MEMBERS OF THE LEGISLATIVE COUNCIL

DURING THE SESSION 1895-96.

President :

His Excellency Sir Arthur Elibank Havelock, G.C.M.G.,
Governor of Ceylon.

[Succeeded by His Excellency Sir Joseph West Ridgeway, K.C.B., K.C.S.I.]

Official Members :

H.E. The Hon. Sir E. NOEL WALKER, K.C.M.G., Lieut-Governor.
" " " W. CLIVE JUSTICE, C.M.G., Major-General, Commanding the Forces, [Hon. Col. CORSE-SCOTT, Acting *pro tem.*]
The Hon. W. T. TAYLOR, C.M.G., Acting Colonial Secretary.
" " W. T. TAYLOR C.M.G., Auditor-General. [Hon. F. R. SAUNDERS, C.M.G., and Hon. T. E. B. SKINNER, C.M.G., Acting *pro tem.*]
" " C. P. LAYARD, Attorney-General. [Hon. P. RAMANATHAN, C.M.G. Acting *pro tem.*]
" " F. R. SAUNDERS, C.M.G., Treasurer. [Hon. Æ. A. KING, Acting *pro tem.*]
" " A. R. DAWSON, Government Agent, W.P.
" " ALLANSON BAILEY, Government Agent, C.P.
" " R. K. MacBRIDE, C.M.G., Director of Public Works. [Hon. Dr. W. R. KYNSEY, Acting.
" " Hon. L. F. LEE, Principal Collector of Customs. [Hon. H. L. MOYSEY, Acting *pro tem.*]

Unofficial Members :

The Hon. Sir J. J. GRINLINTON, Kt., C.M.G., General European Representative.
" " W. W. MITCHELL, C.M.G., Mercantile Repre[illegible]
" " A. De A. SENEVIRATNE, (Lowcountry) Si[illegible] Representative.
" " W. ELLAWALA, (Kandyan) Sinhalese Re[illegible]ntative.
" " P. COOMARASWAMY, Tamil Representative.
" " M. C. ABDUL RAHIMAN, Muhammadan Representative.
" " GILES F. WALKER, Planting Representative. [Succeeded by Hon. T. N. CHRISTIE.]
" " H. L. WENDT, Burgher Representative.

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No. 5 of 1895.—An Ordinance to provide for the protection of persons and property from the risks incidental to the supply and use of Electricity for lighting and other purposes.

No. 6 of 1895.—An Ordinance to regulate and restrict the wearing of Naval and Military Uniforms.

No. 7 of 1895.—An Ordinance to amend Ordinance No. 12 of 1863 intituled "The Ceylon Savings Bank Ordinance 1859."

No. 8 of 1895.—An Ordinance to repeal the Ordinance No. 29 of 1894 and to amend "The Kandy Waterworks Loan Ordinance, 1884."

No. 9 of 1895.—An Ordinance to consolidate the Law relating to Oaths and Affirmations in Judicial Proceedings and for other purposes.

No. 10 of 1895.—An Ordinance to incorporate the Chamber of Commerce.

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Report by the Praedial Products Thefts Commission.
Return of Cases received in Appeal from the Courts of Requests for the previous two years.
Quarterly Return of Expenditure on the Matara Railway.
A Comparative Statement showing the amount voted for Public Works in the Province of Uva as scheduled in the Supply Bill for the last three years.
Final Report upon the Construction of the Galle Railway by Mr. F. J. Waring.
Report on the Working of the Municipality of Colombo during the year 1894.
Statement showing the amount of Schedule Fees received in 1893 by the Fiscals of the several Provinces and their Deputies.
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Report on the Fever Epidemic at Galle for the month of September 1895.
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Papers relating to the Registration of Titles to Lands.
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Revised Code for Aided Schools for 1896, together with a Notification of Amendments.
An Epitome of Proclamations, Notifications, etc. promulgated in the colony during 1895.
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APPENDIX.

ADDRESS

OF

HIS EXCELLENCY SIR ARTHUR ELIBANK HAVELOCK, G.C.M.G., ON OPENING THE SESSION OF THE LEGISLATIVE COUNCIL ON WEDNESDAY, OCTOBER 9, 1895.

HONOURABLE GENTLEMEN OF THE LEGISLATIVE COUNCIL,

THIS is the sixth occasion on which I have had the honour and privilege of presiding at the opening of the Annual Session of the Legislative Council; and, as it will be the last, I consider that it is fitting that I should present to you, in addition to the customary review of the last year's history, a brief account of my five years' administration, showing the condition of the country at the present day, as compared with that at the time of my assumption of the Government.

The anticipations in which I indulged when ad dressing you in 1894, that the revenue of that year would be the largest yet collected, and exceed nineteen millions of rupees, have been fully realized. The collections amounted to Rs. 19,485,310, exceeding the revenue of 1892—the largest then recorded—by Rs. 976,124, and being greater than that of 1893 by Rs. 1,433,360, of which excess the Railways contributed Rs. 615,572, Customs Rs. 433,055, and Land Sales Rs. 159,884.

The receipts from the Railways amounted to Rs. 5,572,054, the increase of Rs. 615,572 being largely due to the opening of the extensions to Kurunégala, Galle, and Bandárawela. The number of passengers carried was 4,215,994, showing an increase in the year of 506,670 persons compared with the increase of 224,930 persons in 1893 over 1892. This large rise in the number of passengers marks, in addition to increasing money-spending power, a growing appreciation of the facilities which the Railway affords as a means of communication, and indicates a change in the home-keeping habits of the people, which must be attended by important results in the future. The goods traffic, although it shows the satisfactory increase of Rs. 374,097, fell short of the estimate, owing, possibly, to the failure of the new lines to attract at once all the carriage with which it was thought that they might fairly be credited.

The Customs Revenue, which amounted to Rs. 4,931,967, exceeded the revenue of 1893 by Rs. 433,055, the increase being mainly attributable to large importations of spirits and kerosine oil, subject to a higher rate of duty than in 1892, as well as to larger imports of grain and sugar, and to an increase in the exports of hides and horns, in anticipation of the prohibition which came into force in the present year.

The expansion in the trade of the Colony continued, the imports, valued at Rs. 68,682,011, exceeding in value the imports of the previous year by Rs. 2,704,718, and the exports, valued at Rs. 78,939,599, exceeding the exports of 1893 by Rs. 5,679,001.

Of Ceylon produce the value exported amounted to Rs. 70,394,004, an increase, as compared with 1893, of Rs. 3,231,528, and as compared with 1892 of Rs. 10,384,855. The increase is confined to tea, cinnamon, arecanuts, desiccated cocoanuts, and tobacco; there being a decrease in coffee, cacao, cardamoms, copperah, and cocoanuts. Tea showed an increase of 3,106,969 lb., the total exported being 85,376,322 lb.

The produce of the cocoanut palm exported is valued at Rs. 11,017,549, showing an increase of Rs. 614,314 over the previous year, there being a very considerable increase in the value of desiccated cocoanuts and cocoanut oil, while the value of copperah was reduced by nearly one-half.

The Harbour Dues collected at Colombo amounted to Rs. 706,722, exceeding the collections of 1893 by Rs. 32,039. There were entered inwards 3,851 vessels with a tonnage of 3,210,207 tons, showing an increase over 1893 of 176 vessels and 107,396 tons. Three thousand eight hundred and twenty-three vessels of a tonnage of 3,155,646 tons cleared outwards, showing an increase of 192 vessels and 106,064 tons. The transhipment business of the port continued to show an increasing appreciation of the facilities afforded by the quiet water in the Harbour. There were 586,577 packages transhipped, as compared with 525,983 in 1893. Of these, 164,036 came from China and 177,335 from British India.

It is my good fortune to be able to repeat as to the present year the anticipation which I expressed as to the revenue of 1894. The returns for the first eight months of the year justify the confident anticipation that the revenue of 1895 will considerably exceed the sum of twenty millions of rupees. The collections exceed the estimates by Rs. 300,000. The Customs returns continue to show a most satisfactory increase, pointing to the continuous prosperity of the country and the remarkable growth of its sources of income.

The year 1889 gave a revenue larger than that of any year which preceded it, except 1877; but each of the succeeding years has shown a steady increase, except 1893, which, owing to exceptional causes, fell below 1892.

The average annual income of the last five years, amounting to Rs. 18,047,585, exceeded the average annual income during the previous quinquennial period by Rs. 6,360,524, although in the later period the grain tax had been abolished, leading to an annual loss approaching a million of rupees, and the effect of the increased tax on kerosine oil and spirits had been felt in only the last year. Imports reached their maximum value in 1889, when they were estimated at Rs. 60,695,136, the average for the five years from 1885 to 1889 being Rs. 44,191,779, but the maximum reached in 1889 was exceeded in each of the five succeeding years, the value of imports in 1894 being Rs. 78,113,072, the annual average for the quinquennial period being Rs. 70,173,712, nearly 59 per cent. higher than the average of the previous five years. Exports reached their highest value since 1880 in 1889, when they were estimated at Rs. 46,924,505, the average of the quinquennial period being Rs. 33,371,401, which was exceeded in the next period of five years by Rs. 29,269,391, or nearly 88 per cent. Equally strong proof of the growth of the trade of the Island is afforded by the great increase in the number of steamers entering and clearing at Colombo. In the years from 1885 to 1889, the average annual number was 1,655, with a tonnage of 3,095,943 tons, against an average of 2,437, with a tonnage of 4,579,180 tons, in the subsequent five years, the number in 1894 being 2,879, just double the number (1,439) in 1885. A satisfactory index of internal prosperity is afforded by the Railway returns. The number of passengers carried has increased from 1,846,427 in 1885 to 4,215,994 in 1894, while the receipts from goods traffic has risen from Rs. 1,695,646 in 1885 to Rs. 3,585,703 in 1894. The total receipts rose from Rs. 2,605,658 in 1885, with a mileage of 181 miles, to Rs. 5,555,058 in 1894, with a mileage of 270 miles, the average receipts per mile of Railway in the period from 1885 to 1889 being Rs. 16,770, against Rs. 22,931 in the subsequent five years, giving an increase of 31 per cent.

I said in the Speech with which I opened the last Session, that the credit of the Ceylon Government, which was previously excellent, had during the year then ending risen still higher. This satisfactory condition of credit has since then been fully maintained, if not still further improved. Ceylon three per cent. stock was a year ago quoted at a little over 100. By the most recent reports from London, it has risen to over 104.

The prevalence of serious crime, to which my attention was directed before I entered upon the Government of the Colony, has been to me a matter of great solicitude during the last five years. Much care and consideration have been given to measures for the abatement of this evil. With this object in view, the Police organization has been remodelled, various enactments have been passed for strengthening and facilitating the administration of justice, and the Prison system has been so modified as to make the punishment of imprisonment more deterrent. In my Speech at the opening of the last Session, I said that the measures taken by the Government had, to an extent which might be held to be encouraging, fulfilled their purpose. The experience of the year which has since passed is, on the whole, not disappointing. The Acting Solicitor-General, on a careful review and analysis of the Criminal Statistics for 1894, states that a deduction from them that there had been an increase in the more serious crimes throughout the Island would be an erroneous one. He has supplemented his original published report by a statement illustrating and explaining it, in which he maintains that his deduction is perfectly accurate, and that he has erred on the side of caution rather than on that of optimism. It is true that the number of cases

shown to have been tried in 1894 before the Superior Courts, which may be taken to include the most serious crimes, exceeds considerably the number of cases so tried during each of the three previous years. But the Acting Solicitor-General points out that the number of cases for each year, if taken separately, is misleading, inasmuch as the number of cases pending trial at the end of each year varies very considerably. For example, at the end of 1893 there was an abnormally large number of such pending cases, whereas at the end of 1894, there were abnormally few. The Acting Solicitor-General has compiled a table showing, as near as may be, the actual number of cases appertaining to each year, from 1886 to 1894. This table shows the number of cases tried in 1894 to exceed the number tried in 1893 by one only. The average annual number of cases tried during the four years from 1891 to 1894, the period during which the measures adopted for reducing crime, to which I have alluded, have been in operation, is 820. The average number for the four previous years is 935. Even summary convictions show an improvement in all but the pettiest offences. Turning to the tables of summary convictions for offences against the person and against property and for cattle stealing, offences which come under the heading of Serious Crime, though in a minor degree, it is shown that the number of these convictions in 1894 was 3,923 only, actually the lowest number for any of the years 1884 to 1894, both inclusive, the average for the three years 1888 to 1890 being 4,535; for the three years 1891 to 1893 being 4,093; whilst for the four years 1891 to 1894, to which I have above referred, the average is 4,050, as against an average of 4,535 for the three preceding years.

The figures and facts which I have adduced seem to indicate some degree of success as the result of the measures taken to reduce serious crime. With respect to the prevalence of crime generally, the Government Agents, who, at their recent Conference, were desired to report on the subject, have informed me, either that there has, in their respective Provinces, been no increase of crime, or a diminution of it. The Prisons returns show that the daily average in prison of convicted persons has, year by year, steadily declined from 3,301 in 1890 to 2,273 in 1894.

It is only in the case of summary convictions for "other offences" that the figures for 1894 show any marked increase over the figures prior to 1893, though, as compared with 1893, the figures of 1894 show a decrease of nearly 2,000. These offences, as stated by the Acting Solicitor-General in his Report for 1893, are largely made up of petty offences committed in the Municipal and Local Board towns against the "Police," the "Vagrants," and the "Nuisances" Ordinances, and are for the most part punished by the imposition of a small fine. The large recorded increase of these petty offences during the last two years is due to increased energy on the part of Municipal, Local Board, and Police officers, and has been most marked since the time that the Police were placed more directly under the control of the Government Agents.

Having regard to all the facts to which I have called attention, and making allowances for the difficulty there is in discovering the real causes of crime, and to the necessary slow operation of measures designed to reduce crime, I maintain that the efforts which have been put forth during the last five years have not been without success. During the first six months of the present year, the number of convictions and the number of admissions to prison are such as to show a continuance of progress in the wished-for direction. I may observe that measures recently adopted in the Kurunégala District for checking a recrudescence of crime, which had manifested itself there, appear to have had a salutary effect. I have also just received a report showing that a tendency to increase of serious crime, which had been observed in a portion of the Southern Province, has been checked.

The Volunteer Forces of the Colony have, during the last five years, largely increased in numbers and efficiency. In the Mounted Infantry a new arm has been added. The Annual Camp of Exercise, which was formed for the first time in 1890, has since been held regularly every year. The Force assembled at the Camp this year has been larger and has shown itself more proficient in Military training and exercises than on any previous occasion.

The highly successful representation of Ceylon at the International Exhibition at Chicago, and the persevering efforts since made, to turn to profitable account the advantage thus gained, are among the many indications of the energy and enterprise of Ceylon,—which have so conspicuously marked its history during the last five years.

In the Postal and Telegraph business of the Colony there has been great activity and rapid progress. Foreign and internal postage rates have been largely reduced. Internal telegraph rates, which have already been lowered, are about to be still further cheapened by the introduction of the 25 cents telegram. Well-nigh every facility of modern invention, whereby the convenience of the public is served by the Post Office, has been adopted by the Department. The expansion of the operations of the Post Office has been such that instead of loss having been caused to the revenue by the concessions and advantages accorded to the public, the Postal Receipts have almost doubled during the last ten years; and in 1894 a nearer approach was made to the establishment of a balance between Expenditure and Revenue, in the local working of the Department, than at

any previous time. In the Foreign Postal business, the heavy loss by exchange only prevented the attainment of the same satisfactory result.

The lively interest which the people of this country have long shown in popular Education has not slackened during the last five years. Nor has the Government been wanting either in the matter of pecuniary grants or in the organization and promotion of new branches of the educational system. Since 1890, schools have increased in number by 90, from 1,420 to 1,510; and scholars have increased by 17,446, from 113,988 to 131,334. The sum spent on Education has been augmented from Rs. 485,317 in 1890 to Rs. 597,387 in 1894. A beginning has been made, which has been followed by encouraging success, in the technical teaching of the artistic and mechanical industries. In practical instruction in agriculture and veterinary science advancement has been made, and fresh branches have been added to our previously existing organization.

The Medical Department of Ceylon has always occupied a prominent place in the administration of the country. Its operations have vastly extended during the last twenty years. In 1875 there were 58 hospitals and asylums and 4 dispensaries; in 1894 there were 108 hospitals and asylums and 148 dispensaries. In 1875 there were 15,600 persons treated in hospitals and 6,890 in dispensaries; in 1894, the numbers respectively were 42,000 and 651,987. The expenditure on Medical Aid, which in 1875 amounted to Rs. 143,245, had risen in 1894 to Rs. 1,288,952. The expansion of the work of this Department during the five years from 1890 to 1894 was probably more rapid than during any previous quinquennial period. The amount of public expenditure increased from Rs. 947,429 in 1890 to Rs. 1,288,952 in 1894. The system of European medical treatment is rapidly gaining the confidence of the native population. I am convinced that in no way do the poorer taxpayers of Ceylon get a better return for their money than by the benefit they derive from the Medical Department. I am strongly impressed with the belief that the medical aid given by the Government to the people contributes more largely to the mitigation of misery than any other of the many blessings of British rule in this country.

During the last five years the Department of Public Works has been enabled, through your liberality, to set on foot undertakings of public utility on a scale probably larger than during any previous period of the same length. Not including the expenditure defrayed from loan funds, the outlay on public works during the five years from 1890 to 1894 was Rs. 13,332,016, while for the previous five years the amount was Rs. 8,575,636. A large share of this expenditure has been incurred in the repair and construction of roads and bridges. The new General Post Office and the Victoria Bridge over the Kelani river, which have been recently completed, are, in their respective classes, the most important works ever executed in Ceylon. I am happy to be able to say that the Irrigation policy of the Government has been actively and systematically pursued. The only works of the first magnitude which have engaged the attention of the Central Irrigation Board have been the Deduru-oya scheme and the restoration of the Giant's Tank. But numerous less ambitious works have been carried out, and the repair and maintenance of existing works have been perseveringly and successfully effected. The amount expended on irrigation works during the five years from 1890 to 1894 has been Rs. 2,291,408, while the expenditure for the previous five years was Rs. 2,388,440. I invoke your sympathy and your liberality in support of the active continuance of the great and beneficent work of irrigation. The results already attained through your generous action in the past should be amply sufficient to reward you for the large outlay incurred, and to stimulate you to further sacrifices in the future. Life has been preserved to thousands of your fellow subjects, and health has been given to many more. It has been truly said that what is needed for the development of a country is firstly, roads; secondly, roads; and lastly, roads. I am inclined to think that for the happiness and improvement of large regions of this Island a parallel aphorism would apply. For these regions, I would say that what is needed is—firstly, irrigation; secondly, irrigation; and lastly, irrigation.

Among public works, the cost of which is to be provided from borrowed capital, the most important undertaken during the last five years is the scheme for the improvement of the Harbour of Colombo. This work is of deep interest, not only to this country, but to a large portion of the commercial world. I share with you to the full your confidence in the future of the Port of Colombo, and I am proud to know that my name is associated with this great enterprise.

In the extension of the Railway system of the Island, important advancement has been made since 1890. The line has been carried through difficult country to Haputalé and on to Bandárawela, connecting the flourishing Province of Uva with Colombo. Railway communication between Colombo and Galle has also been completed, and an extension of this southern line through the populous and industrious District of Mátara will, in the course of a few weeks, be opened for traffic. A branch line of Railway to Kurunégala has been open to the public since February, 1894. Its working has been fairly remunerative, and its construction derives additional importance from the fact that it forms the first section of the large project of connecting Jaffna and the northern districts with Colombo. I regret that from delays that have taken place in

obtaining trustworthy information as to the probable traffic of a Railway to Jaffna, it has been impossible to form an opinion as to the expediency of this work from a commercial point of view. As you are aware, a survey of the line and an estimate of its cost, showing a very moderate expenditure per mile, have been made. Apart from the advantages which this project offers, of bringing the numerous and enterprising population of Jaffna into easy communication with the capital and chief port of the Island, and of opening out the sparsely-peopled country which intervenes, it would greatly help to facilitate communication between Colombo and Trincomalee, the two chief points of defence. In this way the line, if carried as far as Anurádhapura, would serve to strengthen the Military position. The report of the Commission appointed to inquire into the proposal to construct a Railway from a point on the Main line into the Kelani Valley claims for the undertaking a prospect of considerable pecuniary profit. It is possible that these anticipations may be somewhat over-hopeful, but allowing for less traffic than the Commission expect, I am myself disposed to think that the line, if constructed at the cost roughly estimated in the Commissioners' report, would prove remunerative. In view of the fact, however, that cheap transport by road and river between the Kelani Valley and Colombo already exists, I do not consider this work to be one of urgency; and, pending your consideration of the scheme in all its bearings, I think it prudent to defer incurring the cost of a detailed survey and estimate.

I am of opinion that in the matter of Railway construction in Ceylon, the Government should continue the policy adopted in the past. I understand that policy to be,—to give consideration to such projects only as can be shown to offer a fair degree of certainty of profit, sufficient to cover all the charges incidental to the construction; and to undertake such projects in the order of their relative importance, in respect of the interests which they will serve. I think also that that policy should include a determination to resist all temptations to break of gauge. A pursuance of this continuity of policy would, I am disposed to think, result in the immediate future, (1) in the extension of the Southern Railway to Gandara, a distance of 6 miles, or perhaps to Tangalla or Beliatta, a further distance of about 16 miles; and (2) in the construction of the proposed Kelani Valley Railway to Avisáwélla, a length of about 28 miles. I wish I were in a position to add to these projects the making of the line to Jaffna, but in the absence of complete information I cannot venture to do so. In the consideration of the expediency of this line, I wish to express a warning against a sanguine view of the effect of a railway in rapidly developing thinly-inhabited and backward districts through which it may pass. The success in this respect of such enterprises in the United States, and in a less degree in the Dominion of Canada, must not be taken as an example applicable to Ceylon. The character and the proclivities of the peoples differ essentially. Whereas the people of the West may in a few years occupy a new country, and open up its resources, an Oriental people will not effect the same result in as many decades. In the meantime, if a length of railway such as that to Jaffna, representing a large proportion of the whole present length of the Ceylon Railway system, be worked at a loss, there would be a drain on the revenue, which would impede the prosecution of more profitable and desirable undertakings. Nor does the example of India, where there is a large extent of unremunerative lines of railway, apply to Ceylon. These lines were, I understand, constructed for Military and famine-protective reasons, which do not exist in Ceylon. Before I leave the subject of Railways, I think it my duty to correct a mistaken belief which exists in some quarters, that the open lines are paying a large percentage of profit. This was the case a few years ago, but it is not so now. The net profit, that is, the profit accruing on the original capital expenditure, after the payment of the interest due on outstanding capital and the amount due to the sinking fund, was in 1890, 3·5 per cent.; in 1891, 4·2 per cent.; in 1892 3·7 per cent.; in 1893, 1·8 per cent. In 1894 profit had ceased, and there was a slight loss. This state of things has been caused mainly by the increase in the percentage of expenses to gross receipts. This percentage rose from 44·6 per cent. in 1890 to 73·62 per cent. in 1894. The earnings per train mile during the same period have not seriously fluctuated. The highest rate of earnings during the five years referred to was in 1891, when it reached Rs. 6·42 per mile. The lowest earnings per train mile were in 1894, when they fell to Rs. 5·31 per mile. The large increase in working expenses is not attributable to defects or changes in management. It has been caused by large additional expenditure on rolling stock and by the cost of improvements and facilities introduced for the convenience of the public. In a railway managed by a trading company, it is true that much of this extraordinary expenditure would probably be charged to a capital or suspense account. But such a manner of accounting would not be admissible in an institution conducted as the Ceylon Railway Department is, on the strict principles which guide the management of Government undertakings.

