance No. 17 of 1869." That is the Customs Ordinance, and, as is usual in legislation, it is intended to direct attention to the Customs law which is the machinery for collecting the cess.

The amendment was agreed to.

The Clerk read clause 12.

THE HON. MR. F. A. STOCKDALE, C.B.E. (Director of Agriculture) :—I have a small verbal amendment to move, as I promised the Honourable Member for the Matara District to do so. It is the substitution of the word "its" in line four for the word "the" between the words "off" and "affairs" and "of" and "objects," and the deletion of the word "thereof" in line five.

The amendment was agreed to.

The Clerk read clause 13.

THE HON. MR. V. S. DE S. WIKREMANAYAKE (Southern Province, Eastern Division) :—I beg, Sir, to move as an amendment the addition of the following words at the end of clause 13 : “ and a full report of the work of the Board with the said statement of the receipts and disbursements shall be laid on the table of the Legislative Council.”

THE HON. THE VICE-PRESIDENT :—Does the Director of Agriculture accept the amendment ?

THE HON. MR. F. A. STOCKDALE, C.B.E. (Director of Agriculture) :—Yes, Sir.

The clause as amended was agreed to.

The Clerk read the Preamble, which was agreed to.

The Clerk read the Title, which was agreed to.

THE HON. MR. F. A. STOCKDALE, C.B.E. (Director of Agriculture) :—I move, Sir, that the Council do now resume.

Council resumed.

THE HON. MR. F. A. STOCKDALE, C.B.E. (Director of Agriculture) :—I move, Sir, that the Bill be read a third time and do pass.

THE HON. MR. L. MACRAE (Director of Education) seconded, and the motion was agreed to.

The Bill was read a third time and passed.

The Ceylon Evidence Ordinance.

THE HON. MR. M. T. AKBAR, K.C. (Solicitor-General) :—I beg, Sir, to move the second reading of “ An Ordinance further to amend ‘The Ceylon Evidence Ordinance, 1895.’ ” As I indicated when I moved the first reading of this Bill, I propose, with the approval of the House, to refer the Bill to a Select Committee for consideration. As some Honourable Members have spoken to me about a point in the Bill, I should like to mention it at this stage. I intended that the Select Committee should consider one or two other points too, about which I did not wish to trouble the House with technical arguments in the course of my speech during the first reading. Section 3 of the amending Ordinance states “ In criminal proceedings against a person for any offence described in Schedule 2 of this Ordinance, the wife or husband of such person shall be a competent and compellable witness for the prosecution at every stage of the inquiry or trial ” That is one of the essential points that I want the Select Committee to consider. I did not wish to mention it earlier, but I can assure Honourable Members that this was one of the vital points that I had in mind for the consideration of the proposed Select Committee. I do not think I need detain the House longer. I move that the Bill be read a second time.

THE HON. MR. W. T. SOUTHORN (Principal Collector of Customs) seconded.

THE HON. MR. A. F. MOLAMURE (Kegalla Revenue District) :— I rise, Sir, to oppose the amendment, and I am sorry to do so in spite of the assurance given to me by my honourable friend the Solicitor-General. But I do so with a great sense of responsibility, because I think the amendment put before us to-day is neither expedient nor necessary. I feel, Sir, that I am up against a very big proposition, especially when it is supposed that this is the considered opinion of the law officers of the Crown, because it is rather bold on my part, a mere village lawyer, to stand up and oppose the proposed amendment. The amendment now before us seems to be very little understood by many of my colleagues, and hardly understood by the public, so much so that even the watch dogs of the public, the Press, have not touched on the subject. I feel, Sir, that very few of us have given any thought or consideration to the amendment before us. If this amendment is passed, even with a certain amount of limitation as is now proposed, I submit that we will be doing something which will be creating a great upheaval of the law of the land and striking at the very root of domestic happiness and social stability. A measure such as the proposed amendment is not in existence in any part of the world, and I say so advisedly. It is stated in the Statement of "Objects and Reasons," that the outcome of this Bill is due to a certain decision of the Supreme Court in a case in which it was ruled that where a prisoner attempted to murder his wife by shooting at her with a loaded gun, the wife could not be called as a witness for the prosecution on the ground that no bodily injury or violence had been inflicted on her person. The majority of this House consists of lawyers, and if ever I was glad about that fact it is to-day, because I am sure my learned friends will be able to follow the subtlety of the amendment. The section as it stands to-day is as follows :—

120. (1) In all civil proceedings the parties to the suit and the husband or wife of any party to the suit shall be competent witnesses.