The Legislative Enactments of the last five years have, for the most part, had for their object the amendment and perfecting of existing Laws. Innovations and radical changes have been few. That this should have been the case is, I hold, not necessarily a cause for regret. A wise ruler said:—"Let it suffice thee to improve things a little, and do not consider this result as a success of

"but moderate importance." Probably the most remarkable and far-reaching measure enacted during my term of Government is the Ordinance to abolish the tax levied on home-grown rice, commonly called the "Paddy Tax." It was believed that this measure would tend to ameliorate the deplorable condition of debt and difficulty into which many thousands of the Ceylon peasant proprietary had drifted, through their endeavours to raise means, in bad seasons, to meet the payment of the tax. In a vast number of cases, this state of embarrassment had resulted in the loss to the proprietors of their holdings, sold to satisfy the dues of the Government on account of the tax or the judgment claims of creditors. The Ordinance has been in force for less than three years, but already the relief which it has given is widely and deeply felt. That the local cultivation of rice has been largely stimulated by the removal of the tax is not so generally and conspicuously shown, although in some districts of the Island the area under rice has considerably increased during the last two years. It was the happy return of financial prosperity that made it possible for my administration to carry out this generous measure of relief.

Honourable Gentlemen, the last five years of the history of Ceylon form a period of almost unclouded prosperity and of unchecked progress. I think we may look upon the record with pride and satisfaction. My share in the work of the last *lustrum* has been an easy and a pleasant one. I have had the help of the high example and of the good traditions of my predecessors; I have profited by the experience and wisdom of my advisers in the Government, and by the diligence and skill of an able body of Public Servants; I have been favoured by a steadily and rapidly increasing revenue. And by your generous support and your willing co-operation, I have been empowered to carry our designs into good effect. There has been unanimity in our desires and efforts for the public good, and in this has been our strength.

The Estimates for 1896 are in an advanced stage of preparation, and will soon be placed before you. You will be asked to continue the progressive policy of the past by providing liberal grants for the improvement of means of communication, for the promotion of Education, and for the extension of the work of the Medical and Postal Departments. You will notice, on examining the draft Estimates, that I have, under the head of Military Contribution, proposed a vote of Rs. 1,545,000, an amount exceeding the estimated contribution of the current year by Rs. 176,333. This increased rate of contribution is based on the proposal of Her Majesty's Government to fix the Imperial Military charge for the current and ensuing years at three-fortieths of the revenue, after deducting the proceeds of Land Sales. It will be necessary to adjust, by a comparatively small supplementary grant, the amount of the contribution for the present year. Further information will be placed before you on the subject of the Military Contribution.

The Legislative measures which you will be asked to consider are not numerous, but several among them are of considerable importance.

Having carefully considered the report of the Select Committee of this Council, appointed during last Session, to report in what manner "The Municipal Councils' Ordinance, 1887," requires to be amended, I have caused a Bill to be drafted, to which your attention will be shortly invited, giving effect to such of the recommendations of the Committee as commended themselves to me and my Executive Council. It provides that the selection of a Chairman of the Municipality of Colombo shall no longer be confined to the Civil Service, and that the Governor shall be free to appoint any person whom he considers fit for the office. The person so appointed shall be deemed, for the purposes of the Ordinance, a Councillor nominated by the Governor. The definition of "annual value" has been amended, so that in future the landlord will no longer have to pay a rate assessed on the gross annual value of the house, plus the rates and taxes payable in respect of the same, but merely on the gross annual rental. Thus a taxation which has been very properly stigmatized as unreasonable will disappear. It would occupy too much of your time for me to detail all the amendments contained in this measure; I need only add that the wish of your Select Committee, that provisions relating to buildings, similar to those enacted by the Singapore Municipal Acts, should be embodied in [illegible] Municipal Act, has been acceded to; and you will also find that the Ordinance contains salutary provisions for the supervision and regulation of dairies and laundries by the Municipal authorities, legislation in respect of which has been urged on Government both by Municipal Councils and your own Select Committee.

In view of the facilities for fraud offered by the unchecked sale of English Military and Naval uniforms, with all the badges, buttons, and distinctive marks attached to those garments, I have been asked by the Secretary of State for the Colonies to offer for your consideration an enactment framed on lines similar to the Uniforms Act passed by the British Parliament last year, to regulate and restrict the wearing of such uniforms. A Bill for this purpose will be placed before you in due course.

The application of electricity for lighting, and the probable extension of its use for other purposes, necessitates provision being made for the protection of persons and property from the risk incidental to such application and use. With this object in view, a Bill, drawn on the lines of the

Electricity Act of India, No. XIII. of 1887, has been prepared, requiring persons intending to undertake the business of supplying electricity, or to use the same in any public place where there is likelihood of the public being affected, to give notice to the Government Agent of the Province of such intention, and empowering the Governor, with the advice of the Executive Council, to make rules for protecting persons and property from injury by reason of contact with appliances or apparatus used in the generation and supply of electricity.

A Bill consolidating the Law relating to Oaths and Affirmations in Judicial Proceedings, and providing for the summary punishment of perjury in open Court, will be submitted to you. It provides that Buddhists, Hindus, and Muhammadans may affirm, and all others swear, in such form as may, from time to time, be prescribed by the Judges of the Supreme Court. Any person however may, without assigning a reason, object to take an oath, and may, instead, make an affirmation of the fact which he wishes to state to the Court. A person may make use of any oath, which is considered especially binding by persons of his race or persuasion, so long as it is not offensive, and does not purport to affect another person. A person may also offer to be bound by such an oath, if the opposite party will take it. Every person giving evidence is bound to state the truth, and the giving of false evidence is summarily punishable as for contempt of Court; power being reserved to the Court in lieu of summarily punishing any such person to proceed in manner provided by "The Criminal Procedure Code, 1883." Thus, the Bill utilizes whatever incentive to truth-telling religions or superstitious in any case can be supposed to give, and it brings an earthly incentive into play by providing speedy punishment for any false statement.

Your consideration will also be invited to a measure consolidating and amending the Law of Evidence, and having an important bearing on the administration of justice. The aim and object of every judicial inquiry, both civil and criminal, should be the discovery of the truth. It is therefore important that certain general principles as to the material out of which belief is to be formed, and the manner in which such material is to be brought before the Judge, should be clearly laid down. And where, as in this Colony, the major part of the judiciary consists of Civil Servants, without special legal training, it is desirable that the rules of evidence should be so consolidated and arranged as to be easily accessible to all, without the necessity of consulting English text books and reports of legal decisions. At present the rules affecting evidence in this Colony can only be ascertained by reference to the decisions in English Courts laying down the English Common Law on the subject, and the text books in which those decisions are more or less accurately collated and discussed.

There is no Ordinance setting forth what the English Law is, and no complete and systematic enactment on the subject has hitherto found a place in our Statute book.

This gap in the substantive law of the Colony, it is now desired to fill up by introducing a Bill adapted from the Indian Evidence Code, with such alterations as the circumstances of the Colony seem to require, which I hope will greatly improve the daily administration of justice in matters both civil and criminal throughout this Colony.

The recommendation made in paragraph 11 of their report of 26th March, 1895, by the Retrenchment Committee, consisting of Members of this Council, has been carefully considered by me, and I have caused a Bill to be drafted for the purpose of raising the jurisdiction of Courts of Requests accordingly.

It appears that the costs recoverable in petty cases in the District Courts are often out of all proportion to the subject-matter of the litigation. An examination of the taxed bills of costs in twelve cases in an outstation Court, in which the amount involved in each case did not exceed three hundred rupees, shows that the average costs payable by the losing party to his opponent amounted to one hundred and twenty-seven per cent., whilst in one case the successful party recovered no less than two hundred and sixty-three per cent.

Investigation further shows that a party against whom judgment has been recovered in an uncontested action may have to pay a maximum of seventy-eight per cent. on the property involved, and that the average payable is fifty-seven per cent.

The payment of these charges is frequently enforced by writ of execution, and the majority of the peasantry being poor, are forced to part with their small holdings, and, deprived of legitimate support, swell the ranks of the criminal classes.

It is clearly to the advantage of the litigant that he should be enabled to bring his action in the Court of Requests, wherein the procedure is simpler and costs more moderate than in District Courts.

In all cases over the value of one hundred rupees, suitors will, should this Bill become Law, be enabled to have their cases decided on the spot, expeditiously and cheaply by officers of the same standing in the Public Service as District Judges, for it is contemplated, after the passing of this Ordinance, to appoint to any Court, in which the Commissioner of Requests is not an officer of the same standing as a District Judge, the District Judge of the Province or of an adjoining district as Commissioner of such Court of Requests.

It will be the duty of District Judges to hold circuits within their Provinces or districts, to look into the records of the minor courts, and to supervise generally the work of the Magistrates. Some such supervision has been a long-felt want.

While such District Judge is on circuit an Additional District Judge will be appointed to carry on the current work of his Court.

The Bill further contains provision for simplifying the procedure of these Courts, and, at the suggestion of the Chief Justice, provision has been made that in all money cases the defendant shall state his defence orally to the Commissioner, and that no appeal should be allowed of right in such cases from a judgment of a Commissioner, save on a matter of law or upon the question as to the admission or rejection of evidence; the right, however, being reserved to a Commissioner to grant leave to appeal in any such case, and in the event of such leave being refused, an appeal lies therefrom to the Supreme Court.

It will be remembered that when an Ordinance relating to the publication of intended sales of immovable property affected by the *Thésawalamai* of the Northern Province of Ceylon was introduced last Session, it was made clear to the Government that the people of that Province did not desire a continuation of the Schedule system, but preferred its total abolition. Accordingly, I directed that Bill to be withdrawn. A new Bill has now been prepared, and I have no doubt that you will give it your best consideration.

The practical working of the Buddhist Temporalities Ordinance during the last five years has shown the necessity for improving it in certain respects. The amendments suggested appear in a draft Ordinance, which has been recently published preparatory to its introduction in Council. The definition of "temple" has been extended so as to bring the "Daladá Máligáwa" under the operation of the original Ordinance.

The Kandy Municipal Council having unanimously agreed with the recommendation of the Municipal Council Standing Committee, that on sanitary grounds the water-rate limits should be extended, a Bill has been drafted and will be submitted to you amending "The Kandy Waterworks Loan Ordinance, 1884," and extending, in accordance with the wishes of the Municipal Council, the limits for the purposes of that Ordinance.

An Ordinance to amend "The Ceylon Savings Bank Ordinance, 1859," as well as several other Ordinances of minor importance, have been prepared and published, and will be brought before you without delay.

HONOURABLE GENTLEMEN OF THE LEGISLATIVE COUNCIL,

With the fullest assurance that your consultations and proceedings will, during this Session, be animated by the same loyalty to the Queen, and by the same devotion to the public interests, that have governed them in the past, I now, in Her Majesty's name, declare the Session of the Legislative Council to be duly opened.

THE DEBATES

OF THE

CEYLON LEGISLATIVE COUNCIL.

DURING THE SESSION 1895-6.

WEDNESDAY, OCTOBER 9th, 1895.

OPENING OF THE SESSION.

Present:—His Excellency Sir Arthur Elibank Havelock, G.C.M.G., the Governor, who occupied the Chair; H.E. Sir Noel Walker, K.C.M.G. Lieut.-Governor; H.E. Major-General W. Clive Justice, C.M.G., Commander of the Forces; the Hons. C. P. Layard, C.M.G., Attorney-General; W. T. Taylor, C.M.G., Auditor-General; L. F. Lee, Acting Treasurer; A. R. Dawson, Government Agent, for the Western Province; Allanson Bailey, Government Agent, for the Central Province; R.K. MacBride, Director of Public Works; W. W. Mitchell, Mercantile Representative; Hon. A de A. Seneviratne, Sinhalese Representative; Hon. Sir J. Grinlinton, General European Representative; Hon. W. Ellawella, Kandyan Representative; Hon. Abdul Rahiman, Muhammadan Representative; Hon. P. Coomaraswamy, Tamil Representative; Hon. Giles F. Walker, Planters' Representative.

Sir John Grinlinton having been re-appointed General European Representative, was duly sworn in.

HIS EXCELLENCY'S ADDRESS.

His Excellency Sir Arthur Elibank Havelock read his Opening Address to the Council (see after index). His Excellency the Governor then retired and His Excellency the Lieut.-Governor took the chair.

THE REPLY TO HIS EXCELLENCY'S ADDRESS.

The Hon. the ATTORNEY-GENERAL:—Sir, I beg to move that the following Hon. Members be appointed a Committee to draft a reply to the speech which has just been read by H.E. the Governor, viz:—The Hon. the Auditor-General, the Hon. the Treasurer, The Hon. the Government Agent of the Western Province, the Hon. P. Coomaraswamy, the Hon. W. Ellawela and the Hon. Sir John Grinlinton.

The Hon. L. F. LEE:—Sir, I beg to second the motion.

Motion adopted.

PAPERS.

The Hon. the ATTORNEY-GENERAL:—Sir I beg leave to lay on table the following papers:—

Ceylon Blue Book for 1894. Administration Reports for 1894. Report on the working of the Thoroughfares Ordinance. Report of Local Boards. Report of the Kandy Municipality; Report of the Galle Municipality Report of the Surveyor-General; Report on the Meteorology of Ceylon; Report of the Director of Public Works; Report of the Acting Solicitor-General; Report of the Inspector-General of Police; Report of the Inspector-General of Prisons; Report of the Fiscal of the Western Province; Report of the Principal Civil Medical Officer; Report of the General Manager of the Railway; Report of the Director of Public Instruction; Report of the Registrar-General of Lands; Report of the Registrar-General on Vital Statistics; Report of the Conservator of Forests. Report on the Progress made with the Matara Railway for the half-year ended 30th June 1895.

SESSIONAL PAPERS.

Return of Expenditure on the Nanu-Oya-Bandarawela Railway.—Report of the Commissioners appointed to enquire into and report as to the proposed cost of Railway Extension to the Kelani Valley.—Reports of the Central and Provincial Irrigation Boards for 1894.—Statement showing the districts, presidents, their salaries and the number and nature of the cases disposed of during 1894.

A PETITION.

The Hon. P. COOMARASWAMY:—I beg, sir, with the permission of Council, to hand in a petition from the Dewa Nileme of the Dalada Maligawa. The petition is in the following terms:—

The Humble Memorial of Giregama Raja Karuna Navaratna Senevirstne Mudianse, Diawadana Nileme of the Dalada Maligawa, Kandy.

May it please your Excellency:

Having learnt from newspapers of the day, that the Government contemplates placing the Dalada Maligawa under the operation of the Buddhist Temporalities' Ordinance, begs to submit the following for favourable consideration.

That in the 854th year of Buddha's death, during the reign of the King Kirti Sri, the daughter of Guhaziwa, King of Dambadiwa (India), and his nephew, Dantakumaraya, brought over to Ceylon, the sacred Daladarelic, which found a sanctuary in the King's palace and was enshrined there receiving the private worship of successive sovereigns. In course of time, the watch and ward of the sacred relic kept by royalty, received a relaxation somewhat, by the King handing over its guardianship to his Prime Minister and by the admission of Priests for worship; a privilege which up to that day the laity was denied. This exclusion of the laity from worship before the relic is attributable to the extreme sanctity and pre-eminent dignity of this peerless treasure of the Buddhist Religion.

Hence why it was so sedulously and jealously guarded and kept secret from public gaze, and none but Kings can effectually guard a treasure which is become, as it were, the universal palladium of the Buddhists. Many an old temple lies at this day despoiled of its treasures, the accumulation of votive offerings, in consequence of the laity being allowed access to the shrine and relic in it, and it is owing

only to royal surveillance, that what little that remains as treasures of the Maligawa, remains intact at the present day.

It was in 1815 at the time of the British Accession that the laity did for the first time enjoy the privilege of seeing the sacred relic.

In 1846, our august and beneficent Government made some attempts to hand over to the Buddhists the custody and management of the sacred relic and its possessions, with which intention His Excellency Sir Colin Campbell, with the advice of His Council, framed the Ordinance No. 2 of 1846, an Ordinance which was not enforced for reasons unknown; but the management of the Dalada Maligawa continued to be carried on in conformity with certain rules embodied in a Despatch from the Secretary of State.

Matters remained unaltered until 1889, when the Ordinance No. 3 of that year came into force transferring to lay-committees full power over all temples inclusive of the Dalada Maligawa; with the result that most of the temples are in a fair way of falling into neglect by the revenues being diverted from their legitimate objects and converted into the private use and profit of lay trustees. Being the sacred relic of Buddha its natural and proper guardians are the priests, but according to the proposed amendment of the Temporalities Ordinance as affecting the Dalada Maligawa, any Buddhist layman who is a resident in a village for three months, is eligible to be appointed a trustee of a temple; whereby the door is open for an unscrupulous person commanding wealth and influence to secure appointment as trustee of the Dalada Maligawa and to devote all its revenues to his private use and dispose of the sacred relic itself.

Therefore, if the Government is about to legislate on the matter, the memorialist prays, that it may be done in the lines of the Ordinance of 1846 framed by Sir Colin Campbell and in conformity with the rules in the despatch from the Secretary of State of that period, 1853.

THE INCORPORATION OF THE CHAMBER OF COMMERCE.

The Hon. W. W. MITCHELL:—Sir, I beg to move in terms of Rule 46 ("any member desiring to introduce a Bill other than a Government Bill shall apply to the Council for leave to do so, stating at the same time the object and leading features of such Bill") for leave to introduce an Ordinance to incorporate the Ceylon Chamber of Commerce. The chief object of the Bill is to enable the Chamber of Commerce to take and to hold property which, as at present constituted, it cannot do. The Chamber desires to erect a new building in which to hold their meetings which will be at once a credit and an ornament to Colombo. It is necessary therefore that the Chamber should be incorporated in order that the building which will be erected, or any property they might acquire, might be vested in the Chamber. On obtaining the permission of Council I will submit this Bill on such a day as will suit the convenience of Government.

The Hon. SIR JOHN GRINLINTON:—Sir, I beg to second the motion.

The Hon. the ATTORNEY-GENERAL:—Sir, I have to state on behalf of the Government that they have no objection to the introduction of such a measure.

H. E. the LIEUT.-GOVERNOR:—Leave is asked to introduce a Bill to incorporate the Ceylon Chamber of Commerce.

Motion agreed to.

The Hon. the ATTORNEY-GENERAL:—Will the Hon. Member kindly fix a day for the first reading of the Bill.

The Hon. W. W. MITCHELL:—Any day that will suit the Government. Next meeting of Council, if convenient or later.

The Hon. the ATTORNEY-GENERAL:—Next meeting of Council will be convenient.

The Hon. P. COOMARASWAMY:—Is it not necessary that the Bill be published in the *Gazette* and so many days' notice given before the next meeting? I take it, the meeting will be next Wednesday,

The Hon. the ATTORNEY-GENERAL:—It says in Rule 49 "the Bill shall thereupon be published in the *Gazette* and circulated amongst the members and laid upon the table as hereintofore provided with respect to Bills generally." It has only to be published in the *Gazette* once.

The Hon. W. W. MITCHELL:—I will see that it is published in the next issue of the *Gazette*.

THE THESAVALAMAI AND LAND SALES.

The Hon. the ATTORNEY-GENERAL:—Sir, I rise to move the first reading of "An Ordinance relating to the publication of intended sales or other alienations of immovable property affected by the Thesavalamai of the Northern Province of Ceylon." Some years ago the Supreme Court decided that the customs requiring publication and schedule for the alienation of immovable property in certain portions of the Northern Province had become obsolete and that these formalities were not essential for the validity of deeds affecting land, so that legislation has become necessary. It will be in the recollection of Members of Council that during my absence on leave last year the Acting Attorney-General drafted and introduced into this Council a Bill providing for the reviving of the old custom of publication in a new form. The Bill was withdrawn from Council by Government as it was found not to be in consonance with the wishes of the inhabitants of the Northern Province nor of the Government Agent, and the Government determined to introduce a Bill to repeal so much of the Thesavalamai prevailing in certain portions of the Northern Province, as required publication and schedule of intended sales on the alienation of immovable property which had been declared by the Supreme Court to be obsolete and to repeal Ordinance No. 1 of 1842 entitled an Ordinance to make certain Regulations respecting the granting of schedules in execution of deeds affecting land in the Northern Province. For the purpose of carrying out this intention I now move the 1st reading of an Ordinance entitled "An Ordinance relating to the publication of intended sales or other alienations of immovable property affected by the Thesavalamai of the Northern Province of Ceylon."

The Hon. P. COOMARASWAMY:—Sir, I beg to second the motion.

Motion carried and Bill read a first time.

The Hon. the ATTORNEY-GENERAL:—Sir, I beg to give notice that I shall take the second reading of this Bill at next meeting of Council next Wednesday.

PROTECTION AGAINST ELECTRICITY.

The Hon. the ATTORNEY-GENERAL:—Sir, I rise to move the first reading of "An Ordinance to provide for the protection of person and property from the risks incidental to the supply and use of Electricity for lighting and other purposes." The extension, of the use of electricity has forced upon Government the framing of some measure for the better protection of the public. The Draft Bill, the first reading of which I am about to move, casts upon persons intending to undertake the business of supplying electricity the duty of reporting such intention to the Government Agent, and further enables

the Governor with the advice of the Executive Council to make rules for protecting person and property from injury by reason of the contact with or the proximity of appliances or apparatus employed in the generation or supply of electricity. It also provides penalties for the breach of any of the provisions of the Ordinance or the rules made thereunder. I move, sir, the first reading of "An Ordinance to provide for the protection of person and property from the risks incidental to the supply and use of electricity for lighting and other purposes."

The Hon. R. K. McBRIDE :—I beg, sir, to second the motion which has just been made.

Motion adopted and Bill read a first time.

The Hon. the ATTORNEY-GENERAL :—Sir, I beg to give notice that I will move the second reading at next meeting of Council.

NAVAL AND MILITARY UNIFORMS ORDINANCE.

H.E. the MAJOR-GENERAL :—Sir, I beg to move the first reading of "An Ordinance to regulate and restrict the wearing of Naval and Military Uniforms." This Ordinance is merely a reproduction of that passed by the Imperial Government. It is believed it will be extended to all Her Majesty's Colonies. I beg to move the first reading of "An Ordinance to regulate and restrict the wearing of Naval and Military Uniforms."

The Hon. the ATTORNEY-GENERAL seconded.

Motion adopted, and Ordinance read a first time.

H.E. the MAJOR-GENERAL :—I give notice that I will take the second reading of this Ordinance at next meeting of Council.

BUDDHIST TEMPORALITIES.

The Hon. the ATTORNEY-GENERAL :—Sir, I rise for the purpose of moving the first reading of an "An Ordinance to amend 'The Buddist Temporalities Ordinance, 1889.'" The object of the Ordinance is to bring the Dalada Maligawa within the provisions of the Buddhist Temporalities Ordinance 1889. It amends the definition of the word "temple" and further casts upon incumbents the duty of furnishing information to the trustees appointed under the Ordinance, and provides for penalties on incumbents for giving false information or obstructing the Trustees in carrying out their duties under the Ordinance. I need not trouble you with detailing the minor amendments but will simply now move the first reading of "An Ordinance to amend, The Buddhist Temporalities Ordinance, 1889.'"

The Hon. L. F. LEE seconded, the motion was adopted, and the Ordinance read a first time.

The Hon. the ATTORNEY-GENERAL :—With the permission of Council, I will take the second reading at next sitting of Council.

The Hon. A. DE. A. SENEVIRATNE :—Would it be equally convenient to take the second reading a little later?

The Hon. the ATTORNEY-GENERAL :—What date does the Hon. Member suggest?

The Hon. P. COOMARASWAMY :—I think we should have at least a month or three weeks before the second reading.

The Hon. ATTORNEY-GENERAL :—I give notice that I will take the second reading of this Bill this day three weeks.

The second reading of the Bill was thereafter fixed for 30th Oct.

KANDY WATERWORKS.

The Hon. the GOVERNMENT AGENT, CENTRAL PROVINCE :—Sir, I beg to move the first reading of "An Ordinance to repeal the Ordinance No. 29 of 1884, and to amend 'The Kandy Waterworks Loan Ordinance, 1884.'" The object of this Ordinance is to extend the limits within which water-rate is levied in the Municipality of Kandy. Under the principal Ordinance every house was liable to pay the rate. By the amending Ordinance No. 29 1884 the limits were restricted and the rates made leviable within an area to which water would in a reasonable time be supplied. Now it is proposed to extend these limits; on the South and North-east so that the houses having the benefit of water shall pay the rate, and in the South where for sanitary reasons the extension is very necessary. Instead of amending that Schedule only it is proposed to repeal the whole of the amending ordinance 29 of 1884 and embody its provisions in the present ordinance.

The Hon. L. F. LEE :—Sir, I beg to second the motion.

Motion carried and Ordinance read a first time.

The Hon. the GOVERNMENT AGENT, CENTRAL PROVINCE :—Sir, I give notice that I will move the second reading at the meeting after next of Council.

THE SAVINGS BANK.

The Hon. L. F. LEE :—I beg, sir, leave to move the first reading of "An Ordinance to amend Ordinance No. 12 of 1859 entitled 'The Ceylon Savings Bank Ordinance, 1859.'" The chief object of this Ordinance, sir, is to invest in other than the Treasurer, the power of disposing of the funds of the Bank. At present it is in the power of the Treasurer alone to make investments. By this Ordinance it is proposed that the Treasurer with the concurrence of the Directors should be able to dispose of investments. It is further the purpose of this Ordinance to enable Crown Agents of the Colony to buy securities in the name of themselves and of Her Majesty's Under-Secretaries of State in order to avoid the inconvenience which might possibly result in the purchase of securities in the name of the Treasurer of the Savings Bank, and to avoid the inconvenience of forwarding documents for signature.

The Hon. the AUDITOR-GENERAL seconded.

The motion was carried and the Bill read a first time.

The Hon. L. F. LEE—I beg, sir, to give notice that I shall move the second reading of this Ordinance at next meeting of Council.

OATHS AND AFFIRMATIONS.

The Hon. the ATTORNEY-GENERAL :—I am about, sir, to move the first reading of "An Ordinance to consolidate the Law relating to Oaths and Affirmations in Judicial Proceedings and for other purposes." Under the provisions of the present law all persons professing the Christian Religion are bound to take the oath according to the form at present used in England. There are many Christians who have conscientious objections to taking an oath, and as the law at present stands their evidence cannot be accepted in any judicial procedure, and if they refuse to give evidence the Court may deal with them for contempt. The present Bill does away with that anomaly and provides that when a person required to take the oath, has conscientious objections to so doing he may be affirmed instead. The Bill further provides that the Judges of the Supreme Court may prescribe the form in which Oaths and Affirmations are to be administered. This will enable them to prescribe such forms and formalities as will be binding on persons of every race and religion. The solemn Affirmation which is now administered in our Courts cannot be said to bind the consciences of the majority of persons to whom it is administered. I would specially

invite the attention of Members of this Council to clause 9 of this Bill. Some years ago it was not an uncommon thing for a party in a suit to offer to be bound by the oath of his adversary, to be taken in some particular form or place and to consent to judgment accordingly. Unfortunately the Supreme Court held that judgments so entered were contrary to law. This Bill will restore the practice which, it is now admitted, has much to recommend it. Clause 12 provides summary punishment for giving false evidence, the penalty for which, in the Supreme Court may not exceed three months, whilst in the inferior Courts the penalty is to be a fine of R50. The orders of the inferior Courts are to be subject to appeal to the Supreme Court. I move the first reading of "An Ordinance to consolidate the law relating to Oaths and Affirmations in Judicial Proceedings and for other purposes."

The Hon. L. F. LEE seconded and the Ordinance was read a first time.

The Hon. the ATTORNEY-GENERAL:—Sir, I give notice that I will take the second reading at next meeting of Council.

The Hon. GILES F. WALKER suggested that the second reading be postponed for a fortnight.

Agreed.

ADJOURNMENT.

The Hon. the ATTORNEY-GENERAL:—I move that Council do adjourn till Wednesday next 16th inst. at 3 p.m. Agreed. Council adjourned.

WEDNESDAY, OCTOBER 16th, 1895.

Present:—H.E. Sir E. Noel Walker, Lieut.-Governor, (presiding), H.E. the Major-General, the Attorney-General, the Hon. Lionel Lee, the Hon. R. K. MacBride, the Hon. A. de A. Seneviratne, the Hon. Abdul Rahiman, the G.A., W.P., (Mr. Dawson), the Hon. the Auditor-General, the Hon. P. Coomaraswamy, the Hon. W. W. Mitchell and Sir John Grinlinton.

MINUTES

The minutes of last meeting were read by the Clerk and confirmed.

THE REPLY TO THE GOVERNOR'S ADDRESS.

The Hon. the AUDITOR-GENERAL:—I bring up the draft of a reply to the address of H.E. the Governor, and I move it be read by the Clerk of the Council.—Address read by Clerk.

The Hon. the AUDITOR-GENERAL:—I now move that the draft reply as read be adopted as the reply of the Council to the Address of H.E.

The Hon. L. F. LEE:—I beg, sir, to second the adoption of the Address. Carried.

H.E. the LIEUT.-GOVERNOR:—Council will now adjourn for a few minutes.

A FAREWELL ADDRESS TO THE GOVERNOR.

The Hon. P. COOMARASWAMY said:—It is our desire that this Council shall present a farewell address to H.E. the Governor before his departure. I have given no notice of my intention of moving such a resolution, but I am acting according to precedent; for instance, in the year 1889 a similar resolution was brought before the Council without previous notice. Such being the case I ask the permission of Council to move a resolution in the terms indicated.

H.E. the LIEUT.-GOVERNOR:—I suppose we will take the permission as granted. Agreed.

The Hon. P. COOMARASWAMY:—This permission having been granted, it is my privilege and pleasing duty as senior unofficial member of this Council to move this resolution:—

"That this Council do present a farewell address to His Excellency the Governor on the eve of his departure from the Colony, and that a Committee consisting of the Colonial Secretary, the Attorney-General, the Treasurer, the Principal Collector of Customs, Sir J. J. Grinlinton, Messrs. A. de A. Seneviratne, W. W. Mitchell, and P. Coomaraswamy be appointed to prepare the address."

In passing this resolution, the Council will, I am sure, be only giving expression to the general feeling amongst the inhabitants of this Island that all honour should be paid to His Excellency. I believe there is a consensus of opinion throughout the Island that every honour should be paid to His Excellency, not merely because he has been our Governor, but because he has rendered to this Colony and therefore all of us great and substantial service. On this occasion when opinion is not divided it is not necessary for me to say much and set out all that His Excellency has done for the Colony. I shall therefore make a few remarks only, confining them to the more important services he has rendered. First of all, sir, there is a strong impression in the minds of my countrymen that, when Sir Arthur Havelock came to our shores he brought good luck to the Colony. That this impression is correct is evidenced by the extraordinarily prosperous condition of our finances, and I also believe this is an admitted fact both by officials and non-officials. I quote the exact words which occur in the Message of His Excellency to this Council the other day, when he said and said very correctly "The last five years of the history of Ceylon form a period of almost unclouded prosperity and of unchecked progress." It is therefore but natural that we should honour the favourite of the Goddess of Fortune. All the more so when we remember that all the gifts that she showered on him, have been utilised in a wise and statesman like manner and in the best interests of this country. When a Governor's rule ends the people always ask what has he done for the improvement of public health, the resources of the country, its education and progress in other matters. If a satisfactory answer can be given to these questions a Governor's rule may always be said to be beneficent. If we apply this test to Sir Arthur Havelock's rule during the last five years, I say that rule has been eminently successful. If we inquire into the Medical Department of this Island (which is ably managed by a body of able medical men,) we see that whereas in 1875 a sum of R443,245 was expended, last year there was no less a sum than R1,288,952 expended which gave enormous relief to the people from misery and disease. Another thing the Governor has done, which every one who had the interests of the Country at heart admitted should be done, was that he had systematically favoured a large expenditure on irrigation; the usefulness of and the necessity for which only those know who have been about the country and seen thousands upon thousands of the population suffering from that awful disease known as *parangi*, and suffering from starvation and those know who had seen enormous areas of land uncultivated for want of water. Then, sir, again he has abolished the tax on home-grown rice,, an act whereby he put an end to a system of taxation which was both pernicious and oppressive, and for which every household in the Island will be always blessing him. He has systematically fostered public education and the magnificent public buildings and bridges which have been erected during his *regime* and the northern

arm of the breakwater which was commenced last year—all show remarkable activity in the Department of our public works. His generous policy in regard to railway extension deserves our best thanks, though at the same time we cannot forget the great disappointment and dissatisfaction felt by a large section of our people in the north that the railway to Jaffna has not, so far, seen even a commencement. For these and many other reasons which I need not here state, I think it is but right and just that we should, in suitable terms acknowledge the distinguished services he has rendered to this Colony and present His Excellency with a farewell address wishing him equal success in his Government of the Madras Presidency.

Sir JOHN GRINLINTON seconded.

The Hon. A. DE A. SENEVIRATNE:—Sir, I beg to support the motion for a farewell address to His Excellency. Representing the Sinhalese as I do, I could not remain silent when a motion like this is made, remembering that to His Excellency is due the credit of the abolition of the Paddy Tax and the promotion of the Irrigation Policy instituted by his predecessors. But not only for these great things, but even in trifling matters the people of this country have reason to be grateful to His Excellency. The fishermen of Mutwal, a very poor body indeed whose voice is seldom heard amongst the more important sections of this community, had their interests conserved by the personal activity displayed by H.E. the Governor, in going to look at the place over which the breakwater railway was to pass, by which the interests of the fishermen would have suffered a great deal. His Excellency took measures to divert the railway and I know that the poor fishermen of Mutwal are extremely grateful to him. This incident I mention to show that even in such little matters His Excellency has taken an interest, and I have great pleasure in supporting the motion.

The LIEUT.-GOVERNOR then put the question which was carried unanimously.

AN ADJOURNMENT.

Council then adjourned. After a quarter of an hour's adjournment, the sitting was resumed under the presidency of His Excellency the Governor, who had meanwhile arrived.

THE GOVERNOR AND THE COUNCIL'S REPLY.

H.E. the LIEUT.-GOVERNOR then read the reply of the Council to H.E. the Governor's opening speech, the members of Council standing the while. The reply was in the following terms:—

ADDRESS OF THE LEGISLATIVE COUNCIL TO THE GOVERNOR IN REPLY TO HIS EXCELLENCY'S SPEECH OF OCTOBER 9, 1895.

To His Excellency the President of the Legislative Council, Sir Arthur Elibank Havelock, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Governor and Commander-in-Chief in and over the Island of Ceylon, with the Dependencies thereof.

MAY IT PLEASE YOUR EXCELLENCY,

The Legislative Council has heard with satisfaction the expression of Your Excellency's anticipations as to the Revenue and shares, the confidence that the income of the present year will exceed the income of all past years.

The expansion in the trade of the Colony, and the large increase in the collections at the Customs, as well as in the receipts from the Railways, justify Your Excellency's opinion as to the prosperity of the people.

Comparison of the Revenues of the past five years with the years immediately preceding them affords such proof of the continuous growth of the revenue as is unfailing evidence of the general well-doing.

The Council expresses the hope that the measures to which Your Excellency attributes signs of a diminution in serious crime, will be pursued with perseverance, and will be attended with success.

The happy results of the policy of Irrigation, to which Your Excellency rightly assigns the first importance, justify the Council in assuring Your Excellency that it will gladly devote funds to the supplying of the people with a sufficiency of good water for purposes of cultivation and for consumption.

The Council will regard with favour any scheme of Railway extension giving promise of sufficient return on expenditure.

The delay in the collection of material on which to base a final judgment as to the expediency of the long-sought-for extension to Jaffna is a matter of concern to the Council.

The Council, noting Your Excellency's observations, desires to reserve its opinion on the respective merits of broad and narrow gauge until it is in possession of fuller information.

The Council would observe that while a part of the Railway system is not yet fully remunerative, other parts of the same system show a large return on the capital invested.

The various Legislative Enactments which it is proposed to bring forward will be considered by this Council with care and attention.

The Council will give its wonted careful consideration to the Estimates brought before it.

While assuring Your Excellency of its loyalty to the Queen, and its devotion to the public interests, the Council desires to express its regret at Your Excellency's early departure, and to record its high sense of the ability, impartiality, and industry of Your Excellency's administration of the affairs of the Colony.—By order of the Council, H. L. CRAWFORD, *Clerk to the Council.*

Legislative Council Chamber, Colombo, October 16 1895.

H.E. THE GOVERNOR replying to the Address said:—Hon. gentlemen of the Legislative Council,—I accept your address with pleasure and I receive with gratification an assurance of your loyalty to the Queen and your devotion to the public interest. I am touched by your expression of regret at my approaching departure. The great ability, the disinterested aims, the good feeling, and the ready forbearance that have marked your acts during the time I have had the honour of presiding at this Council have rendered the discharge of my duties easy and agreeable.

A BUDDHIST PETITION.

The Hon. P. COOMARASWAMY:—I beg, sir, to present a petition from the priests and laity belonging to the Buddhist faith regarding the Buddhist Temporalities Ordinance which is now before Council. It will be seen that the petition now presented contains the names of 10,963 signatories. I am told that more petitions with additional signatures will follow.

The petition which was held as read is in the following terms:—

To His Excellency Sir ARTHUR ELIBANK HAVELOCK, President of the Legislative Council of Ceylon, and to the Hon'ble Members of the said Council. The humble petition of the High Priests, the Anunayake Priests and the Caraka of Priests, of the Malwatte and Asgiria Vihare in Kandy and other Priests of the Siamese and Amarapure sects and also by laity belonging to the Buddhist Community. Respectfully Showeth,—

1. That the Petitioners beg to bring before your Hon'ble Council certain objections to the amendment of the Buddhist Temporalities Ordinance as proposed in a Draft published in the *Government Gazette*.

2. The duty is sought to be imposed on incumbents of Temples to furnish information regarding (1) The annual income of temples from offerings; (2) The nature, extent, and value of the Paraveni and

Mc wena Pangoos belonging to the Temples and (3) The value of the income derived from land held by the Temples. The withholding of information is made penal and the offender makes himself liable to a fine of Rl00 or to imprisonment for six months or to both.

3. The Petitioners beg to point out that since the Ordinance of 1889 was passed the management of all temples and temple lands has been placed in the hands of trustees, who alone receive the rents and profits derived from the lands, and take charge of the offerings made to temples.

The Petitioners have ceased for the last 5 years to deal with the temporalities of temples, and they fail to see how it is possible for them to give any information to the trustees on heads 1 and 3. On the contrary if information is needed it ought to be sought from Act by the trustees the Priests having been deprived of all control and management over all temple revenue however derived.

4. As regards the nature, extent and value of the Pangoos it appears strange to the Petitioners that information should be sought from the priests. The framer of the Ordinance appears to have forgotten that there is in our Statute Book an Ordinance known as the "Service Tenures Ordinance of 1871." That Ordinance provided that the Commissioners appointed under it should prepare a register containing the names of the proprietors and tenants of each Pangoo, the nature and extent of the services due for each Pangoo, and the commuted value of such services. The 17th Clause of that Ordinance makes copies from the register issued by Government Agent the best evidence of the tenure of each pangoo of the nature and extent of the services due for such pangoo and of the annual amount of money payment for which such services may be fairly commuted. And yet notwithstanding the existence of this "best evidence" the Petitioners, on pain of imprisonment, are to be called upon to give information. Why is information from the Petitioners necessary, and can it in quality surpass the existent best evidence?

5. The Petitioners would also respectfully protest against the provision making the Priests liable to fine and imprisonment. Such a provision they regard as an insult to their religion and to themselves, especially under present circumstances when the information sought from those is not theirs to give.

6. The Petitioners would further point out to Your Hon. Council the injustice of depriving Priests of the right of having property sold, mortgaged or leased to them. This provision deprives them of rights which all subjects of Her Majesty the Queen possess. Why should they form an exception to the rule and why should the disqualification cease if the President of the Provincial Committee gives his sanction to the alienation in favour of priests. If it is immoral for Priests, or contrary to the tenets of their religion to hold property can the objection be removed by the sanction of a layman! The Petitioners feel keenly this further attempt to place the Priests in subjection to their own laity when their religion makes Priests the object of the worship of all belonging to their faith. Wherefore the Petitioners pray that Your Excelleney and Your Hon. Council may be pleased to reject those clauses in the Draft Bill which are hereindicated.

RAILWAY EXTENSION:—COST, BONUSES &C.

SIR JOHN GRINLINTON:—Sir, I beg to move the proposed motion that stands in my name:—

For a Return of all bonus payments made to Railway Officials who were engaged on the construction of Extensions of our Railway System during the last seven years showing—(1) The lines of railway and their length in miles, with the cost of construction (including stations) as estimated by the Government Railway Engineers. (2) The actual cost of the works until the lines were handed over to the General Manager. (3) The cost of all works done to the lines and stations for two years after the lines were handed over to the General Manager. (4) The bonus payments made to all individuals, with their names, positions, salaries, and all allowances paid to such persons as had received bonus payment.

It will be in the recollection of the Council that when the extension from Nanuoya to Haputale was started, that I submitted a motion asking for certain information to be furnished periodically with regard to the progress and cost of the work. A return was furnished, but not exactly in accordance with what I wanted, in fact, a good deal of the information I wanted was not forthcoming. Reasons were assigned to me, which I accepted, but I regretted that the moderate request I had made had not been complied with in its entirety. I had an object in view and that was to watch the progress of the work in its details under what was a new system, as it went on, so that at the conclusion of the work I would be able to criticise it and to say whether I thought the system then pursued for the first time was likely to be successful. I do not say it has been successful or unsuccessful. I pass no opinion on the subject at present, but I do trust, if the Government is good enough to accede to my request and these returns are furnished, that they may be such as will enable me to go into the matter fully and to place before Council any views I may hold either adverse to or in favour of what has been done. In travelling on the railway, more especially down the Galle line with my Hon. friend on my right (the Hon. W. W. Mitchell) I saw work being executed which certainly ought to have been executed before the line was handed over, or executed under the estimates for the railway. It may be possible all these alterations and additions, and gates and stations and a number of other works I saw in progress were executed under the original estimate and the cost so charged. That I cannot say. No doubt if the returns are furnished they will show all these details. I therefore trust that Government will be so good as to comply with my request.

The Hon. W. W. MITCHELL seconded.

A TRIBUTE TO RAILWAY ENGINEERS.

H.E. the LIEUT.-GOVERNOR:—I may state, sir, on behalf of the Government that there will be no objection whatever to furnish the information which is desired in the resolution which has just been moved. I thought, sir, the resolution was directed rather at the subject of bonuses which had been given to these officers and I have before me papers on the subject. They are perhaps not in so concise and clear a form as could be put before the Council, but the information desired will be prepared in precise conformity with the wording of the resolution. I confess a little disappointment to learn from the Hon. Member, that the returns of progress of Railway construction which have been periodically made to the Council have not met the wishes of the Hon. Member. My recollection of the matter is that feeling, as I was then and as I am now, quite incompetent to judge from the returns what is the real progress of the work, I put myself in the hands of the Hon. Member and my belief, which I am sorry to find now is mistaken, was that the returns were being furnished in precise compliance with the wishes of the Hon. Member. I have collected, sir, some information in connection with the subject of bonuses, but as the hon. member has not touched on that subject in any way I need not trouble the Council with it. The Hon. Member made the remark that he did not know whether the work on the railway had been satisfactorily completed or not. Certainly, sir, I feel in no position to express any opinion of my own on the subject; but gathering from remarks of others outside the island, as well as of those in it who are probably competent to express an opinion, I plead, sir, we have in the railway a most excellent work,—a lasting, econo-

mical work, and of one which the Colony, as well as those who constructed it, may be proud. I am glad to have an opportunity, while the work of the consulting engineers is drawing to a close, to express publicly the appreciation of Government of the manner in which they have done their work. Personally I can say as Colonial Secretary the relations with them have been of the most agreeable kind. I may be mistaken, but I always consider the departments best administered are those of which I hear least, and with which I have the least correspondence. As regards trouble, I can say that of the Railway Department. We have a Chief Constructing Engineer a gentleman who is well known in the Colony and who has with him an excellent staff. My only regret is that matters are not sufficiently advanced to justify their continuance here. The subordinates under Mr. Waring have worked with a cheertulness, loyalty, and co-operation which I think only deserve the consideration which has been shown to them by their chief. The information which the Hon. gentleman has how moved for will be furnished, and further, specially on the subject of bonuses, I shall be very glad to show him the whole correspondence on the subject. In a matter of that kind, most of it is of a personal and confidential character but I shall be very glad to afford him an opportunity of perusing the whole correspondence.