(2) In criminal proceedings against any person the husband or wife of such person respectively shall be a competent witness if called by the accused, but in that case all communications between them shall cease to be privileged.

(3) In criminal proceedings against a husband or wife for any bodily injury or violence inflicted on his or her wife or husband, such wife or husband shall be a competent and compellable witness.

Those are the only three sections with which we are concerned. What is sought to be done now is really to do away with the effect of that section by introducing a new sub-section (3) in place of sub-section (3) of section 120 of the principal Ordinance to read thus :

(3) In criminal proceedings against a person for any offence described in schedule II. of this Ordinance, the wife or husband of such person shall be a competent and compellable witness for the prosecution at every stage of the inquiry or trial, whether such person is being charged alone or jointly with others.

Now, Sir, what are the offences regarding which a wife or a husband is sought to be made a compellable witness? They are enumerated in schedule II., and are as follows: attempt to murder, attempt to commit culpable homicide, causing miscarriage, voluntarily causing hurt by dangerous weapons or means,

voluntarily causing grievous hurt by dangerous weapons or means, voluntarily causing hurt to extort property, or to commit an illegal act, causing hurt by means of poison, &c., with intent to commit an offence, voluntarily causing grievous hurt to extort property or to commit an illegal act, voluntarily causing hurt to extort confession or to compel restoration of property, voluntarily causing grievous hurt to extort confession or to compel restoration of property, voluntarily causing hurt on provocation, voluntarily causing grievous hurt on provocation, wrongful confinement for three or more days, wrongful confinement for ten or more days, wrongful confinement of person for whose liberation a writ had been issued, wrongful confinement in secret, wrongful confinement for the purpose of extorting property or constraining to an illegal act, wrongful confinement for the purpose of extorting confession or of compelling restoration of property, assault or criminal force with intent to dishonour a person otherwise than on grave provocation, assault or criminal force in attempt to commit theft of property carried by a person, assault or criminal force in attempt wrongfully to confine person, assaulting or using criminal force on grave provocation and criminal intimidation by an anonymous communication. These are some of the offences for which a wife or husband is sought to be made a competent or compellable witness.

Many of us, I think, Sir, have much to say against the amendment, and I shall certainly oppose a wife or a husband being made a compellable witness as regards some of these offences. A wife or husband is a compellable witness, under the existing law, where one does an act of violence on the person of the other. But the proposed amendment seems to introduce something which goes much further. For instance, cases of theft are included. The law officers of the Crown seek to introduce an entirely new state of affairs by saying this :—

(3) The offences described hereunder against whomsoever committed.

That, Sir, is the most obnoxious part of the Bill. And what are those offences? Act done with intent to prevent a child being born alive or to cause it to die after birth, causing death of a quick unborn child by an act amounting to culpable homicide, exposure and abandonment of a child under twelve years by parent or person having care of it, concealment of birth by secret disposal of dead body, assault or use of criminal force to a woman with intent to outrage her modesty, and so on. If a man is charged with any of these offences, the wife shall be a compellable witness if this Bill passes. I submit, Sir—I speak subject to correction—that this is a state of law which is not in existence in any part of the world. In considering this matter we may ask what is the law obtaining in India and in England on the subject. This is what section 120 of the Indian Evidence Act says :—

In all civil proceedings the parties to the suit and the husband or wife of any party to the suit shall be competent witnesses.

In criminal proceedings against any person the husband or wife of such person respectively shall be a competent witness.