The Hon. SIR JOHN GRINLINTON :—Sir, I thank H.E. the Lieut.-Governor for the remarks he has made, and I am obliged for the promise that the return will be furnished. I however would like to correct an impression, if such has been formed, that I expressed any opinion that the work on the railway was anything but the best. I have now, not a word to say on the subject ; but as I did see with my own eyes that works were incomplete for some months after the railway was opened, I wish to know whether these works which were then incomplete were included in the original estimates. If so, all right : if not, they ought to have been. I find no fault with the construction of the work. On that point I have nothing to say at present.

THE CHAMBER OF COMMERCE INCORPORATION ORDINANCE.

The Hon. W. W. MITCHELL :—I rise, sir, to move the first reading of "An Ordinance to Incorporate the Ceylon Chamber of Commerce," and to move for leave to introduce this Bill. At last meeting of Council I explained the objects of the Bill which are chiefly to enable the Chamber of Commerce to hold property vested in it, and to let, sell, mortgage, lease or dispose of the same. Clause 2 of the Ordinance specifies the general objects of the Corporation ; Clause 3 provides for a Board of Directors ; Clause 4 for the register of the Corporation, Clauses 5-7 give power to make rules and to amend them, and Clause 8 provides for the property of the Chamber vested in the Corporation. Clause 11 gives power to deal with such property while Clause 12 defines the liability of the members. The Ordinance and appended schedules have been approved by the Chamber of Commerce. I move the first reading of "An Ordinance to Incorporate the Ceylon Chamber of Commerce."

Sir JOHN GRINLINTON seconded, and the Bill was read a first time.

The Hon. W. W. MITCHELL :—Sir, if convenient for the Government, I would ask that the second reading be taken at the next meeting of Council. —Agreed.

MUNICIPAL COUNCILS' AMENDING ORDINANCE.

The Hon. the ATTORNEY-GENERAL :—I rise, sir, to move the first reading of "An Ordinance to amend 'The Municipal Councils' Ordinance 1887.'" It will be remembered that early this year a select Committee of this Council reported in what respects the Municipal Councils' Ordinance should be amended. The Ordinance I am about to move has been prepared after consideration of that report by Your Excellency and the Executive Council. It may be as well for me to take up the recommendations of that Committee *seriatim*, and to show how far the Government is prepared to carry out the suggestions of the Committtee. In paragraph 1 of the Committee's report it was suggested that "annual value" as defined in section 3 of the Ordinance No. 7 of 1887 was unreasonable. In view of that it was suggested that the definition of the "annual value" should be amended. If Hon. Members will refer to the 3rd clause of the Bill now before Council they will find that the Government have acceded to the request of the Committee and that "annual value" has been defined in the manner suggested by that Committee. The same Committee suggested that section 9 sub-section (e.) relating to list of persons duly qualified to be elected as Councillors should be amended. If Hon. Members will kindly refer to clause 4 of the Bill now before them they will find that that suggestion has been carried out. The Committee also suggested certain modifications with regard to the constitution of the Municipal Council, and the Government have acceded to the extent of ammending section 10 of the Ordinance and providing that the Chairman shall be counted as a nominated member of Council. The result will be that the elected members of Council and the nominated Members of Council will be equal and in view of the fact that the nominated members consist also of unofficial members entirely independent of Government, it appears to me the Municipal Council has got now all that it requires. In paragraph 3 of the Committee's report it was suggested that appeals against the ruling of the Chairman or the Government Agent should be to the District Judge and not to the Police Magistrate. If Members of Council will refer to clauses 7, 8, 9 and 10 of the amended Bill they will find that the Government has conceded the right of appeal to the Supreme Court, it is not usual to have appeals to the District Court. The fourth paragraph of the report recommended that section 26 should be amended as it did not provide for cases where one existing division of the Municipality may be converted into two or more divisions. If Hon. Members will kindly refer to clause 11 of the Bill they will find that the suggestions of the Committee have been carried out. As to section 47 of the Ordinance, the majority of the Committee were of opinion that the selection of a Chairman should not be confined to the Civil Service. Clause 12 of the Bill, it will be seen, provides for this. If Hon. Members will kindly refer to the proviso between sub-section 1 and sub-section 2 of that clause they will find that the Chairman or Assistant Chairman "shall, except in cases of extreme emergency or when there would not be time to call any meeting of Council, not act in opposition to or in controvention of any resolution of the Municipal Council or exercise any power which is directed to be exercised by the Municipal Council at a meeting." The only case in which the Chairman will be able to act contrary to the wishes of the Council

are in cases of extreme emergency or when there is no time to call a meeting of Council. Paragraph 7 of the report suggested that the jurisdiction of the Municipal Magistrate should be extended by Government, and that the Magistrate should be given power to try certain cases, specified in that paragraph. Under clause 13, Members will find that their wishes have been carried out. The Committee further suggested that the Municipal Council shall appoint all officers whose salaries exceeded R100. That has been provided for. With regard to the recommendation that provision should be made for payment of gratuities to the widows of servants employed by the Council, that is provided for by clause 15 of the Bill. With regard to section 67, it was suggested by the Committee that every contract should be brought before the Standing Committee. This question is provided for by clause 16, which amended section 67 by the omission of the words "the amount of which exceeds five hundred rupees." With regard to section 101, it was suggested that the standing Committee should have access to all books, deeds, contracts, accounts, vouchers and other documents and papers of the Municipality. If Members of Council will refer to clause 17 they will find that suggestion has been carried out. I would lastly point out with regard to the last two paragraphs of the report that the opinion of this Council that the washing of clothes should be properly safeguarded is provided for in Chapter 3 of the Bill. The Committee further suggested that the chapter affecting dairies which was in the former Bill which was with drawn from this Council should be incorporated into the Municipal Ordinance. If members will refer to Chapter 2 they will find that these provisions are there. With regard to the suggestions as to the introduction of provisions relating to buildings similiar to those quoted by the Singapore Municipal Ordinance clauses 18, 21, 22, 23, 25, 27, 28, and 29 carry those into effect. The only other subject which the Municipal Council has pressed upon Government is one with regard to the assessments on Crown property which is in the occupation of third parties. That has not been provided for in this Bill, but the Government are prepared when the Bill goes into Committee to introduce a clause which will make the occupiers of such land liable to pay taxes to the Municipality. (Hear, hear.) [After consultation with the Hon. L. F. Lee the Hon. the Attorney-General resumed.] It has been suggested to me by the Hon. the Treasurer that members may not quite follow me. What I mean is that where the Crown has leased land to A, or A is in occupation of Crown land, A will be liable to pay such assessment in respect of that land, but the Crown will be in no way responsible for the payment of that rate. I now move the first reading of "An Ordinance to amend 'The Municipal Councils' Ordinance 1887.'"

The Hon. L. F. LEE seconded, and the Bill was read a first time

The Hon A DE A. SENEVIRATNE:—Might I ask in this connection whether a copy of this Bill has been sent to the Chairman of the Municipal Council. I understand the Chairman has not been communicated with in regard to this Bill. I think it is very desirable that the Municipal Council should express its views regarding the Bill now passing through Council.

H.E. the LIEUT.-GOVERNOR:—The Hon. Member being a Member of the Municipal Council ought to know whether it has been sent. I may state that it has not been sent, and I am not aware that the Select-Committee made any special suggestion that it should be sent to the Municipal Council. Further it has been published in the *Gazette* since 9th August last, and further still I am aware that members of the Municipal Council have been giving the Bill their consideration. I am sure if they had anything to say they would as freely offer their suggestions, as, I am sure the Council knows, these would be freely and fully considered by Government.

The Hon. A. DE A. SENEVIRATNE:—Seeing the Bill has not been officially sent to the Municipal Council, would it not be desirable to take the second reading later than next week.

The Hon. the ATTORNEY-GENERAL:—There is a great deal of work before Council and we have met rather late. Of course if the Bill is not of sufficient importance and the Municipal Council do not desire to get it passed this session: it can stand over.

The Hon. P. COOMARASWAMY:—I suppose, it is your intention to remit the Bill to a Committee.

The Hon. the ATTORNEY-GENERAL:—Yes, to a Sub-Committee.

The Hon. P. COOMARASWAMY:—Then sir, we shall be satisfied.

Bill to be read a second time at next meeting.

COURTS OF REQUESTS JURISDICTION ORDINANCE.

The Hon. the ATTORNEY-GENERAL, in introducing "An ordinance to extend the Jurisdiction of the Courts of Requests and to amend the Procedure therein" said:—There is no apology due by me on behalf of Government for the introduction of this measure into this Council, for, as Hon. Members of Council are aware, the Retrenchment Committee, which was entirely composed of members of this Council, recommended to Government that the jurisdiction of the Courts of Requests should be raised from R100 to R300. Government I may say, entirely agree with that recommendation and the Bill which I now introduce into Council has been prepared for the purposes of carrying out the wishes of this Council. That the measure is a desirable one is obvious for the following amongst other reasons. First, because the Courts of Requests are more accessible than the District Courts to suitors. Members of this Council will remember that there are 34 Courts of Requests in this Island as against 20 District Courts. The procedure in the Courts of Requests is undoubtedly simpler than in the District Courts, and cases are more expeditiously disposed of in the Courts of Requests. The returns for 1894 show that in the 20 District Courts there are 4,762 cases undisposed of and in the 34 Courts of Requests 3,123 cases. The third reason I would urge in support of this measure is that the expenses attendant on Court of Requests cases are less than in District Courts, and in that connection I would ask members of this Council to allow me to refer to a passage in Your Excellency's address to this Council in which you pointed out:—"The costs recoverable in petty cases in the District Courts are often out of all proportion to the subject-matter of the litigation. An examination of the taxed bills of costs in twelve cases in an outstation Court, in which the amount involved in each case did not exceed three hundred rupees, shows that the average costs payable by the losing party to his opponent amounted to one hundred and twenty-seven per cent., whilst in one case the successful party recovered no less than two hundred and sixty-three per cent. Investigation further shows that a party against whom judgment has been recovered in an uncontested action may have to pay a maximum of seventy-eight per cent on the property involved, and that the average payable is fifty-

seven per cent. The payment of these charges frequently enforced by writ of execution, and the majority of the peasantry being poor, are forced to part with their small holding, and, deprived of legitimate support swell the ranks of the criminal classes."

The costs in Courts of Requests are, as members of Council are aware, as follows :—

In money cases which have not been contested :—

R20 and not exceeding R50	R5
Above R50 and not exceeding R100	R10

In money cases which have not been contested :—

R20 and not exceeding R50 ..	R10
Above R50 and not exceeding R100	R15

In all land cases :—

Under R50	R10
R50 and upwards	R20

Advocates' Fees :—

Retainer and Brief fee in all cases above R50 ..	R10-50 to R21

Surveys and plans when necessary, such sum as the Clerk of the Court shall deem reasonable, subject to review and appeal: Witnesses' expenses, as the Court may determine. The commissioner may allow a further sum as costs on special application being made, subject to appeal. For interpleader, summary, or other incidental proceedings, such costs as the commissioner in his discretion may allow subject to appeal. It has been frequently urged as an objection to this Bill that cases of importance will be tried by Commissioners of Requests who are unacquainted with the law and therefore not qualified to try them, but, as pointed out to Your Excellency by the Chief Justice, a similar consideration applies to the District Courts which now hear these very cases and which are presided over by unprofessional men, and it appears to the Chief Justice as I am sure it will to Members of this Council that there is little weight in the objections. I desire to invite the attention of the Council to the Courts of Requests in the Island. There are altogether 34 Courts of Requests in the Island. Eighteen of these are presided over by District Judges. I think Members of Council will admit that an officer is as capable of hearing a case when he sits as Commissioner of Requests and where the record is headed "Court of Requests," as when he sits as District Judge with the record headed "District Court". Six of the remaining Courts are presided over by professional men, members of the legal profession while eight of the remaining Courts of Requests are presided over by gentlemen who are natives of this country with legal local experience and knowledge of the people, their customs and habits. One Court is presided over by a member of the Civil Service who has had four years' experience of the country, and the last remaining Court is presided over by a gentleman who was once a member of the Civil Service and who held a high position in it and is now one of our oldest colonists. It is urged that Commissioners to whom this Legislature has given, sitting as Police Magistrates, power to try a person and sentence him to six months' rigorous imprisonment—thus to deprive him of his liberty—are less capable of deciding whether the same man should pay the sum of R300 in a civil suit or be rejected from land of that value. I hardly think that this argument will commend itself to members of this Council. How satisfactorily the work of the Court of Requests is done may be gathered from the fact that they decided last year 14,458 cases, and out of these I can only find 142 judgements set aside or varied either in appeal or in revision, that is to say less than one per cent of the cases of the Courts of Requests were in any way interfered with by the Supreme Court. As pointed out by Your Excellency in your opening Address it is the intention of Government to appoint District Judges to be additional Commissioners of Requests and in all cases where Commissioners were not of the standing of District Judges and they would then hear and dispose of all cases of which the value was over R100. If this Bill becomes law, suitors will have their cases tried by the very same officers who now hear them. There are two other points which have been objected to viz. oral statement of defence and the right of appeal. With reference to the first it doubtless had much to commend itself. If passed it would greatly simplify procedure and prevent false issues being raised by way of defence. It in no way deprives the suitor of his legal adviser. He can go to his legal adviser before he goes to Court and consult him. It merely extends to the Colony procedure which is being adopted elsewhere a gradually doing away with written pleadings. This, however, is a point which is not vital to the Bill and if the majority of this Council is of opinion that it is undesirable it can easily be eliminated. With regard to appeals, I would venture to point out that Clause 7 of the Bill in no way interferes with any but frivolous appeals. All that it provides is that from findings if fact in any money claims, no appeal lies of right, but application must be made to the Commissioner. In the event of the Commissioner refusing to give leave to appeal, the applicant can appeal to the Supreme Court for permission to appeal, and thus frivolous appeals will be stopped. The advantage of this, I think, should be obvious to Members of this Council. When the application to the Commissioner is a frivolous one the opposing party will be put to no expense or trouble in the matter, while at present an appeal from a just order causes unnecessary expense to the respondent in the case. I desire before concluding on behalf of the Government and myself publicly to acknowledge our indebtedness to the Chief Justice for the assistance he has rendered to me in respect of this Bill. I move the first reading of "An Ordinance to extend the jurisdiction of Courts of Requests and to amend the Procedure therein."

The Hon. W. W. MITCHELL seconded and the Bill was read a first time.

The Hon the ATTORNEY-GENERAL :—Sir, with the permission of Council I will take the second reading of this Bill at next meeting of Council

LAW OF EVIDENCE CONSOLIDATING ORDINANCE.

The Hon. the ATTORNEY-GENERAL :—I rise, sir, to move the first reading of an Ordinance to consolidate, define, and amend the Law of Evidence. The object of this measure is, as its title discloses, to define and consolidate the law of evidence. It is taken from the Indian Evidence Act which was drafted and passed by the late Sir James Fitz James Stephen; and the present measure contains all the amendments which, from time to time, have been introduced into the original Act by the Indian Council. It does not, except in a few minor details, alter or amend our present law nor does it pretend to introduce into the Colony any law other than that which is now here in force. It arranges the English rules of evidence in a precise and systematic manner and is particularly, I venture to suggest, suited to this Colony where the judiciary is mainly composed of non-professional men without any legal training. Knowledge of the law of evidence can at present only be obtained by reference to English text-books and

the decisions of the English Courts. These books are not accessible to judicial officers at outstations, and even if they were, the rules of evidence as stated by Sir James Fitz James Stephen are so confused, intricate and lengthy that it is hardly possible for any one to learn their true meaning otherwise than by practice. I need not weary this Council by going through the details of the measure. The Ordinance will be best understood if hon. members will observe it is divided into two principal divisions which may be summarised thus :—(1) what is the permissible material of belief *i.e.* what facts are relevant and may be proved ; (2) in what way is each of the facts constituting that matter to be proved. The second division comprises parts 2 and 3 of the Ordinance, part 2 dealing with the general principles which govern proof such as the rules of oral and documentary evidence and the cases in which one is excluded by the other, part 3, dealing (1) with the persons, who are bound to supply this evidence, on whom in other words, as the lawyerssay, the burden of proof lies ; and (2) the procedure with which they must comply, in other words, the rules regarding the examination of witnesses. There is one important amendment to which I would particularly invite your attention as it differs from the Indian Act.—I refer to subsection 3 of clause 125 of the Bill, empowering the accused to give evidence in any criminal proceedings. Members of this Council will be aware of the introduction of a measure into the House of Lords last year for the purpose of introducing a similar provision into the English law. It was advocated by the present Lord Chancellor, by Lord Herschell, and by Lord Salisbury. I desire here to read a portion of a letter which was addressed to the London *Times* by Mr. Poland, Q.C., whose opinion on this point is of value, on account of his well-known experience and practice as one of our leadign criminal lawyers at home. After expressing a hope thatthe Bill would pass during the then session of Parliament Mr. Poland wrote :—

"The House of Commons has for years stopped the way, and still stops the way, although the opinion is almost universal that it is for the benefit of an innocent person that he should have the right to give evidence if he should think fit to do so. I have never known an innocent man to hesitate to avail himself of this right. Even when two prisoners are indicted and tried together, one is not a competent witness for the other. All the judges decided thus in 1872 in *Payne's case*. The true reason of the exclusion of the evidence of the accused is that he is a party to the record and interested in the result of the issue, and it was that old rule of law which excluded for so many years the evidence of plaintiffs and defendants in civil cases. Lord Brougham's Act, making the plaintiff and defendant competent witnesses in Civil Cases, which was passed in August, 1851, unfortunately did not apply to criminal proceedings. The Law of evidence relating to criminal cases is now in such a state as to bring discredit on the administration of justice.

I will only add that the new practice will not in any way alter the obligation of the prosecution nor increase the risks of the innocent, and that the Bill provides that the Court may limit the cross-examination of the accused to such an extent as it thinks proper, although the proposed examination might be permissible in the case of any other witness. I now move the first reading of "An Ordinance to Consolidate, Define and Amend the Law of Evidence."

The Hon. L. F. LEE seconded and the Bill was read a first time.

The Hon. the ATTORNEY-GENERAL :—I give notice that at next meeting of Council I shall take the second reading of this Bill.

WIDOWS' AND CHILDRENS' PENSION FUND ORDINANCE.

The Hon. L. F. LEE :—I beg, sir, to move the first reading of "An Ordinance to Consolidate and amend the Law providing for the granting of Pensions to Widows and Children of Deceased Public Officers of this Colony." This Ordinance, sir, intends to amend in certain important particulars the existing law governing the Widows and Orphans Pension Fund. It will probably be in the knowledge of hon. members that the condition of the fund has been under examination by an actuary in England for a considerable time and a considerable portion of the amendments proposed in this Ordinance depend upon the actuary's report. The Ordinance amends existing legislation as to the meaning put on the term "officer." The term at present includes officers who are not pensionable and who hold temporary appointments. In the past we have had some trouble owing to the loosenes of the existing definition. The Ordinance also provides for the appointment of directors, vesting them with greater power than at present in the matter of disposing of money belonging to the Fund. I do not think it necessary to go into the Ordinance at any length. The adoption of it will depend on the report which we shall receive hereafter and I do not intend at this stage to move the second reading, I move the first reading of "An Ordinance to Consolidate, and Amend the Law providing for the Granting of Pensions to Widows and Children of Deceased Public Officers of this Colony."

The Hon. the ATTORNEY-GENERAL seconded and the Bill was read a first time.

SUPPLY.

H.E. THE LIEUT.-GOVERNOR :—Sir, I would ask permission that the motion standing in my name "An Ordinance for making Provision for the Contingent Service for the year 1896" be postponed. H.E. explained that a rearrangement of the estimates had to be made at the last moment precluding their being completed in time for today. Agreed.

PROPERTY LAW, N. PROVINCE.

The Hon. the ATTORNEY-GENERAL :—I move, sir, the second reading of "An Ordinance relating to the Publication of Intended Sales or other Alienations of Immoveable property affected by the *Thesavalamai* of the Northern Province of Ceylon."

The Hon. L. F. LEE :—I beg to second.

The Hon. P. COOMARASWAMY :—It will be remembered, sir, that last year an Ordinance on this subject was introduced into Council and as I strenuously opposed it and pointed out grave defects in it, it was withdrawn. This is the outcome of that discussion and on behalf of the people of the Northern Province I beg to tender my thanks to the Government in meeting my views and introducing this Ordinance. I also desire to thank the Attorney-General for having attended to the urgent wants of the people of the Northern Province in this matter.

The Ordinance was read a second time, and on the motion of the Attorney-General,

Council went into Committee on the Bill.

Council having resumed,

The Hon. the ATTORNEY-GENERAL moved that the Bill be referred to the Law Officers of the Crown. Agreed.

ELECTRIC LIGHTING ORDINANCE.

The Hon. the ATTORNEY-GENERAL:—I move, sir, the second reading of an Ordinance to provide for the Protection of Person and Property from

the risks incidental to the supply and use of Electricity for Lighting and other purposes."

H.E. the LIEUT.-GOVERNOR seconded and the Bill was read a second time.

On the motion of the Hon. the ATTORNEY-GENERAL Council went into Committee on the Bill.

The Hon. the ATTORNEY-GENERAL :—I move in Clause 35 that the words "Governor and Council" be altered to "Governor with the advice of the Executive Council." Agreed.

The Hon. A. DE A. SENEVIRATNE called attention to the following section—

"All such rules when made, added to, amended, altered, or repealed shall be published in the *Government Gazette* and, upon such publication, they shall be deemed to be within the powers conferred by this section on the Governor in Council, and shall be as legal, valid, and effectual as if the same had been enacted herein."

The words "shall be deemed to be within the lowers conferred by this section on the Governor in Council, and" he considered superfluous and moved that they be deleted.

The Hon. the ATTORNEY-GENERAL :—I may state, sir, that the provisions of this measure are taken from the Indian Act and I venture to think we should not alter the words of that Act.

The Hon. A. DE A. SENEVIRATNE pressed his motion, and Council negatived it without a division

The Hon. P. COOMARASWAMY :—Sir, I wish to call attention to sub-section C, section 5, wherein power is given to the Governor and Executive Council to make rules for authorising the Government Agent, Postmaster-General, Superintendent of Police or any person specially authorised by such officers to enter, inspect, and examine any place, carriage, or vessel in which the officer has reason to believe any such appliances or apparatus to be. I wish to call the attention of this Council to the fact that many of our temples may in time, I think one certainly very soon will, be lighted with electricity, and as it is contary to the religion of the Hindus that those not professing their faith should go into a temple without desecrating it, and as it costs a large sum of money to re-consecrate it, I may take it that Government in such cases will authorise special officers of the Hindu faith to inspect such buildings. I should like to have, sir, some assurance, otherwise it will be necessary to introduce a discussion on the matter. It must be very easy for the Government, and they can have no objection having, as they do, officers who professed all sorts of faiths.

H.E. the LIEUT.-GOVERNOR :—I may say on behalf of the Government that if there is a competent inspector belonging to the Hindu faith he certainly would be appointed, and, as a more general assurance I may state that Government will, in supervising that provision, observe that consideration and, I may say, that indulgence it shows to the feelings and susceptibilities of any religious denomination.

Council having resumed,

The Hon. the ATTORNEY-GENERAL :—I move, sir, that the Ordinance be referred to the Law Officers of the Crown. Agreed.

NAVAL AND MILITARY UNIFORMS.

H.E. the MAJOR-GENERAL :—I move, sir, the second reading of "An Ordinance to "Regulate and Restrict the Wearing of Naval and Military Uniforms."

The Hon. the ATTORNEY-GENERAL seconded, and the Ordinance was read a second time.

Council, on the motion of H.E. the Major-General, having gone into Committee,

The Hon. P. COOMARASWAMY drew attention to the following clause :—

"It shall not be lawful for any person not serving in Her Majesty's military forces to wear, without Her Majesty's permission, the uniform of any of those forces, or *any dress having the appearance* or bearing any of the regimental or other distinctive marks of any such uniform : provided that this enactment shall not prevent any persons from wearing any uniform or dress in the course of a stage play performed in a place duly licensed or authorised for the public performance of stage plays, or in the course of a circus performance, or in the course of any bona fide military representation."

I think, sir, the words "or any dress having the appearance" ought to be deleted, because many people wear some kind of dress that in certain cases might have the appearance of a military uniform. The words "regimental or other distinctive marks" are, I think, sufficient. Surely you are not going to punish people because they chose to wear a dress having the appearance of a military uniform?

H.E. the MAJOR-GENERAL :—I am not disposed to accept the amendment. If you take out the words "having the appearance of" you limit it to "any regimental or distinctive mark of any such uniform." If the buttons or braiding were cut off there is no "distinctive mark"; but at the same time everybody knows it is a red or a blue coat, and that it is Her Majesty's uniform being brought into disrepute as it often is by coolies and gharry drivers.

H.E. the GOVERNOR :—Do you wish to press your motion?

The Hon. P. COOMARASWAMY :—Yes, sir. (Proceeding.) Supposing the sleeves and the coat-tails were cut off and only a piece of the original garment is worn, you surely will not punish a cooly for that because it "has the appearance" of a military uniform.

The Hon. A. DE A. SENEVIRATNE :—Sir, I would support my Hon. friend (the Tamil Member) on this matter. I really cannot see the object in retaining these words. The other restrictions as to the wearing of uniforms I think would be sufficient. People are often obliged to wear helmet hats having the appearance of a Military uniform and if the words are allowed to remain they may be punished for doing so. I don't think that in this country these restrictions are necessary. We do not find people aping naval or military men. Fishermen wear an old red or blue coat at sea. There is no intention of bringing Her Majesty's uniform into contempt. The coat is worn only to protect them from sun or rain.

Hon. Sir JOHN GRINLINTON :—If the clause is altered as suggested it would be open to a man to wear a Staff Officer's Uniform because that might not be considered by some as regimental. If you exchange these words you will have to amend the second clause.

The Hon. W. W. MITCHELL :—On the whole I think it will be better to retain the words, because people might wear uniforms made up of cheap materials and thus bring contempt on Her Majesty's Uniform. The words may possibly exclude the wearing of uniforms by coolies on estates. If a coat were red or blue it could be dyed another colour. That would get over the difficulty.

The amendment was negatived by Council without a division.

The Hon. P. COOMARASWAMY:—In connection with section 4—

"It shall not be lawful for any person not serving in Her Majesty's naval or military forces wears without Her Majesty's

permission the uniform of any of those forces, or any dress having the appearance or bearing any of the regimental or other distinctive marks of any such uniform, in such a manner or under such circumstances as to be likely to bring contempt upon that uniform, or employs any other person so to wear that uniform or dress, he shall be liable on conviction to a fine not exceeding one hundred rupees, or to simple or rigorous imprisonment for a term not exceeding one month, or to both,"—

I would ask if it is desirable to have rigorous imprisonment for an offence of this nature. I would particularly invite the attention of Council to this fact that a man is liable to punishment for being under such circumstances as are likely to bring Her Majesty's uniform into contempt, not that he is charged with having wilfully done so. Under certain circumstances he might not act wilfully, and this Ordinance not only fines him R100—a large sum for this country—but renders him liable to rigorous imprisonment for one month. I am sure that Her Majesty would be the last person to wish any of her subjects to be punished with rigorous imprisonment for wearing uniformss under such circumstances as to be likely to bring that uniform into contempt. In my opinion the fine is sufficient, and I move that the words after one hundred rupees be deleted.

Sir JOHN GRINLINTON:—What if the fines are not paid?

The Hon. P. COOMARASWAMY:—That is already provided for by the law of the island.

H.E. the MAJOR-GENERAL:—I think it is advisable that the sooner it is made known that punishment will be very rigorous, the sooner will the unauthorised wearing of uniforms be stopped. An Hon. Member (the Hon. W. W. Mitchell) made a remark about the colour of the uniform. I am afraid it is impossible to dye uniforms any colour so as not to be recognised as uniform. In Her Majesty's service uniforms are of so many colours, red, blue, coffee, white, &c.

Sir JOHN GRINLINTON:—May I suggest that the words "or rigorous" in the second last line of the clause be omitted. I hope that will satisfy the Hon. Member.

The Hon. P. COOMARASWAMY expressed himself as satisfied.

H.E. the MAJOR-GENERAL having given his assent, the words were deleted and Council resumed.

H.E. the MAJOR-GENERAL:—Sir, I move that this measure be referred to the Law Officers of the Crown. Agreed.

THE SAVINGS' BANKS' ORDINANCE.

The Hon. L. F. LEE:—I move, sir, the second reading of "An Ordinance to amend Ordinance 12 of 1859 intituled 'The Ceylon Savings Bank Ordinance 1859.'"

The Hon. the ATTORNEY-GENERAL:—Sir, I have pleasure in seconding. Bill read a second time.

Council then went into Committee when slight verbal alterations were made on the Bill and on resuming,

The Hon. L. F. LEE:—Sir, I move that this Bill be referred to the Law Officers of the Crown. Agreed.

ADJOURNMENT.

H.E. the LIEUT.-GOVERNOR:—I move, sir, that Council do adjourn till Wednesday next, 23rd inst. at 3 o'clock.

Council rose at 4-40 p.m.

WEDNESDAY, OCTOBER 23rd, 1895.

Present:—His Excellency the Lieut.-Governor (Sir E. Noel Walker) who presided, H.E. the Major-General, the Attorney-General, the Hon. W. T. Taylor, the Hon. F. R. Saunders, the Hon. F. Lee, the Hon. A. R. Dawson, the Hon. R. K. MacBride, the Hon. Allanson Bailey, the Hon C. F. Walker, the Hon. A. de A. Seneviratne, the Hon. Abdul Rahiman, the Hon. W. Ellawalla, Sir John Grinlinton, the Hon. W. W. Mitchell, and the Hon. P. Coomaraswamy.

MINUTES.

Minutes of previous meeting were read and confirmed.

PAPERS.

H.E. the LIEUT.-GOVERNOR:—I beg to lay on the table a Report on the Indian Railways by Mr. Waring, and also a report by the Praedial Products Thefts Commission.

FAREWELL ADDRESS.

The Hon. the ATTORNEY-GENERAL submitted draft of a farewell address to H.E. the Governor and moved its adoption.

The Hon. P. COOMARASWAMY seconded and the address was passed.

The text is as follows:—

May it please Your Excellency:—On the eve of Your Excellency's departure from Ceylon, the Legislative Council desires to express to Your Excellency its deep sense of the high services which you have rendered to the Colony. It has been your good fortune to rule over the Island during a time of continued prosperity and the Council appreciates the wisdom and energy which have characterised your administration, and the discretion with which the Colonial revenues have been expended. The Council recognises the careful consideration and painstaking attention which you have given to the various questions brought before you, and the impartial and sympathetic judgment which you have brought to bear upon matters affecting the interests of all classes. The Council has appreciated your vigorous efforts to extend the benefits of medical science to the poorest of the people and to bring education within the reach of the inhabitants of the most distant villages. The causes of irrigation and railway extension have found in Your Excellency a powerful advocate, and measures calculated to promote the social and material advancement of the Colony and its people have always received from you a strenuous support. In the public works of the Colony and especially in the General Post Office and Victoria Bridge will be found lasting memorials of Your Excellency's Government, while in the Hospital for women is a monument of the womanly pity for the suffering, and gracious sympathy for the afflicted which have endeared Lady Havelock to the people of this country. The Council desire to offer to your Excellency its best wishes for your happiness and prosperity and to bid you a respectful farewell. By order of the Council. H.L. CRAWFORD, Clerk to the Council.

Council then adjourned for a few minutes till the arrival of H.E. the Governor, who took the chair. On resuming,

H.E. the GOVERNOR replying to the Council's address said:—Hon. gentlemen of the Legislative Council,—I am profoundly sensible of the honour you have done me in the Address which you have just read. The high appreciation you have expressed of the character and results of my administration is most precious to me. I shall always cherish the memory of the good will and harmony with which you have worked with me for the public benefit, and of the success with which our united efforts have been rewarded. I gratefully accept, on Lady Havelock's behalf and my own your wishes for our happiness and prosperity. And in relinquishing the place which I have had the privilege of

filling in this Council, I beg to express my hop that the blessing which have rested upon your labours in the past may always attend them.

SUPPLY BILL 1896.

H.E. the LIEUT.-GOVERNOR brought up and read a Message from H.E. the Governor dealing at length with the items of revenue and expenditure for next year.

The Message was in the following terms:—

A. E. HAVELOCK,—The Governor has the honour to lay before the Legislative Council the Estimates of Revenue and Expenditure for the year 1896.

The Revenue is estimated at R21,000,000, being nearly half a million rupees in excess of the total of the revised Estimate for the current year, and one and a half million over the actual receipts for 1894. The first-mentioned excess is mainly under the head of Railways, R400,000 being added for the annual normal increase of traffic, and R105,000 for the Matara extension, which will be opened before the close of this year. The only other substantial increases are about R100,000 under the head of Postal and Telegraph, and R125,000 under that of Interest. Of these two, the former is only apparent to the extent of one-half, inasmuch as the item is only R42,500 over the amount actually received in 1894, as this is naturally a growing source of Revenue, and as the revised Estimate for the current year is probably understated, and will be largely increased on the close of the year by receipts settled on accounting, and not by payment of cash. A purely approximate sum of R27,500 has been added for receipts from Official Postage hitherto carried free, but the introduction of the 25 cents telegram will at first cause a diminution of Revenue. The item of Interest is increased owing to the accumulating Sinking Funds and to the very much larger deposits in the Treasury, which are temporarily invested. The importation of Grain has been abnormally high in the eight months of this year, being at the rate of one-eighth over a very even average of the three preceeding years,—a rate of which it may not be prudent to expect a continuance,—and this accounts for the comparative reduction in the expected Customs receipts. The Estimate, on the whole, has been framed with extreme moderation, is amply supported by the present circumstances, and can hardly fail to be more than realised.

This Revenue permits of more liberal appropriations, partly to meet the increasing obligations of the Colony, and partly to further develop the resources and to promote the general welfare of the whole community.

It will be observed that the ways and means for the coming year include a draft on Surplus Revenues of previous years to the extent of R120,000, but this sum is exceeded by the re-votes of Unexpended Balances of votes in previous years for Public Works aggregating over R251,000.

The excess of R312,000 in the cost of Establishments for 1896, as compared with the current year, is mainly due to the permanent increase of 10 per centum to the salaries of the Clerks and other Subordinate Officers being added to the respective salaries instead of appearing under the head of Exchange. The payment on this account in 1894 was R195,000. The increase of R16,000 in Police is due to the cause just mentioned, to the increase of pay of second class constables on the recommendation of the Committee of last year, to the provision for a resident Inspector for Tangalla, and to the stationing of small forces at Puttalam and Chilaw. In Prisons, a transfer has been made from "Other Charges" to "Personal Emoluments" of R9,500 to meet the pay of subordinate officers who had been paid from open votes, but who are continuously employed, and whose engagement on different terms from those of the regular staff occasioned administrative inconvenience. The further increased cost of the Postal and Telegraph Department is to meet the requirements of the expansion of its operations in affording additional facilities to the public. The increase under Railways includes R36,000 for the staff for the Matara extension, and provision of R3,000 for the new office of an Assistant Carriage Foreman and Vacuum Brake Inspector.

Opportunity has been taken of a vacancy to suggest to the Council another interchange of an administrative office of the 4th class with a judicial office of the 3rd class, with a view of improving the position of the latter side of the Service. Accordingly the salary of the Police Magistrate, Avisawella, is now provided at R1,500, and that of the Office Assistant at Badulla at R4,000.

Under the head of Debt, no further issue of the Rupee Loan is contemplated in 1896, but provision is made for the first payment of the Sinking Fund under Ordinance No. 7 of 1892. The rate of exchange has, in view of the recent rise, been continued at that of 1s 1½d adopted in the Estimates for 1895.

With an inconsiderable exception, the Pensions are granted in compliance with rigid prescribed rules, and the amount of provision can vary only in the changing personal circumstances of the Services, and in the unreliable factor of exchange. The Governor would call the attention of the Council to the two exceptional cases of the small compassionate allowances to Mr. Northmore and to Mr. Eaton, who from circumstances have been temporarily, though continuously, employed for the inordinately long terms of ten and eight years respectively, and whose discontinuance is now suggested by advancing years. In the one case, a former honourable connection with the Civil Service and in the other case a withdrawal from private practice, are circumstances which, apart from the services rendered by these gentlemen, will, His Excellency feels sure, commend the provision to the indulgent consideration and recognition of the Council.

The additional provision of R30,184 under the head of Colonial Secretariat includes the salaries of two additional Cadets, making them up to eight out of the complement of twelve; the transfer from the Attorney-General's Department of the vote for editing "The New Law Reports"; and some new plant in connection with the local printing of Postage Stamps at a considerable saving of cost.

On the Port of Colombo a considerable special expenditure which is being incurred this year has not to be repeated in 1896, while there is provision for a larger Police force and for more labourers and boatmen in connection with the maintenance of the already constructed Harbour Works.

In Police there is a new provision to meet the cost of boots, the good conduct pay, and the allowance in lieu of quarters, also recommended by the Committee of last year; and in Prisons an increase has been made on account of the more liberal scale of diets and of increased hospital charges.

The provision under the head of Exchange is less by R211,776. This is permitted by the transfer, already alluded to, to the several departments of the Establishments of a sum of about R195,000 which represented the permanent addition of 10 per centum to the salaries of Clerical and Subordinate Officers, leaving the remaining R216,224 to meet the fluctuating compensation for fall in exchange to officers in the higher branches of the Services. The recent rise in the market rate of exchange has permitted the further reduction under some of the other sub-heads.

The Military Contribution is now provided under the recent arrangement at three-fortieths of the estimated Revenue (exclusive of Land Sales) of R20,600,000. As pointed out in the Governor's Address to the Council, this entails an addition of R176,333 as compared with the amount which will probably be paid in the current year, but the provision is now happily relieved of the fluctuating influence of exchange. In the proposed expenditure on the Volunteers there is no increasing calling for special comment.

The proposed expenditure on the Medical Services is increased by R53,295, and provides for the treatment of a larger number of patients in several institutions for the new Leper Asylum at Kalmunai, and for four dispensaries in the North-Central Province.

In Education, the ordinary grants-in-aid have been augmented by R45,000, and the other grants by

smaller sums. The discontinuance of some master ships of some Government schools has permitted a very necessary addition to the Inspectorial staff, in view of the growing numbers of schools and scholars, without any extra cost on the whole.

The provision under Miscellaneous Services has been increased by R38,000. The Archæological Commissioner having been seconded for service on his special work, his full salary has to be met from this vote, and some smaller addition has been made to enable him to extend his explorations. The refunds to Municipalities and Local Boards, for which a larger sum by R30,000 has been asked, are made in pursuance of provisions of law, and depend on the corresponding increase of the respective items of revenue which are thus refunded. The addition of R10,740 for the cost of printing and supplying all descriptions of stamps is necessitated by the growth of revenue collected by their means.

Provision is made in the Colonial Store services for the biennial verification of stores, the cost of which has hitherto been generally met by supplementary provision.

In the Forest Department, a re-arrangement has been made in the abolition of one Forester and in the apportionment of part of his salary to increase the pay of two Assistant Conservators. A new provision of R3,440 is proposed for a Forestry Branch in connection with the School of Agriculture, in which practical instructions in the field will be given under the direction of the specially trained Forest Officers.

The additions to the Post and Telegraph establishment and those for the introduction of the 25 cents telegrams have already been referred to. It will be observed that provision is made for the extension of coach service from Passara to Batticaloa and for a second daily coach between Matale and Jaffna. It has been found in experience necessary to increase by R2,761 the provision for lighting the General Post Office.

The increased provision for Railway Services is R3006,328 in all. Of this, R113,595 is for the new section to Matara. The remainder is spread over several sub-heads of the working expenses, and seem to be quite demanded by the growth of traffic.

In Public Works there is an increase of R43,000 in the annually recurrent expenditure which must only be expected in view of the continual additions to the mileage of roads maintained at the charge of the general revenue.

The aggregate provision for Extraordinary Public Works shows an apparent decrease of R96,041. but this is due to the re-votes in 1896 being only R251,000 against R428,000 in 1895. The amount proposed to be expended on new works in the coming year is therefore R81,000 more than that in the current year.

Provision is made for the continuance of the work at the Dehiwala flood-outlet. It is proposed to construct hospitals at Ramboda, Mannar, and Buttale, and to make considerable additions to the accommodation of existing hospitals.

An item of R14,000 is proposed for strengthening the Maligakanda reservoir by means of girders. This has been proposed by the Consulting Engineer as a measure of precaution, and not on any new ground of apprehension for the stability of the structure.

Of the new roads for which votes will be taken, that to the Ambawela railway station is proposed to be constructed at the entire charge of the general revenue, in view of the advantages to the general public as well as to individual proprietors, and of the more liberal concessions offered by those proprietors.

Provision is also made of the Government moiety from Branch Roads from Namunukuli from Glenalla towards Havilland, from Gevilipitia to Hatgampola, from Amunukanda to Doniyaya, and from Dehiowita bazaar to Algoda ferry. Numerous substantial amounts are proposed for continuing the gradual improvement of several roads.

A bridge at Kospalankissa over the Moratuwa lake will be commenced, and another of the promised bridges will be furnished on the Wellaways-Mupane road. The total provision for new bridges is R47,688.

The principal of the Miscellaneous items is that of R62,411 for additional telegraph wires in connection with the introduction of the telegrams at the reduced rate.—By His Excellency's command,

E. Noel Walker, Colonial Secretary.

October, 23rd, 1895.

PETITIONS: COURT OF REQUESTS ORDINANCE.

The Hon. P. Coomaraswamy said:—I beg, sir, to present a petition from residents in Kandy and its neighbourhood. It is a petition to which signatures were obtained in pursuance of a public meeting held at Kandy to consider the draft of the Courts of Requests Ordinance. The memorialists complain that the passing of this Ordinance will be injurious to them, who are, most of them, traders and agriculturists. I move, sir, that it be taken as read. Agreed.

The Hon. the Attorney-General handed in a memorial on the same subject, which he said was the outcome of the recent meeting of lawyers.

The Petition and Memorial were worded in the following terms:—

PETITION.

To His Excellency the President and the Honourable the Members of the Legislative Council of Ceylon.

The humble memorial of the undersigned residents of Kandy and its neighbourhood, sheweth:—

1. In pursuance of a resolution passed at a public meeting held in Kandy to consider the Draft-Ordinance which proposes to raise the jurisdiction of Courts of Requests and to introduce certain important changes in the procedure of these Courts, the Memorialists beg leave to address your Honourable Council on the subject of the said Ordinance.

2. The Memorialists beg to express their opinion that the said Ordinance would, if passed, injuriously affect them and all classes of the community, as shewn by various public meetings recently held in Colombo, Kandy, and other parts of the Island, and that it would be both unjust and impolitic on the part of your Honourable Council to adopt such a measure in the face of opposition by the public for whose benefit it is supposed to be introduced.

3. The Memorialists beg to point out that the public have not asked for any change in the *existing* rules relating to Courts of Requests, and that there is no necessity which can justify interference on the part of your Honourable Council with such rules.

4. To the large majority of litigants who are native villagers and small traders, the sum of R300 to which the jurisdiction of Courts of Requests is to be raised, represents a great deal of the purchasing-power of money; and it is of vital importance to this section of the community that cases in which they are interested and which involve claims exceeding R100 should be heard and determined in District Courts which are presided over by more experienced Judges than those of Courts of Requests, while, as a rule, the best professional assistance is procurable in District Courts.

5. If the object of the proposed increase of jurisdiction be to reduce the cost of litigation, the Memorialists would point out that the remedy is to revise the present scale of charges applicable to District Courts, and not to compel an exchange of Courts.