That is a variation from our present existing law, but even there the wife or husband is a competent witness, but not a compellable witness. What the law now seeks to do is to make the wife a

compellable witness. The opening words in the proposed Ordinance are: "Whereas it is expedient," and so on. Now the expediency is shown in the Statement of Objects and Reasons in the following words:—

The Bill is the outcome of the decision of the Supreme Court in the case of *The King v. Marthelis Appu* (Case No. 8 of the First Western Circuit Criminal Sessions for 1923) in which it was ruled that where a prisoner attempted to murder his wife by shooting at her with a loaded gun, the wife could not be called as a witness for the prosecution on the ground that "no bodily injury or violence" had been "inflicted on" her person.

It must have been a bad case for the Crown where the Crown had to depend only on the evidence of the wife, and because of that little incident which took place in one of our law courts the law is sought to be amended, bringing, as I have said, an upheaval in the domestic life and happiness of the Colony.

It is also stated in the Statement of Objects and Reasons that representations in favour of these amendments have been made by the Bar Council of Ceylon. I may say with all respect to those learned gentlemen that they could not have given good reasons for the support they had given. I wrote to the Secretary of the Bar Council to let me know what the representations made were, but I have not been sent the papers. I have been told that the papers are with the Solicitor-General, but I am not concerned with that aspect of the matter. My humble opinion, Sir, is that this amendment is going to the very root of the social life of this Island. I have quoted to this Assembly what the Indian law on the subject is, and I should like to say what the English law is. So far as I am able to gather—I speak subject to correction—the English law on the subject says:—

That nothing contained in the law shall render any husband or wife competent or compellable to give evidence against each other in any criminal proceedings except in crimes of violence against each other, but they shall be competent for the defence at every stage of the proceedings.

That is exactly the law as it is now in Ceylon. If we seek to make the wife a compellable witness, what happens? The wife will be produced to give evidence against the husband, and the consequence will be, if she is a faithful wife, she would naturally not give evidence against her husband, however much the influence may be that would be brought to bear by the law officers of the Crown. What happens next? One or two witnesses will be produced to show that she has perjured. The next result will be that she will be charged for perjury herself. I know several cases where witnesses gave evidence in favour of the Crown at one stage, and when called in a higher court gave contrary evidence, and were charged with giving false evidence. That will be the result which will enure to the poor wife or husband. They will be charged with perjury, and the Attorney-General will indict them

THE HON. THE ATTORNEY-GENERAL:—I rise to a point of order. I object very much to the statement that I would indict anybody for perjury if he does not give evidence for the Crown.

THE HON. THE VICE-PRESIDENT:—You are not in order in stating that the Attorney-General indicts anybody for perjury, although it is true that all these indictments go out in the name of the Attorney-General.

THE HON. MR. A. F. MOLAMURE (Kegalla Revenue District) :—
I am only saying what is happening to-day. It is the indictment that I have been referring to.

THE HON. THE ATTORNEY-GENERAL :—Of course I am responsible for all indictments. All that I object to is the statement of the Honourable Member that because witnesses did not give evidence at my request or as I wished, they were punished.

THE HON. MR. A. F. MOLAMURE (Kegalla Revenue District) :—
I humbly apologize if my words conveyed that meaning. It is a misapprehension on the part of my honourable friend. Now, section 122 of the Evidence Ordinance says :—

No person who is or has been married shall be compelled to disclose any communication made to him during marriage by any person to whom he is or has been married, nor shall he be permitted to disclose any such communication unless the person who made it, or his representative in interest, consents, except in suits between married persons or proceedings in which one married person is prosecuted for any crime committed against the other, and except in cases mentioned in section 120 (2).

Now, Sir, this section is sought to be amended so that communications made by husband to wife or wife to husband regarding those offences which I have mentioned, and which are given in the schedule, shall not be considered as privileged communications. There again I say we are going to strike at the root of our very social existence. As is well known, Sir, there are only one or two privileged communications about which no question could be asked or anyone compelled to give evidence. One of the most important of those is the privileged communication between husband and wife during the time of their marriage. This is as it should be, because policy requires it to be so. It has been held in every case—I do not wish to take the time of the Council any more with authorities on law—that this privilege exists, not only during the life time of the husband or wife, but even after the death of one of the spouses, or even after the divorce of one of the spouses. As regards privileged communications, what the English law says is this :—

No husband shall be compellable to disclose any communication made to him by his wife during marriage, and no wife shall be compellable to disclose any communication made to her by her husband during marriage.