6. The Memorialists have hitherto exercised the right of filing written defences in cases before Courts of Requests with the aid of Proctors and Advocates. There is no reason why parties-defendant should be deprived of the undoubted right and advantage of obtaining professional help in all cases where they can afford and are willing to pay for such help. Hitherto parties-defendant had the option of either stating their defences orally or by writing; and by long established preference they have elected to state their defences in writing and through the intervention of Proctors and Advocates. To carry the proposed rule into effect would be to disregard public opinion on the point.

6. The rule requiring oral defences would be unworkable. The Judges of Courts of Requests have already enough to do in the hearing and disposal of civil and criminal cases. To saddle them with the task of hearing and examining parties-defendant in civil cases with a view to finding out defences and then recording them would entail an amount of labour that must seriously interfere with the more important duties of these Judges, in the hearing and determination of cases for trial both of a criminal and civil nature.

7. It is too much to expect from Judges of Courts of Requests in the midst of their every-day work in connection with trial cases, the patience, calmness and consideration which Proctors and Advocates as trained draftsmen can bring to bear on the work of ascertaining the nature of a defence and then framing an answer consistent with law and fact.

8. The general incompetency of Judges of Courts of Requests has been repeatedly proved by the large number of their judgments which have been set aside by the Supreme Court in appeal. It would endanger the interests of parties-defendant to make these Judges pleading-drawers; for the result would be that parties-defendant who do not know their legal rights in regard to claims, would be deprived of such defences as the law allows them.

9. The Memorialists object most strenuously to the proposed restriction of the right of appeal. This right has been the only safeguard against wrong findings on law and fact. The judgments of the Supreme Court on appeals from Courts of Requests amply prove that the judgments of these Courts require revision and correction even as these Courts are at present constituted, and it is therefore unfair to the public to increase their jurisdiction while taking away the right of appeal in cases which are now tried by experienced District Judges whose judgments and orders are subject to appeal. If the denial of the right of appeal be intended to relieve the Supreme Court of work, the Memorialists would urge that the reason is not one which should commend itself to your Honourable Council.

The Memorialists therefore pray that it may please your Honourable Council to reject the said Ordinance.

MEMORIAL.

To His Excellency the Governor and Honourable Members of the Legislative Council. The humble memorial of the members of the legal profession assembled in public meeting at the Law Library, Colombo on 21st day of October, 1295. Sheweth,—That at the above meeting of your memorialists a resolution to the following effect was passed:—

"That a Committee consisting of Messrs F. Dornhorst, T. E. de Sampayo, J. R Weinman, B. W. Bawa, and J. Van Langenberg, be appointed to draw up a memorial to His Excellency the Governor and the Legislative Council and that they be authorised to sign and transmit the same to His Excellency and the Legislative Council," in pursuance of which this memorial is humbly presented and your memorialists humbly submit as follows:—

That your memorialists have carefully considered the reasons put forword for the increase of the jurisdiction of the right of appeal and for the compulsory attendance of defendants in all money cases and respectfully submit that no necessity has arisen for the proposed changes.

Your memorialists note that the proposed changes are based on the assumption that the suitors will thereby obtain speedier and cheaper justice in small causes and that frivolous appeals from Minor Courts will be checked.

It was objected by your memorialists and a large section of the public that the proposed change would involve the trial by a judicial officer of inferiorgrade of cases at present dealt with by District Judges. His Excellency the Governor has conceded the force of this objection and your memorialists understand that it is proposed that in all places except in Colombo the same judical officers as at present shall try these cases but as Commissioners of Requests and not as District Judges.

Your memorialists submit that this proposal shows that the Ordinance is entirely unnecessary except as a device for reducing the costs of litigation from the scale prevailing in District Courts to that in Courts of Requests—an object to be better and more simply obtained by a reform of the existing scale—if necessary.

The proposal that District Judges should itinerate is open to grave objection:—(1) it removes the District Judge from his station at irregular intervals for indefinite periods. (2) It involves all the evils of frequent change in the judiciary of the permanent station by the appointment of additional Judges, the continuity of the business of the Courts being frequently disturbed. (3) The cost of the District Judge's itinerations will be be considerable. (4) The additional Judge appointed in most cases will be a revenue officer and it is against public policy that revenue and judicial duties should be combined. (5) The District Judge has no power of revising the work of the Commissioners of Requests under any ordinance a present in existence. (6) it is likely to lead to friction between District Judges and Commissioners of Requests and to a loss of independence and responsibility on the part of the latter (7) It will be attended with additional expense to the suitors who in the majority of cases will be forced to take up from the principal towns counsel or experienced proctors in cases over R100 in value—especially where title to land is in dispute. The Attorney-General's argument that Courts of Requests will be accessible to the suitor may be accepted but subject to this contingency, that the suitor will have to pay special fees for this privilege. Your memorialists would venture to state that if the suitor were given his choice, he would prefer the personal inconvenience of a few miles' journey to the principal Court of the district, to the cost and expense of engaging a pleader on special retainer to appear in the court of Requests.

With regard to the restriction of appeals, your memorialists note that there is no evidence nor has it been anywhere stated that frivolous appeals are common. Taking the figures for last year your memorialists find that from the 14,458 cases decided in Courts of Requests there were only 349 appeals of which 142 were varied or set aside—that is to say only 2½ per cent of the judgments have been appealed from and over 40 per cent of appeals have been successful—a state of things which proves conclusively that the privilege of appeal has not been abused and that is necessary. It has never been hinted that the right of appeal from judgments of District Courts in cases ranging in value from R100 to R300 has ever been abused or that any such appeals have been held to be frivolous—no statistics have been put before your Council or the public on this point and your memorialists would point out that these are the appeals that would be most materially affected by the proposed change.

No hardship is entailed on the part of the successful litigant by reason of an appeal. He is entitled to his writ of execution at once and the appellant is bound to give security to the satisfaction of the Court for all costs to by incurred by the respondent In appeal your memorialists beg to point out that the proposed change will entail additional labour on the Judges of the Court below and on the Judges of the Supreme Court, all of whom may be assumed to have more than enough work to do in view of the admitted arrears now in existence and will also be attended with decided disadvantages to the suitor. The Commissioners will be required to hear argument and record an order as to whether they would in the first instance allow an appeal.—The Supreme Court Judges will have to wade through all the proceedings before they decide whether an appeal lies or not. As to the suitor in the first place it will entail on him nearly treble the expense which he now has to undergo (a) in paying his counsel or proctor to convince the Commissioner that his judgment is wrong (b) in paying his proctor or counsel for drafting his petition setting forth the grounds of appeal (c) the expense which he is now put to in bringing

his appeal before the Supreme Court; in the second place, because the respondent will be placed in the disadvantageous position of having the case for the appellant heard by the judges *ex parte* and of having an order made *prima facie* in the appellant's favour.

Your memorialists need hardly allude to the delay necessarily consequent on following out the different steps of the proposed procedure.

Your memorialists would also submit that the proposed change of procedure will open a wide gate for frivolous petitions for leave to appeal being presented to the Supreme Court. At the present moment there are wholesome checks to frivolous appeals. The appellant is required to give security for the cost of appeal and to furnish stamps for the petition of appeal, for the security bond, for the judgment of the Supreme Court and for the notice of appeal. The petition is invariably drawn and signed by a proctor who may be punished by the Supreme Court for lodging a frivolous appeal. These wholesome checks will be entirely removed by the proposed innovation. Any dissatisfied litigant may compel the Supreme Court to send for and peruse a voluminous record.

Your memorialists would also say as worthy of your consideration that the refusal of leave to appeal by the judge *in camera* is calculated to breed secret dissatisfaction and discontent among suitors from the fact that they might be led to entertain and harbour the feeling that their case not having been put before the judge in open Court the points in their favour were overlooked and not given due weight and that thereby justice was denied them—a state of feeling not conducive to the maintenance of good order and Government.

Your memorialists would finally allude to the decided advantages secured both to society and the due administration of justice by the existing right of appeal—to society, because in affording to dissatisfied suitors the means of approaching the higeest tribunal in the land which they respect, it removes all causes of disaffection and discontent and is a preventive of crime bred of a feeling of disappointment caused by the adverse judgment of a minor Court. To the administration of justice, because it affords the Supreme Court the opportunity of exercising that check, control and supervision over minor Courts so essential in Ceylon where the judiciary are not trained lawyers but laymen.

Your memorialists are gratified to learn that the Government are anxious to bring speedier add heaper justice to suitors who seek the intervention of Courts of Requests by the adoption of a simpler procedure in these Courts. Your memorialists would go farther and desiderate an equally simple procedure for District Courts and they would submit that the same advantages and facilities which are sought to be granted to suitors in the one Court be extended to suitors in the other.

If your Excellency and the Legislative Council are convinced that the present procedure affords opportunities for making costs, your memorialists humbly suggest that the evils can be remedied by the simplification of procedure and by the reducing of the scale of costs in both Courts, thereby affording equal relief to suitors, rich and poor alike who might seek redress in our courts.

Your memorialists note that the Hon'ble the Attorney-General declared that the section providing for oral defences in all money cases forms no vital principal of the bill and they presume it will be abandoned.

Your memorialists would therefore on the above grounds respectfully object to the entire Bill and would humbly suggest that in place of this piecemeal legislation which at most merely lops the branches of supposed evils, a well-considered measure be introduced which will deal with the important matters of Procedure and Costs in both District Courts and Courts of Requests without entailing an alteration of the constitution of either Court or the disadvantages necessarily attendant on such alterations—and Your Memorialists as in duty bound will ever pray;—

Frederick Dornhorst J. R. Weinman, B. W. Bawa, Thomas E. de Sampayo, J. Van Langenberg, Secretary.

Investments Minute.

The Hon. A. De A. Seneviratne, in terms of notice asked:—

What special reasons, if any, led to the publication of the rules contained in the Minute of His Excellency the Governor dated the 15th May 1895, relating to investments and the possession of lands and houses by persons employed in the Public Service of Ceylon, and to move that all papers on the subject be presented to this Council.

He said:—Sir, several persons complain that hardships arise in consequence of the Minute of Your Excellency of date 15th May 1895. Some of them think that they are entirely forbidden to hold land without the permission of the Governor, and I was very many times obliged to inform them that such was not the case and, looking into the matter fully, I find Your Excellency has only in that minute expanded those already existing on the subject; I refer specially to the minute of 21st October 1887. I find that by the earlier minute public servants were forbidden to engage in commercial or agricultural pursuits and that this prohibition extended to the families of public servants. But in this minute of May 15th 1895, the prohibition appears to extend to the possession of houses, as well. It is difficult to conceive how the possession of more than one house can interfere with the efficiency of a public servant or expose him to undue temptation. Further, sir, there is an exemption of headmen. The 3rd rule of the minute is the one I refer to. If the possession of more than one house interferes with the efficiency of the public service, I don't see why it should not interfere also with the discharge of the duties of headmen. If it is necessary for headmen to possess more than one house, I think, there can be no harm in other public servants possessing more than one house. As to the purchase of land the same exemption is made in favour of headmen. I can quite understand it would not be desirable for public servants to be engaged in agricultural pursuits so as to interfere with their public duties, and therefore I think it is a very wholesome provision indeed that those public servants desiring to acquire new land should notify their intention to Your Excellency and obtain permission to do so. But why should not the same rule be enforced in the case of headmen. Why should not headmen also get permission from H. E. when they wish to acquire fresh land? Government would then be able to see whether the acquisition of fresh land was likely to interfere with their public work. So much, sir, for the possession of houses and lands. As regards investments, I think similar remarks would apply. I understand public feeling to be that the rule is a very wholesome one. Where an investment is likely to interfere with their public duties it is no doubt right that officers should abstain from such investment, but when it comes to explaining what those investments are, I think there is a good deal of uncertainty because of the word "local." Does that mean the place where a person transacts his business or does it apply to the whole Island? It was not so much for the sake of these prohibitions in the minute I wished to bring this matter before Council today, but it is for what has been left out of this minute. Some time ago it was stated publicly and it could not have been without the knowledge of Government that a good many of the public servants were very much

indebted. If it is necessary for the Government and the Governor to know what the assets of public servants are, I think it is equally necessary for Government to know what the liabilities of those public servants are. There is nothing more injurious to the public service than the indebtedness of its servants. Therefore I think it is very desirable Your Excellency, should make a rule that public servants who are obliged to borrow money should send in a return to the Governor showing the amount of their indebtedness. Thus Your Excellency as head of the Government will be able to judge whether that indebtedness was due to any fault and whether it is likely to interfere with the discharge of public duties. I put my question in this form because I did not know what it was that led to the publication of the minute, especially as the minute did not include any prohibition with regard to public servants getting indebted. I move that all papers on the subject be presented to this Council.

The Hon. P. COOMARASWAMY :—I beg to second that, sir.

The Hon. W. W. MITCHELL :—I think, sir, the rules have been carried to an extreme in their application. I shall only mention an instance with the view of exemplifying what I mean. It is that the wife of a member of the public service is prohibited from nvesting money which has been saved by her husband in debenture bonds of a mercantile Company. Now it seems to me when they are debarred from investments of that kind, it is going a great deal too far. It is quite impossible that the public service could be in any way harmed by a public servant acquiring debenture bonds. That could not give him a voice in the direction of a public Company and I fail to see why public servants should be debarred from making an investment of that nature. I merely brought out that one illustration, because it seems to me that the rules are very much too stringent.

The Hon. GILES F. WALKER :—Sir, I should like to support what has fallen from the Hon. the Mercantile Member. It appears to me a great hardship that members of the public service should not be allowed to invest in shares in the different local companies. As the question of possible indebtedness has been raised, I may be permitted to point out that if any member of the service has money to invest he is necessarily much better able to keep out of debt, if he is allowed to invest such money locally where he can get a fairly high rate of interest—say eight or nine per cent—rather than have to invest it at home where rates of interest are lower. I do not think that any Civil Servant could invest so largely in any one Company as to exercise an undue influence in its interest. In Agricultural Companies a case might arise in which a road was required and where a Government servant might be supposed to be able to take advantage of his official position to have that brought about; but I cannot believe that the influence of any particular civilian would be so great that he would be able to benefit any Company in that way, more especially as the purchase of his shares would be subject to the approval of Your Excellency.

The Hon. the GOVERNMENT AGENT, WESTERN PROVINCE (Mr. Dawson) :—I wish to say, sir, that the possession of lands and houses by headmen employed by the Government is absolutely indispensable, if you are going to employ such men as are fit to fill the offices. The difficulty now-a-days of finding successors to the headmen who retire is very great indeed and if it is decided to exclude those who are owners of property, then the headmen's service would very considerably suffer.

H. E. the LIEUT.-GOVERNOR :—Sir, I would answer precisely the question of the Hon. Member (Mr. Seneviratne) by saying that the consequence of a notorious land claim in which public officers were supposed to be interested and which, being the subject of pending litigation still, I would at present say no more, the Secretary of State suggested the revision of a long-standing minute, that of 1846, re-published in 1887, on the subject of the acquisition of land by public officers. The revision suggested was in terms of certain stringent regulations which had been passed by another Colonial Government to restrict officers buying land or engaging in commercial pursuits in order to prevent the repetition of a deplorable scandal which had occurred in that Colony. After correspondence which extended over nearly two years, the rules in the minute in question were adopted in pursuance of instructions from the Secretary of State as the conditions upon which public officers should be employed in Her Majesty's Service. It is not for the Colonial Government to go behind that authoritative reason and I have no other special reason to offer. I would admit fully the extreme difficulty of applying such a minute without hardship; but at the same time, sir, I might claim, and I could refer to individual instances to support my statement, that the minute has been applied with as much indulgence as possible. But it was found in actual experience that there was no practical written rule between such a rigorous minute as this on the one hand, and a perfect dead-letter of provisions, even those that had been in existence for nearly fifty years, on the other. The papers which I suppose the Hon. Member would desire to have, consisted of the correspondence with the Secretary of State and opinions of the Executive Council and I feel sure the Hon. Member would not wish for their production and will not press that point of his motion. With regard to the remarks that have been offered by the Hon. Member I would like to make one or two observations. At the same time I would recognise the temperateness with which the Hon. Member who moved this resolution has remarked on this subject which has caused a good deal of strong feeling in the Colony. The Hon. Member's first suggestion or amendment was that he did not see why the prohibition should be restricted to the possession of one house. If you once go beyond the one house that a man has for occupation, where is the limit to be? An officer might then direct his abilities to being a house-proprietor to the absorption of his time and the diversion of it from his legitimate duties. When I say one house I presume that when an officer is able to live in Colombo for six months and another six months in Nuwara Eliya—I don't think there is such a happy man in the service—there would be no objection to his having a house at Nuwara Eliya and another at Colombo. As to the exemption of headmen in the paragraphs of the minute which the Hon. Member read, it was endeavour d to anticipate any such query inasmuch as headmen are described as a class of officers whose possession of property is a usual contingency of their position. Headmen are selected to be headmen because they are territorial magnates in the country, and if we insisted on the application of this pro-

hibition to headmen it would lead to the abolition of the office of headmen as it now is. We have this as an exception. It is anomalous and liable to comment, but it is an exception which is necessitated by the circumstances of this oriental country. The Hon. Member referred to the subject of the indebtedness of public officers: I did not gather from the terms of his notice that either his motion or remarks would be extended to this subject and therefore I am not prepared to say, on this very delicate and difficult subject, what perhaps I might otherwise say. I would remind the Hon. Member of the extraordinary difficulty of dealing with such a subject and I would ask—an appeal I always make when this question comes up—those who discuss the indebtedness of public officers, to satisfy themselves of the circumstances under which these officers became indebted. I have known cases in the course of my career where officers became indebted under such circumstances that raised them in my regard. Surely because of the mere fact of temporary indebtedness, it is unfair to denounce them. I ask the forbearance of everybody and ask that they should ascertain and give charitable consideration to the circumstances under which that indebtedness may have occurred. Then, sir, I may claim, that the circumstances of public officers do not come before Government. We hear a great deal of more or less supported rumour; but the Government would put itself in a very peculiar position if it acted on all these rumours. Members of Council are aware when such a case has come under the attention of Government that Government has never shirked it, but carried it out to the end whatever the consequences to the officer involved might be. After having made the claim that the Government have endeavoured to apply the rules with every indulgence possible, I find myself in opposition to the Hon. Member who represents the Mercantile Community, who says that they have been rather rigidly applied. It is not our desire to do so and I am sure the Government is quite prepared to reconsider it. In regard to the case of a wife to which reference was made, Hon. Members must be aware of cases in which the prohibition has been evaded by the property being in the name of the wife. I may state in a general remark that this rule like all penal acts, is not intended to be levelled at every member of the community, but only at those who I am bound to admit exist in every class of the community however high and honourable they are as a class (hear, hear). The Hon. the Mercantile Member supported by the Hon. the Planting Member, suggested amending the rules to admit of investment in public Companies subject to the approval of the Governor. Personal considerations come in there and after 34 years' experience I may say there would be extreme difficulty in carrying out such a suggestion.

The Hon. A. DE A. SENEVIRATNE:—I am satisfied with the statement made, so I do not press for papers.

COURTS OF REQUESTS.

The Hon. A. DE A. SENEVIRATNE:—I move for:—

A return of cases received in appeal from the Courts of Requests for the last two years, showing—

(1) The number of cases in which the judgment appealed from was set aside or modified.

(2) The number of cases in which the judgment was affirmed.

(3) The number of cases in which the appeal was dismissed for want of appearance.

Sir, I ask for this information in view of the Bill relating to the Courts of Requests which was read a first time last week. It was stated that only one per cent of the cases from the Courts of Requests were set aside. Now in order to understand that question fully, it is necessary also to know in how many cases appeals were taken. It is in order that all this information may be placed before Council, before we go enter upon the discussion of that Bill that I move for this return.

The Hon. P. COOMARASWAMY:—I beg to second. It is very important that we should have this return before we go to the consideration of that Ordinance. I think the Attorney-General made a mistake in stating that there was only one per cent of the cases appealed against which was set aside.

The Hon. the ATTORNEY-GENERAL:—If the Hon. Member will allow me to interrupt him, that was not what I said. I gave the number of cases decided in the Court of Requests and one per cent of these was set aside on appeal.

The Hon. P. COOMARASWAMY:—That proves nothing at all. It is very important to know how many cases were decided and how many were appealed against, to form a conclusion as to whether these appeals should be restricted or not. For that reason I have great pleasure in seconding that motion.

The Hon. L. F. LEE pointed out that the returns would not give the number of contested cases and it was upon that ratio that the mover of the resolution was going to draw his deductions.

The Hon. the ATTORNEY-GENERAL:—My learned friend may be satisfied if I state that out of the 14,458 cases decided in the Courts of Requests in 1894, appeals were taken in 349 cases of which 142 were varied or set aside. The only number I did not give on the former occasion was 349 and if any Member had asked for it, I could have given it. With regard to deductions from the results of appeals if my learned friends will only look at the appeals from the Supreme Court to the Privy Council they will find that in five cases appeals to the Privy Council have been taken since 1893. Four of these cases were reversed and one was affirmed for other reasons than those given by the Judges of the Supreme Court.

H.E. the LIEUT.-GOVERNOR:—The Government have no objection to furnishing the returns asked for, indeed I may say it has already been called for.

The Hon. P. COOMARASWAMY:—May I add to the resolution that the number of contested cases be included in the return.

The Hon. the ATTORNEY-GENERAL:—There will be no difficulty in giving you the number of contested cases: their number appear in the administration reports for each year.

SUPPLY BILL, 1896.

H.E. the LIEUT.-GOVERNOR:—Sir, I beg leave to introduce "An Ordinance for making provision for the Contingent Services for the year 1896." H.E. the Governor's Message—as I explained to Council—showed the financial position of the Colony and in it the estimates and minor points of detail are explained. I think therefore it is hardly necessary for me to take up the time of Council with any explanation. There is in the Bill no change of the principle or policy in the application of our funds. It is on the same lines as hitherto and in very much

the same direction and we hope has the same equity and justice of distribution as has been observed hitherto.

H. E. mentioned a few of the outstanding features and the Ordinance was read a first time the second reading to be taken at next meeting of the Council.

IMMOVABLE PROPERTY : NORTHERN PROVINCE.

The Hon. the ATTORNEY-GENERAL :—I beg, Sir, to bring up the report of the law officers of the Crown on "An Ordinance relating to the publication of intended sales or other alienations of Immovable Property affected by the Thesavalamai of the Northern Province of Ceylon" and move that the same be read.

Report read by Clerk.

The Hon. the ATTORNEY-GENERAL moved the third reading of the Bill and that it do pass.

The Hon. P. COOMARASWAMY seconded.

Bill read a third time and passed.

THESAVALAMAI AND LAND SALES.

His Excellency the GOVERNOR :—I assent to "An Ordinance relating to the publication of intended sales or other alienations of Immovable Property affected by the Thesavalamai of the Northern Province."

ELECTRIC LIGHTING.

The Hon. the ATTORNEY-GENERAL :—I beg to bring up the report of the Law Officers of the Crown on "An Ordinance to provide for the protection of Person and Property from the risks incidental to the supply and use of Electricity for lighting and other purposes" and to move that the same be read.

Report read by clerk.

The Hon. the ATTORNEY-GENERAL moved the third reading of the Bill.

H.E. the LIEUT.-GOVERNOR seconded and the Bill was read a third time and passed.

H.E. the GOVERNOR :—I assent to "An Ordinance to provide for the protection of person and property from the risks incidental to the supply and use of Electricity for lighting and other purposes."

UNIFORMS.

H.E. the MAJOR-GENERAL :—I beg, sir, to bring up the report of the Law Officers of the Crown on "An Ordinance to regulate and restrict the wearing of Naval and Military Uniforms."

Report read.

H.E. the MAJOR-GENERAL moved the third reading of the Bill and that it do pass.

The Hon. the ATTORNEY-GENERAL seconded. Bill read a third time and passed.

H.E. the GOVERNOR :—I assent to an Ordinance entitled "An Ordinance to regulate and restrict the wearing of Naval and Military Uniforms."

SAVINGS BANK.

The Hon. L. F. LEE :—I move, sir, to bring up the report of the Law Officers of the Crown on "An Ordinance to amend Ordinance No. 12 of 1859 intituled, 'The Ceylon Savings Bank Ordinance 1859.'"

Report read.

The Hon. L. F. LEE moved that the Bill be read a third time and do pass.

H.E. the LIEUT.-GOVERNOR seconded and the Bill was read a third time and passed.

H.E. the GOVERNOR :—I assent to "An Ordinance to amend Ordinance No. 12 of 1859 intituled 'The Ceylon Savings Bank Ordinance 1859.'"

KANDY WATERWORKS ORDINANCE.

The Hon. ALLANSON BAILEY :—Sir, I move the second reading of "An Ordinance to repeal Ordinance No. 29 of 1884 and to amend the 'The Kandy Waterworks Loan Ordinance 1884.'" In moving the first reading I gave the reasons and objects of the Ordinance. I have nothing to add except by the time the Ordinance comes into operation the Municipal Council will have laid the pipes necessary to provide the water to the portion of the town which is to be brought within the water area.

H.E. THE LIEUT.-GOVERNOR seconded and the Bill was read a second time.

On the motion of the Hon. Mr. ALLANSON BAILEY, Council went into Committee on the Bill.

The Hon. P. COOMARASWAMY : Sir, in section 5 I wish to ask what is the meaning of these words in the fourth line? Does it mean that whether you lay a pipe along a street and have standpipes or not people are to pay taxes, or does it mean wherever a house is supplied the householder is to be taxed? I ask this question because we know what injustice is being done in Colombo by taxing people who have got no water within a quarter of a mile, and I wish to know if the same injustice is going to be perpetrated in Kandy. I understand the Municipal Council of Kandy has approved of the Ordinance, and I ask these questions in the interest of the taxpayers.

The Hon. A. BAILEY : There are to be standpipes along all the roads but, of course, everybody will not have water in his own house.

The Hon. A. DE A. SENIVERATNE :—With regard to the question of water may I ask whether it is intended to impose a water rate in addition to the rate at present exacted at Kandy.

The Hon. Mr. BAILEY :—There is a water rate which is payable now. The present water rate is to be extended.

The Hon. A. DE A. SENEVIRATNE :—I understand that people pay a water rate at present. Under the new Ordinance they may be compelled to pay an additional rate.

The Hon. the ATTORNEY-GENERAL :—There is only one rate. Section 6 of the old Ordinance to which the hon. member refers will not be in existence when the Ordinance is passed the present section before Council being substituted for it.

Council then resumed and on the motion of the Hon. A. BAILIEY the Ordinance was referred to the Law Officers of the Crown.

OATHS AND AFFIRMATIONS BILL.

The Hon. the ATTORNEY-GENERAL :—I beg sir, to move the second reading of "An Ordinance to consolidate the law relating to Oaths and Affirmations in judicial proceedings and for other purposes."

The Hon. ALLANSON BAILEY seconded and the Bill was read a second time.

On the motion of the Hon. the ATTORNEY-GENERAL Council went into Committee on the Bill.

H.E. the GOVERNOR :—I wish to ask H.E. the Major-General whether the Ordinance applies to Courts Martial.

H.E. the MAJOR-GENERAL replied in the negative.

HON. P. COOMARASWAMY :—Referring to section 6 sub-section (*a*.)

"Where the person required by law to make an oath (*a*) not being a Christian, is a Buddhist, Hindu, or Muhammadan, or of some other religion according to which oaths are not of binding force; or (*b*) has a conscientious objection to making an oath he may

instead of making an oath, make an affirmation."

Does this section, allowing an affirmation to non-Christians in place of an oath, include affidavits? So far as I can see it only refers to witnesses. In the clause as it stands there is nothing to show whether a person who has to make an affidavit, may make it under affirmation or under oath. I do not know whether I shall be in order in moving that this Bill be sent to a Sub-Committee. If I am in order I should like to move that.

The Hon. the ATTORNEY-GENERAL :—I think it is rather late now. If my Hon. friend will leave this question as regards affidavits in my hands I will, if necessary, move that the Bill be re-committed.

The Hon. A. DE A. SENEVIRATNE :—I wish to observe that the oaths at present administered to native witnesses are very seldom understood by them. The language used is such that the ordinary villager does not understand it. He repeats by rote or he attempts to repeat a formula very few words of which he understands, so that care should be taken when an oath is interpreted into a native language that such a form is used as is likely to be understood by the ordinary villager. As to affirmation, the very word used in Sinhalese for "affirm" is one that the Sinhalese villager knows nothing about. The interpreter says the word "affirm" but the word used is such that the man simply opens his eyes. He does not know whether he is taking an oath or what he has done. It simply means to him that he has to repeat a certain number of words and he has no idea of the solemnity of the proceeding. This is a matter however which is left to the Supreme Court and I make these remarks in order that this point may be kept in view.

The Hon. P. COOMARASWAMY :—In section 53 of the Courts Ordinance of 1889 it was provided that the Supreme Court should make rules in respect to some eight or nine matters—all of them, very important. I wish to point out to the Hon. the Attorney-General, though this Ordinance was passed in 1889 the Supreme Court has made no rules at all. If, for nearly seven years they have not made any rules under that section I fail to see why we should again in the presen Ordinance ask them to make further rules.

The Hon. the ATTORNEY-GENERAL :—Sir, if the Supreme Court has been remiss in making rules, I may publicly state that the Chief Justice is quite prepared to make rules under the present bill. In fact he himself has asked that such powers be given him and he would be very glad to consult native gentlemen such as the Hon. A. De A. Seneviratne and the Hon. P. Coomaraswamy in order to ascertain in what form an oath would be most binding. The Chief Justice I can assure Hon. Members takes a deep interest in the Bill.

The Hon. P. COOMARASWAMY referred to section 9.—

"If any party to any judicial proceeding of a civil nature offers to be bound by any such oath or solemn affirmation as is mentioned in the last preceding Section, if such oath or affirmation is made by the other party to or by any witness in such proceedings, *or if in any judicial proceeding of a criminal nature the accused person desires that any witness for the prosecution shall make any such oath or affirmation,* the Court may, if it thinks fit, ask such party or witness, or cause him to be asked, whether or not he will make the oath or affirmation,—"

He said:—I do not think, sir, it would be advisable to extend this provision to matters of a criminal nature. It has frequently happened in former days that a plaintiff asked that a plaintiff or defendant should go to a temple, and make an oath but surely in a matter of a criminal nature you cannot allow a man to do this. I think it would be a dangerous procedure in the Criminal Courts.

The Hon. L. F. LEE pointed out that if witnesses were challenged it might hang up the whole case. He did not think it was practical in criminal cases.

The Hon. the ATTORNEY-GENERAL :—It has been working in India for many years and it has worked well. The clause says that that "the Court may, if it thinks fit," follow this procedure and there are many cases in which a man might refuse to go and make an oath. Our object in all criminal cases is to get at the truth.

The Hon. P. COOMARASWAMY thought the words ought to be omitted beginning at the fifth line of the clause from "or" to "affirmation."

H.E. the GOVERNOR :—It is not clear to me what your amendment is.

The Hon. P. COOMARASWAMY :—I wish deleted the words including "or" in the fifth line up to "affirmation" in the seventh line (in italics). I am sure that on further consideration the Hon. the Attorney-General will agree with me that this matter had better not be extended to criminal Courts.

The Hon. the ATTORNEY-GENERAL :—I am sorry I cannot agree with my learned friend.

Council then divided when the amendment by the Hon. the Attorney-General was carried by 12 votes to 4 :—

Ayes 4.	*Noes 12.*
Hon. P Ellawala	Hon. Abdul Rahiman
,, A de A Seneviratne	,, W W Mitchell
,, P Coomaraswamy	,, Sir John Grinlinton
,, L F Lee	,, The Director of Public Works
	,, Giles Walker
	,, Allanson Bailey
	,, A. R. Dawson
	,, The Treasurer
	,, The Auditor-General
	,, The Attorney-General
	H E The Major-General
	H E The Lieut.-Governor

Sub-section 2 of Section 9 :—

"If such party or witness agrees to make such oath or affirmation, the Court may administer it, or if more convenient, may authorize any person to administer it, and to take evidence of the person to be sworn or affirmed and return it to the Court"

Next engaged the attention of Council.

The Hon. P. COOMARASWAMY :—I think, sir, there should be something to show the nature of the return to be made to the Court. The clause says "and take the evidence of the person to be sworn or affirmed and return it to the Court." But the question arises who is to return it to Court. Again the evidence so given is to be taken as conclusive proof. Surely before the Court can adjudicate upon the evidence there must be something to enable the Court to inquire into whether the oath has been administered. When two men go before a temple where an oath is made and come back to Court, what will be the nature of the proof to be offered that the oath has been administered according to the judgment of the Court?

The Hon. the ATORNEY-GENERAL :—I have no objection to the addition of the words, "and record in writing the evidence of the person to be sworn or affirmed and return it to the Court." I move the insertion of these words. As a matter of fact this Act has been in operation in India for many years and has worked very well.

The Hon. P. COOMARASWAMY:—Supposing that the plaintiff and defendant go to a temple and the latter does not take an oath and a false report is made to the Court, where is there the procedure for the plaintiff to rebut such evidence.

The Hon. the ATTORNEY-GENERAL pointed out that it lay within the discretion of the Court to authorise a proper person to administer the oath.

The Hon. P. COOMARASWAMY rejoined that the evidence would probably be taken before some petty headman. Proceeding he said:—I may mention a case which happened 20 years ago,—a civil case in which I was appearing. A man was sent to the temple at Sea Street to take an oath according to the terms agreed upon. A Court peon was sent with the man who never went near the temple and yet the Court peon said he had taken the oath. Luckily for us we were able to get the people at the temple to prove that there was nobody in the temple at a certain hour on a certain day. Now under this Ordinance the statement of that peon would be conclusive.

The Hon. the ATTORNEY-GENERAL said that what had occurred in the case mentioned by the Hon. the Tamil Member was only possible under the old law. He had nothing to add except that it must be left to the discretion of the Court to appoint proper persons. He moved as an amendment to the Hon. the Tamil Member's motion that the section be made to read "and to take a record in writing of the evidence of the person to be sworn or affirmed and return it to the Court."

The Hon. the Attorney-General's amendment was carried without a division.

The Hon. L. F. LEE:—I observe in the 5th section the Ordinance talks about making an affirmation and subsequently the words "Solemn Affirmation" are used. I think the solemnity might be left out. It might be simply "affirmation" without the "solemn."

The Hon. the ATTORNEY-GENERAL thought there was a distinction and he explained what was meant by "solemn affirmation" was an affirmation other than the statutory affirmation. He thought the use of the word was quite correct.

The Hon. P. COOMARASWAMY pointed out that Clause 10 provided that omission of oath or affirmation did not render evidence inadmissible. In that case he contended that a witness who gave false evidence could not be convicted of perjury. The clause he further contended took away the right which all suitors possess in Court, that of enforcing witnesses to give evidence on oath or affirmation, and if such evidence were false the witness could be punnished for perjury. Under the clause he was dealing with that could not be done.

The Hon. the ATTORNEY-GENERAL pointed out that the obligation was still placed upon the witness to tell the truth and that the Penal Code made the giving of false evidence an offence.

He moved that Council resume and that the Bill be referred to the Law Officers of the Crown.

The Hon. P. COOMARASWAMY:—I thought the hon. member was going to refer the Bill on the matter of affidavits to a Committee.

The Hon. the ATTORNEY-GENERAL:—If need be I shall move that the Bill be recommitted.

Bill read a second time and referred to the Law Officers of the Crown.

MUNICIPAL COUNCILS.

The Hon. the ATTORNEY-GENERAL:—Sir, with reference to the next Ordinance on the Agenda paper ("An Ordinance to amend the Municipal Ordinance") I understand the Municipal Council of Colombo is considering the Bill and under these circumstances I think it is desirable that it should stand over to see what they think about it. Agreed.

ADJOURNMENT.

The Hon. the LIEUT.-GOVERNOR:—I think it would be for the convenience of Members that the remaining business of the day should be postponed till next week.

His Excellency the GOVERNOR:—That is for the Council to say. I have no objection.

Council adjourned till Wednesday Oct. 30th.

The sitting terminated at 5 p.m.

WEDNESDAY, OCTOBER 30th, 1895.

Present:—His Excellency Sir E. Noel Walker, K.C.M.G., Acting Governor, presiding; H.E. Major-General W. Clive Justice, C.M.G., Commander of the Forces; the Hons. W. T. Taylor, C.M.G., Acting Colonial Secretary; T. E. B. Skinner, Acting Auditor-General; F. R. Saunders, C.M.G., Treasurer; C. P. Layard, C.M.G., Attorney-General; Lionel F. Lee, Principal Collector of Customs; A. R. Dawson, Government Agent, for the Western Province; Allanson Bailey, Government Agent, for the Central Province; R.K. MacBride, C.M.G., Director of Public Works; W. W. Mitchell, Mercantile Representative; A. de A. Seneviratne, Low-country Sinhalese Representative; Sir John J. Grinlinton, General European Community Representative; Hon. P. Coomaraswamy, Tamil Representative; Abdul Rahiman, Moorish Representative; W. Ellawella, R. M., Kandyan Representative.

The Hon. T. E. B. SKINNER, Postmaster-General, took the oath and his seat at Council as Auditor-General.

SINHALESE COOLIES AND GANSABAWA.

The Hon. P. COOMARASWAMY:—I beg sir to present this petition from certain Sinhalese coolies in Sabaragamuwa complaining of the hardship they suffer under the Village Communities Ordinance, inasmuch as when they go to another village they are obliged to contribute their labour there. The petition which was in the following terms was held as read:—

To His Excellency Sir Edward Noel Walker, President of the Legislative Council of the Island of Ceylon and the Hon. members thereof &c., &c., &c., Colombo.

The humble memorial of the undersigned coolies of Paradise Estate, Kuruwita, Sabaragamuwa.

May it please your Hon'ble Council, your humble memorialists beg most respectfully to submit their grievances for the deliberate consideration of your Council, with the full hope that the relief they seek will meet your attention.

That the memorialists are perfect strangers to this Province, they having come from different other parts of the Island to find a livelihood for themselves and families by working as day labourers in tea estates, and found employment in Paradise Estate belonging to Lady Soyza. That except in the point of their birth in the island they are in every respect comparable to the Tamil coolies who emigrate from India. The levying of a tax on them under the Village Communities Ordinance they consider is quite unjustifiable and inconsistent with the object of the Ordinance, and a heavy burden which they feel unable to bear according to their extremely reduced circumstances.

That as every villager is required by the Ordinance to contribute 5 days' labour under the Gansabawa the memorialists were also included in the same category and they are demanded 5 days' labour for a school buiding at Hitgashena by notices served on them or to pay a tax of one rupee.

The memorialists humbly submit that the Ordinance contemplates exacting labour from the villagers who are benefited from the works done by such labour, and these memorialists who are temporarily employed in the estate cannot be reckoned as "Villagers" although His Excellency Sir Arthur Havelock held that they are liable so long as they live in the district (Vide Reply of His Excellency to their memorial, a copy of which is appended) and hence these houseless itinerary and poverty-stricken people are taxed R2·50 each per annum for Road Tax and Gansabawa Tax, whilst the propertied people who live in towns are only taxed R2 each per annum as Road Tax.

That should the memorialists comply with the demand and contribute five consecutive days' labour, they are sure to be dismissed from employment, nor would the estate provide them with rice and provisions for the absent 5 days, and the consequence which will befall them will be of a disastrous nature which they have no words to give expression to.

That through fear of being punished by the Gansabawa for default, their employer had the kindness to pay their tax this year and obtain receipts and the amount will be deducted from their wages which will bring on them insuperable hardships.

Wherefore the memorialists most humbly pray that your Council will be graciously pleased to take their peculiarly hard case into consideration and amend the provisions of the Ordinance which make them liable to this unjust tax and not only relieve them in future from the liability, but also have them refunded of the monies already levied from them in this respect.

And for which act of justice and mercy, your humble memorialists as in duty bound.—Shall ever pray. Mark of + E. W. Ukkubanda, and 23 others.

Ratnapura, 24th Oct. 1895.

(*Copy of His Excellency's reply referred to.*)

Colonial Secretary's Office, Colombo, 18th Dec. 1894.

His Excellency the Governor having taken into consideration the petition of Migodagamage Cornelis and others of Paradise Estate, Kuruwita, Ratnapura praying that they may be exempted from Gansabawa tax, has directed the petitioners be informed that they are liable as long as they are [illegible] the district.—By His Excellency's Command,

H. L. Crawford, for Colonial Secretary.

COURTS OF REQUESTS ORDINANCE: OPPOSING PETITION.

The Hon. P. Coomaraswamy:—Sir, I beg to present a petition from the members of the Muhammadan community against the Courts of Requests Ordinance. I move that it be read.

The Hon. A. De A. Seneviratne seconded. Agreed.

The petition which is in the following terms was read by the Clerk:—

To His Excellency Sir Edward Noel Walker, K.C.M.G. President and the Hon'ble Members of the Legislative Council of Ceylon.

The humble petition of the undersigned inhabitants of Ceylon, members of the Mohammedan community sheweth

1 The petitioners have carefully considered the provisions of the proposed Courts of Requests' Ordinance and beg to state to your Hon. Council that in their humble opinion

(1) No necessity has been shewn for extending the jurisdiction of the Courts of Requests in this Island from R100 to R300 for the following reasons:—

(*a*) The procedure in District Courts in money cases is simpler and speedier than in the Courts of Requests.

(*b*) In land cases the petitioners would prefer the decisions of a District Judge who is always an experienced public officer to those of a Commissioner of a Court of Requests.

(*c*) The relegation of cases involving sums between R100 and R300 to Courts of Requests where frequently there is no efficient bar would entail [illegible] additional expense of specially securing the services of counsel from Colombo or important outstations like Kandy and Galle.

(*d*) Suitors cannot complain and have not complained of the expenses they at present have to incur to secure services of counsel in the District Courts for the simple reason that they can now procure the best professional aid at a moderate cost.

(2) The deprivation of the right of the suitors to appear by pleader will greatly inconvenience and harass suitors and tend to defeat the administration of justice. To the ladies of our community this provision will be especially obnoxious. It is well known that our ladies are ever in seclusion. No man unless he be a very near relative is ever allowed to see them or converse with them. To be obliged to appear personally in Court will entail great disgrace on them, and their habits and customs will make it difficult if not impossible to any lady of our community if sued to explain to the judge any defence she may have to any action brought against her, As according to Mohammedan law our ladies can hold property in their own right, and as marriage places them under none of the disabilities to which a married woman under the Roman Dutch Law is subject and as our married ladies can sue and be sued without the intervention of their husbands it is obvious that if any ill-disposed person wishes to expose any lady of our community to shame—shame which may appear trivial to the Western mind but which is very real to us—he can easily do so and at small expense. At present the costs that such a person incurs in the District Court through a false claim is a sufficient deterrent, but under the new Ordinance it will be open to any one to falsely sue a lady of our community and after subjecting her to appearing in public quietly withdraw the action at the cost of a few rupees as costs.

3. The proposed removal of the right of appeal on questions of fact will be an infringement of the hitherto acknowledged rights of suitors to have their cases ultimately inquired into and adjudicated upon by the Hon. the Supreme Court and will deprive the suitors on the only safeguard against hasty and ill-considered judgments of judges not trained in the land.

4. Lastly your petitioners would submit that they are vitally interested in the proposed change. As owners of houses and lands and as proprietors of shops they are often obliged to resort to Courts for the purpose of recovering moneys varying from R100 to R300, as rent due from monthly tenants, and on leases and from defaulting customers. If your Petitioners really believed that the objects sought to be attained would be achieved by the proposed changes, it stands to reason that it would be to their interest not to oppose the proposed Ordinance.

Law disputes among the members of the community often involve important questions under the Law of inheritance peculiar to them. They object that they should be forced to submit a determination of their rights to inexperienced Judges and without any opportunity of obtaining (except by leave) the decision of the highest tribunal in the land.

5. The petitioners beg to annex hereto a copy of the proceedings of a large influential and representative meeting which was held at the Floral Hall after due notice to the public in all the local newspapers.

Wherefore the petitioners pray that your Hon'ble Council will be graciously pleased not to give the proposed measure the sanction of law.

For which the petitioners as in duty bound, shall ever pray.

BUDDHIST TEMPORALITIES: PETITION.

The Hon. A. De A. Seneviratne:—I beg to present a petition from the High Priests of the Colleges of Kandy referring to the proposed amendment of the Buddhist Temporalities Ordinance. The petition which was held as read is in the following terms:—

To His Excellency Sir A. E. Havelock, G.C.M.G., Governor of Ceylon and President of the Legislative Council and Commander-in-Chief, &c., &c., &c.

The humble memorial of Tibbotuwawe Siddharta Sumangala Maha Nayeka Terunnanse of Malwatte Vihare, and Kanulcyadde Piyadassi Mahanayaka Terunnanse of Asgiriya Vihare, Kandy.