That is the same as our law as it stands to-day. This law is in force, not only in England, America, and India, but also in other parts of the world. To use the words of one of the greatest lawyers of England :—

This wise enactment rests on the obvious ground that the admission of such testimony would have a powerful tendency to disturb the peace of families, to promote domestic broil, and to weaken, if not to destroy, that feeling of mutual confidence which is the most enduring sociæ of married life.

That is the reason, Sir, why this law is in existence to-day. If there was a miscarriage of justice in a case in which an accused got off because the wife of the accused could not give evidence on an attempt at violence made on her person, let not the law officers of the Crown come before us with an attempt to introduce a vast

number of offences new to us altogether. I trust, Sir, that the Honourable Members of this House who have the interests of the people of this Island at heart will not so easily pass this amendment as proposed by the law officers of the Crown, because, I say, it undermines the whole social life of the people and goes to the very root of the family life of this Island.

THE HON. MR. G. A. H. WILLE (First Burgher Member) :— There is no doubt that the proposed Ordinance requires very careful consideration, because it goes far beyond what the immediate occasion for it seems to require. As the Honourable Member for the Kegalla District has pointed out, what happens in a case of attempt to murder is that one of the spouses cannot be called to prove the charge, because attempts to commit offences of violence are not provided for in the existing Ordinance. The Attorney-General has very rightly provided that attempts to commit acts of violence should be covered by the proposed Ordinance. But he has gone very much further. Up to the present domestic relations have been very strictly respected in our Evidence Ordinance. Where, for instance, a third party is complainant, one of the spouses is not even a competent witness against the other. It is only the accused spouse who could call the other spouse to support the defence, and there is almost a warning even against such a violation of what, perhaps, I might call conjugal secrecy by providing that in that case all communications between spouses shall cease to be privileged. In one respect no new principle has been introduced, because where there is bodily injury or violence inflicted on wife or husband the other spouse is not only a competent but a compellable witness. The Honourable the Attorney-General has set out in the Schedule to the Bill a very large number of sections of the Penal Code which may be said to come under the general description of bodily injury or violence.

So far, therefore, the proposed amending Ordinance is not obnoxious, but the amending Ordinance attempts to provide for wives and husbands being made compellable witnesses against each other even where property is concerned; and what is far more objectionable, it has also been provided in this amending Ordinance that where a third party is complainant against one spouse the other spouse shall be made both a competent and compellable witness. There may be some virtue in the former provision if it is the fact that many wrongs are committed by husbands against wives. Wrongs committed by wives against husbands may be left out, because they must be very few indeed. It is possible that at the present moment many husbands commit offences against their wives because they feel that they are in a privileged position, and that they can rely on the loyalty of their wives even though they may not deserve it. It seems to me, therefore, that when we go into Select Committee we shall have to consider these different sections of the Penal Code and find out how frequent some of these offences are. It may become necessary to protect wives against their husbands so far as it can be done by providing this form of deterrent.

The great principle which the Honourable Member for Kegalla referred to is one no doubt which will be respected by all of us,

but there is at the same time the question of expediency involved, and, as I said before, this compellability of one spouse to give evidence against the other is not altogether a new principle, so that we should in Select Committee treat this whole Ordinance with a certain amount of discrimination. The Honourable Member for Kegalla also pointed out that under the present Evidence Ordinance communications made by spouses to each other during marriage are sacred. I do not think that there is anything new in the amending Ordinance on that point, but a more extended provision has been brought in. The corresponding section in the amending Ordinance is made to depend on the amendments proposed to section 120, so that if we delete certain sections of the Penal Code which we think should not come under section 120 the object of section 122 with regard to the sacredness of communications made during marriage will also be attained. I do not wish to detain the House much longer, but I have no doubt that every one realizes that this is a very important Ordinance; from a certain point of view it is perhaps more important than the Ordinance which we have just passed.

THE HON. MR. E. R. TAMBIMUTTU (Batticaloa Revenue District):—I wish to make a few remarks, Sir, on this subject. I wish to congratulate my honourable and learned friend the Member for Kegalla on the excellent speech he made to-day. He described himself as a village lawyer, but if all the villages possess lawyers like my honourable friend we need not very much fear about any miscarriage of justice in the outlying districts. When he referred to this House as composed mainly of lawyers my curiosity prompted me to look around to find out how many lawyers there are. Taking the seats as they are arranged, I find that in the first semi-circle of seats there are two lawyers, and four of the gentlemen gracing it have at one time or another been judges—it is only a subtle distinction between a judge and a lawyer. I find that the second semi-circle has ten lawyers who work either for Government or are in private practice. Coming to the third semi-circle, we find a galaxy of lawyers, sixteen of them, including myself, and among them are two judges, who are also lawyers.

The question before the House is an important one, Sir, and my honourable friend the Member for the Kegalla Revenue District may take it amiss if I vote against him without some explanation. If we discuss this question here and proceed to vote on the second reading of the Bill, I do not think we would be able to get through the discussion till to-morrow. So I would throw out the suggestion to my honourable friend that we should agree to the passing of the second reading and then appoint a Select Committee of this House to go into details of the measure and consider them carefully. I suppose there will be some of the practising lawyers on that Committee, as they would be in a better position to consider this Bill in all its aspects and put forward their considered recommendations. I would, therefore, ask my honourable friend to withdraw his opposition to the Bill at this stage and allow the second reading to pass, with the assurance that the Solicitor-General would see that a Committee is appointed to consider the Bill.

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THE HON. MR. A. F. MOLAMURE (Kegalla Revenue District) :—
In deference to the request of the Honourable Member for the
Batticaloa District I will accede to it.

The motion was agreed to.
The Bill was read a second time.

THE HON. MR. M. T. AKBAR, K.C. (Solicitor-General) :—I beg,
Sir, to move that this Bill be referred to a Select Committee.

THE HON. THE VICE-PRESIDENT :—It is proposed that this
Bill be referred to a Select Committee to be composed of the
following Members :—The Solicitor-General, as Chairman, the Hon.
Mr. E. W. Perera, the Hon. Mr. C. W. W. Kannangara, the Hon.
Mr. A. Mahadeva, the Hon. Mr. S. Rajaratnam, and the Hon. Mr.
A. F. Molamure.

This was agreed to.

THE HON. MR. C. E. VICTOR COREA (Colombo Town,
North) :—I move that the House do now adjourn.

This was not agreed to.

Business of dealing in Old Metal—Adjournment.

THE HON. THE ATTORNEY-GENERAL :—I beg to move, Sir,
that "An Ordinance to regulate the business of dealing in Old
Metal" be read a second time. If the second reading is passed,
I propose to move that the Bill be referred to a Select Committee.

THE HON. MR. M. T. AKBAR, K.C. (Solicitor-General),
seconded.

THE HON. MR. D. B. JAYATILAKA (Colombo District) :—
I had thought of offering certain remarks on this Bill, but the
hour is so late

THE HON. THE VICE-PRESIDENT :—If the Honourable
Member will not take up much time we might go on with the Bill;
but we propose to sit to-morrow.

THE HON. MR. C. E. VICTOR COREA (Colombo Town,
North) :—I move that the Council do now adjourn.

THE HON. MR. E. R. TAMBIMUTTU (Batticaloa Revenue
District) :—I beg to second that. I protest against the system of
this House of drawing up Agendas in this fashion. Motions come

up day after day on the Agenda Paper and have to be postponed indefinitely until, sometimes, Members get so disgusted that they regret they have given notice of them. It should be possible to arrange a programme in such a way that we will have a certain amount of work for a day and finish it. But here we find a programme ahead of us involving a large number of motions, while we have not got through half the programme as yet. I support the motion for adjournment as a protest.

THE HON. THE VICE-PRESIDENT :—I put the motion for adjournment to the House. (After a pause) I think the Ayes have it.

Council will now adjourn till 2.30 P.M. to-morrow.