May it please Your Excellency,

Your Excellency's memorialists most respectfully beg leave to submit the following facts referring to the proposed amendment of the Buddhist Temporalities Ordinance.

In terms of the Clause 5, of the Covenant of 1815, entered into by Sir Robert Brownrigg with the Kandyan Chiefs, the English Government undertook to protect the religion of the country, maintain the due performance of the ancient rites and ceremonies connected therewith, and to support the clergy.

2. These conditions continued to be fulfilled without any abatement until the year 1847, when under instructions from the Government, Sir James E. Tennent, the then Colonial Secretary, transferred the Dalada Maligawa, and the custody of the tooth relic with all its appurtenances to the Chief Priests of the Asgiriya and Malwatte Establishments, and the Diyawadana Nilame; on the understanding that they should be thenceforward responsible? for everything concerning the said Temple.

3. By this arrangement the custody of the tooth relic and the duty of performing the religious rites and ceremonies at the Dalada Maligawa devolved upon the memorialists, who have since then discharged their duties satisfactorily.

4. Under these circumstances the memorialists beg respectfully to protest against the proposal to include the Dalada Maligawa within the operation of the Buddhist Temporalities Ordinance, and urge the following as further reasons against the proposed measure:—

1. The trustees appointed under the provisions of the Ordinance give no security for the proper performance of their duties.

II The trustees have proved to be utterly reckless in the management of temple funds and already several temples have been ruined by the gross mismanagement of these men.

5 If there should be accru[illegible] incomes and expenses of the Dalada Mal[illegible] humble memorialists submit that the [illegible] the proper party to undertake the work.

6 In conclusion the memorialists pray that Your Excellency and the Honorable members of the Legislative Council will take the above stated facts into your gracious consideration and preserve to the priesthood the continuation of the right of custody of the Tooth Relic and all its appurtenances—a right, which they have enjoyed since the time the Relic was brought to this island.

For which act of justice Your Excellency's humble memorialists shall ever pray.

Kandy, 22nd October, 1895.

COURTS OF REQUESTS ORDINANCE PETETION.

The Hon. A. DE A. SENEVIRATNE:—I beg to present a petition from the Lowcountry Sinhalese inhabitants of Ceylon regarding the Courts of Requests Ordinance. I move that it be read.

The Hon. P. COOMARASWAMY seconded. Agreed. Petition read as follows:—

To His Excellency the President and the Hon'ble members of the Legislative Council of Ceylon.

The humble Petition of the undersigned Lowcountry Sinhalese inhabitants of Ceylon, sheweth,

That your petitioners beg leave to humbly protest against the draft Courts of Requests Ordinance—

Your Petitioners would point out that the required personal attendance of defendants in Court would entail on them considerable expense, inconvenience and waste of time whenever summoned and would be used by dishonest and unscrupulous litigants as a means of causing vexation, annoyance and even insult. Many of your Petitioners are merchants of the Sinhalese Community with whom time is money and who are compelled by reason of their business to be absent from Colombo. They humbly protest against being compelled to dance attendance in Court awaiting their turn to state their defence orally to the Commissioner. Some of your petitioners are resident and carry on business at Moratuwa. It would be more than inconvenient for them to be required to waste a whole day perhaps in having to come down to Colombo to be present in Court there. At present they need only communicate in writing with their legal adviser who on receipt of all information would be able to file answer. Again the required personal attendance of Sinhalese ladies in Court would be resented by the entire community. This may seem a small matter to those imbued with English ideas, but among the natives as is well known there is always a natural disinclination for their ladies to appear in public.

Your petitioners would also respectfully protest against the proposed increase of jurisdiction to the Courts of Requests, the appointment of itinerating District Judges and the withdrawal of the right of appeals. As tax-payers they humbly protest against the appointment of itinerating District Judges. They do not see why the revenues of the Colony should be made to pay for the batta and travelling expenses of the Judge and his staff. In most of the town there is only one Court. Should the proposed scheme pass into law a new Court House would have to be built for the itinerating Judge or else the local Judge will have to remain idle and all his cases postponed till the former has left the station.

As suitors in Courts of justice your petitioners object to the removal of the right of appeal. Your petitioners confidently appeal to the statistics of appeal and they are confident it cannot be shewn that the privilege of appeal has been abused.

Your petitioners much regret that there is not in the Island a Chamber of Commerce composed of Sinhalese merchants who would be able to meet and state their views and press their conclusions on Government in matters of legislation and otherwise but they beg to state that the views they now press on Government have met with the unanimous approval of the Sinhalese people at a public meeting held in the Floral Hall of the town duly advertised in all the local English and native papers of Colombo.

Your petitioners can confidently appeal for support to the public press of the Island both English and [illegible]halese.

[illegible] petitioners also protest against the denial [illegible] of appeal which the proposed Ordinance [illegible] to enforce. It cannot be justly said that [illegible] freedom of the right of appeal now allowed to suitors is in [illegible] way abused to any appreciable extent. The provisions of the new Ordinance [illegible] safe-guard allowed to suitors will [illegible] them and they strongly prote[illegible]sions.

Your petitioners would [illegible] that the proposed legislation would [illegible] most important privilege, namely [illegible] the right of arresting a dishonest debtor on mesne process. As it is this right is confined to District Courts and is allowed when the debt or damages is R300 and over. There is no provision in the [illegible] Ordinance when the jurisdiction of Courts of Requests is raised to R300 to conserve this right.

Your petitioners therefore pray that it may please your Honourable Council to give some attention to the united voice of the public as expressed in the public meetings convened after the notice to discuss the provisions of this Ordinance and not give the proposed Ordinance the sanctions of law.

For which your petitioners as in duty bound shall ever pray.

MILITARY AND NAVAL STORES REBATE.

The Hon. W. W. MITCHELL: Sir, I beg to give notice that at next meeting of Council I shall move for a return showing the total amount of Customs Rebate for each year from 1st January 1892, which is paid on military and naval stores, together with a list of those stores and their quantities, in accordance with the Ordinance of 1892.

CEYLON PENAL CODE AMENDMENT.

The Hon. the ATTORNEY-GENERAL:—I rise

sir, to move the first reading of "An Ordinance to amend in some respects Ordinance 2 of 1883 intituled 'The Ceylon Penal Code.'" The object of the Bill now before Council in no way affects the rights of those who may be entitled by law to marry more than one spouse, nor does it in any way interfere with any class of the community who are legally entitled to commit polygamy. It merely renders penal the illegal act of any person who, having a husband or wife living, marries a second wife, in any case in which such second marriage is illegal by reason of its having taken place in the lifetime of such husband or wife. For example, say a man whose legal status does not permit him to contract a second marriage during the lifetime of his first wife, so marries a second time, he will render himself obnoxious to the provisions of this Ordinance. In short, the Ordinance only penalises that which at present is illegal. I move the first reading of "An Ordinance to amend in some respects Ordinance 2 of 1883 intituled 'The Ceylon Penal Code.'"

The Hon. the Acting COLONIAL SECRETARY seconded. Bill read a first time.

The Hon. the ATTORNEY-GENERAL :—Sir, I give notice that, with the permission of Council, I will take the second reading at next meeting of Council.

KANDY WATERWORKS ORDINANCE.

The Hon. the GOVERNMENT AGENT, CENTRAL PROVINCE (Mr. Allanson Bailey):—Sir, I beg to bring up "An Ordinance to repeal the Ordinance No. 29 of 1884 and to amend the 'Kandy Water Works Loan Ordinance 1884," and move, that the opinion of the Law Officers of the Crown upon it be read.

Report read

The Hon. the GOVERNMENT AGENT, CENTRAL PROVINCE (Mr. Allanson Bailey):—I beg leave, sir, to move that the Bill be read a third time and passed.

The Hon. the ATTORNEY-GENERAL seconded.

Bill read a third time and passed.

OATHS AND AFFIRMATIONS.

The Hon. the ATTORNEY-GENERAL :—Sir, before proceeding with the third reading of "An Ordinance to Consolidate the Law relating to Oaths and Affirmations in Judicial Proceedings and for other purposes," I move that it be recommitted for the purpose of making certain amendments in Clause 7 and Clause 12 of the Bill. With reference to Clause 7, I would move that after the words "all oaths and affirmations" the insertion of the words "and all affidavits." This is moved by me in view of the suggestion made by the Hon. the Tamil Member, that affidavits shouldbe included.

The Hon. P. COOMARASWAMY :—Sir, I rise to a point of order. I wish to know if the Ordidance can be recommitted for any particular purpose, thereby preventing discussion on the whole Ordinance. I contend that the whole Ordinance should be recommitted bodily and it should be open to any member to discuss any part of it.

The Hon. the ATTORNEY-GENERAL : I have no objection to a discussion on the bill. I simply mentioned two clauses.

The Hon. P. COOMARASWAMY : —Is it open to reconsider anything that has been passed?

The Hon. the ATTORNEY-GENERAL :—Not to reconsider what has been passed by Council.

Bill recommitted.

The Hon. the ATTORNEY-GENERAL :—I move, sir, the insertion of the words "and all affidavits" as I have indicated.

The Hon. P. COOMARASWAMY :—Sir, with reference to that amendment that has just now been moved by the Hon. the Attorney-General, which is a very proper one, I think the word "administer" must be altered. You cannot "administer" an affidavit. I simply point it out.

The Hon. the ATTORNEY-GENERAL :—What word does the Hon. gentleman suggest. I have often administered an oath on affidavit.

The Hon. P. COOMARASWAMY : —If my Hon. friend thinks affidavits can be "administered" I have nothing more to say. I only point it out for his consideration. Might I suggest the word "on" affidavits?

The Hon. the ATTORNEY-GENERAL :—I have no objection. I would however suggest to meet the views of my Hon. friend to insert the words "for any other purpose" leaving out affidavits altogether I moved the alteration of the clause merely to meet the wishes of my Hon. friend.

THE HON. P. COOMARASWAMY :—I think that last suggestion of my Hon. friend is a very good one.

Council resolved to insert the words "Or for any other purpose." The clause being made to read :—

All oaths and affirmations made under either of the two last preceding sections *or for any other purpose* shall be administered according to such forms and with such formalities as may be from time to time prescribed by rules made under Section 53 of "The Courts Ordinance 1889" and until such rules are made according to the forms and formalities now in use.

THE TRIAL OF PERJURY CASES.

Clause 12 of the Bill which is in the following terms was next taken up.

If any person giving evidence on any subject in open court in any judicial proceeding whether civi or criminal, gives in the opinion of the court before which th[illegible]ding is held, false evidence [illegible] section 190 of "The Ceylon [illegible] it shall be lawful for the court, if such [illegible] be the Supreme Court, summarily to sentence such witness for a contempt of the court to imprisonment, either simple or rigorous, for any period not exceeding three months, or to fine such witness if any sum not exceeding two hundred rupees, or in such court be an inferior court, to order such witness to pay a fine not exceeding fifty rupees and in default of payment of such fine to undergo rigorous imprisonment for any period not exceeding two months.

The Hon. the ATTORNEY-GENERAL :—Sir, with the permission of Council I wish to move before the Bill is committed, to insert after the words "two months," in clause 12 of the bill, the words "whenever the power given under this section i exercised by a court other than the Supreme Court the Judge or Magistrate of such court shall record the reasons for imposing such fine.

The Hon. A. DE A. SENEVIRATNE :—I wish to know if we are in Committee or not.

The Hon. P. COOMARASWAMY :—We are in Committee.

The Hon. the ATTORNEY-GENERAL :—I move in Committee the insertion of these words. Strictly speaking amendments should be passed before going into Committee.

The Hon. A. DE A. SENEVIRATNE :—With regard to Section 12, I wish to make a few observations. I think section 12, sub-section 1 ought to be further amended. I move the insertion between the words "summarily" and "to" in the seventh line of the words "to try and on conviction" As the clause reads at present a witness who is disbelieved by the Court, without his being called upon to make any defence, without his getting an opportunity of explaining the state-

ment which is disbelieved, may be summarily punished. Now, at present, the Supreme Court has this power. If a witness makes a statement before it, contradictory to a statement that the witness has made before, the Supreme Court has power to try that man for giving false evidence. The Supreme Court may try him before the same jury before which that false evidence was given. That was done only the other day before Mr. Justice Browne. A witness prevaricated and contradicted some statement he had previously made. The witness, at the conclusion of the trial was put in the dock before the same Jury, and evidence was given as to the contradictory statements he made. He was convicted, and rightly so, so that a summary method of punishment is given to the Supreme Court. But the effect of this clause is to make it still more summary because, without giving the witness time to explain, without giving him an opportunity of making a defence, he may be summarily punished. And not only is this power given to the Supreme Court, but it was given to inferior Courts as well —to the Police Court. I need call attention to one case only which occurred recently. I refer to the case in connection with the Post Office defalcation. A certain person who was employed as a clerk in the Postal Department was tried in the District Court the other day. When a witness, the toll-bar keeper at Wellawatte, gave evidence, the District Judge called him a liar and as the witness was disbelieved, the case fell through. Now, though that very same person had been believed by the Police Magistrate Mr. Moor, the District Judge disbelieved him. If this law had been in force, the District Judge, without calling for any explanation, without giving him any opportunity to explain, could then and there have sentenced him to the fine prescribed in the clause. I think it is desirable that all persons should be given an opportunity to make a defence and time to explain. Further, there is another reason. This is an offence punishable as contempt of Court. Now it is the rule of English law where a judge punishes a person for contempt of Court, that the person so punished should have an opportunity of explaining and making a defence, and that the Court should have time to cool down; because the contempt might be of such a nature that the Court might be carried out of itself and, in hot haste, inflict a punishment for which it might repent subsequently. However it is desirable, I admit, to punish, and it is the object of this Ordinance to punish persons who attempt to deceive the Courts, and I think it is desirable that the Court should have this power. At present, if a person gives false evidence he is triable before the District Court. You have only to refer to section 190 in schedule 2 of the Penal Code—giving or fabricating false evidence in a judicial proceeding is an offence punishable with imprisonment for seven years and a fine, and it is one triable by the District Court, not summarily by the Police Court. If this Bill becomes law the offence of being disbelieved is to be punished in the same manner as an offence under clause 190 and the Police Court which has no jurisdiction under the Code now to try summarily, may at once without any trial whatever, punish summarily. According to the present law there must be a trial, and there must be a non-summary investigation and a committal before the District Court. I have no objection to do away with this cumberous procedure where a witness has told a lie, but we are going beyond that. We are giving Courts the power to punish a man without a trial. I don't think that is advantageous to the country, and it is not at all likely to conduce to fair Administration of Justice. In addition to the amendment I have already proposed, in order to carry out the same idea, I also move the insertion of the words "to try and on conviction" between the words "Court" and "to" in the last line but three. If my motion is given effect to, the first portion of the clause will read "it shall be lawful for the Court if such Court, be the Supreme Court, summarily to *try and on conviction* to sentence such witness" and in the latter portion "or if such Court be an inferior, Court, to *try and on conviction to* sentence such witness." That is a distinct improvement on the present cumbersome system and you give a witness who is disbelieved by the Court, an opportunity a chance of explaining the statement which has been disbelieved. I may mention, sir, that I sent a notice of my intention for moving for the recommittal of this Bill with the view of amending section 12 in the manner pointing out. The Clerk thought there was no necessity to put it in the Order or the Day and that it would be competent to move an amendment without such notice appearing in the Order of the Day.

The Hon. the GOVERNMENT AGENT, WESTERN PROVINCE (Mr. Dawson):—Sir, I rise to a point of order to ask if the proceedings are regular. The recommital of the Bill can only take place when the Bill comes up for the third reading on the Report of the Law Officers of the Crown. I am sorry to be obliged to stand up because it is not my duty to do so. The second reading is not the time, but the third. The Attorney-General should take the opportunity under section 61 which runs as follows:—

> At the first convenient meeting of the Council after the report of the Law Officers shall have been received, the Bill shall be brought up by the member in charge thereof; when it shall be competent to any member to move the adoption of the substance of such further amendment as he may deem necessary. And in the event of any one or more of such motion being carried the Bill shall be recommitted for the purpose of framing and inserting the same, and making any necessary alteration; consequent thereupon but no amendment affecting the principal Bill shall be in this stage discussed in the Committee which shall not have been proposed and carried in the Council previous to the re-commitment of the Bill or, when all the amendments and alterations shall have been gone through, the Bill shall be again brought up to the Council and if the Council shall deem it necessary, be again submitted to the Law Officers, and again brought up to the Council.

That is the proper order in which to proceed.

The Hon. P. COOMARASWAMY:—I rise, sir, to a point of order. My Hon. friend the Government-Agent, Western Province asked whether the proceedings are regular or irregular. It was competent for him when the motion for a recommital was made to object to it. He did not object, he was a party to the proceedings which were with the leave of the whole Council. I submit it is too late now to raise such an objection.

The Hon. the ATTORNEY-GENERAL:—I think the matter might be allowed to drop and the Hon. the Sinhalese Member's motion might be considered by Council. The mistake was largely due to Mr. Coomaraswamy having pulled me up when I was really in order. As a matter of fact I believe that I am the only Member of Council who has been in order.

The Hon. P. COOMARASWAMY:—I wish to point out that this Bill is an exact copy of the Act of

1873, No. 10 of India. I believe so, and I speak under correction. I believe that when the Bill was read for the first time the Attorney-General stated so.

The Hon. the ATTORNEY-GENERAL :—I stated briefly what the provisions of the Bill were.

The Hon. P. COOMARASWAMY :—Here is a recognised book under order of the Court which gives the Act No. 10 of 1873 of which the Act now before Council is an exact copy.

The Hon. the ATTORNEY-GENERAL :—My Hon. friend is wrong. There are a good many amendments.

The Hon. P. COOMARASWAMY :—Notably this clause which we are discussing. This clause, does not appear in the Indian Act 10 of 1873 and I wish to know why it has been put in here at all. I object to the whole of that clause, but, as I know it is no good pressing that point before Council now, I shall certainly support my friend the Sinhalese Member in the amendment he proposes. It seems to me to be entirely unjust that a man should be convicted without a trial. A witness is examined and the magistrate believes or disbelieves him, but that does not prove that the witness is lying. When a man comes before me I may believe that his statement is not true, but for all that his statement may be true. In the Post Office case there was a witness who was believed by the Police Magistrate. The toll-keeper who gave evidence in that Post Office case stated before the magistrate that the Post Office clerk gave him a R100 note to be cashed. That witness was believed and on the strength of his evidence the case was committed before the District Court. A more experienced Judge called him the "biggest liar" he had ever seen. That is, in one Court the Magistrate believes a man; in another Court he is disbelieved. Surely you won't punish a man, forsooth because the man who happens to be on the bench disbelieves him. There is another case to which I shall refer by way of illustration :—A 'rickshaw coolie swore that a certain interpreter of a Court went and had a drink at some hotel with another witness. That 'rickshaw coolie was believed though the Police Court Interpreter was called and denied it and confirmed his statement by the evidence of another man who was also stated to have gone into the hotel for the purpose of refreshment. But what did the Police Magistrate do? On the strength of the evidence of the 'rickshaw coolie he calls one man, who occupies the position of a Court Interpreter, the other a well-known Mohandrim, he calls them both liars. If the Police Magistrate who believes a 'rickshaw coolie and calls two respectable men liars, were allowed this power he would straightway send them both to jail for perjury. And, sir, this is not as if it were a junior Police Magistrate, somewhere far away from Colombo, but it was done by a Magistrate of experience who has presided over the Police Court at Colombo. This is a case that occurred very recently and it is only one out of a hundred where a Judge has believed a man and another has disbelieved him. In these circumstances, in order to guard the liberty of the subject, to guard it against inexperienced men who are presiding over our Courts.—I say "inexperienced" advisedly, because the Attorney-General has admitted it—sending innocent persons to jail, opportunities for trial should be given in order that a witness may, if he thinks fit call other witnesses to prove that the statement made in Court by him was the truth.

The Hon. ABDUL RAHIMAN:—Sir, it is a very hard thing to punish a man summarily for giving false evidence. Perhaps when a man is giving evidence the Judge might think him impertinent or something like that and he might take a severe view and many a poor man might be harshly dealt with. In Ceylon the laws are no doubt being improved very much, but there is a tendency to administer the law quickly and summarily by which injustice might be done. Therefore I think that English system should be adopted. When a witness was being examined he might very easily make a mistake. He might say it was such and such an hour, giving a wrong one by mistake, when a certain thing happened. People do not use watches much in Ceylon and errors as regards time are easily made. Therefore I think one should take care that a proper trial is given to every man.

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS (Mr. L. F. Lee):—Sir, the amendment which has been introduced by the Hon. the Attorney-General, which provides that the reasons for imposing a fine shall be given by the Police Magistrate appear to me to provide a sufficient safeguard against the exercise of the power unjustly by the Police Magistrate. The trial which the Hon. the Sinhalese member requires as a precedent of conviction is held, as a matter of fact—has already been held in the course of the proceedings. The evidence upon which the Magistrate has arrived at the conclusion that the evidence given by a witness is false is exactly the evidence the Magistrate will have to rehear if he was to charge the witness and to try him. I do not think the power is likely to be exercised very frequently. It is a very large power to put in the hands of a Magistrate, but as I have said, I do not think it is likely to be exercised very frequently and that and the obligation laid upon the Magistrate using it to state his reasons for so doing are sufficient safeguards.

The Hon. the ATTORNEY-GENERAL :—Sir, I cannot, claim to be the father of the section. It is taken from an Act which has been introduced into more than one colony, and it is in force in the Straits Settlements at the present time. This section, I think, will be of great use in the Administration of Justice in this colony. It restricts the power of the Magistrate to a fine of R50 and if he does fine a man R50 the Act provides that there shall be an appeal to the Supreme Court. In the Straits Settlements the appeal was to the Attorney-General. I thought it disirable that the appeal in every case should be to the Supreme Court. I regret to state that we suffer largely from perjury and false evidence, The mere fact of introducing this provision into Ceylon is for the purpose of reducing perjury and false evidence, as far as we possibly can. I hope members of this Council will support me in passing the clause as it now stands.

The Hon. the TREASURER (Mr. Saunders):—Sir, I feel bound to vote against this amendment but I think it right to say that it seems to me it is a very wide power to give especially a minor Court, a Court to sentence a man to a fine, even a small fine of R50 without any trial. I had always supposed that the Supreme Court had been excessively strong on this point, especially with reference to an opinion expressed by a Judge or Magistrate that a witness was giving false evidence. But I cannot suppose that a clause of this kind would have been inserted in the Bill without proper consideration and the Hon. the Attorney-General has assured me that this clause has been discussed by minor officers of justice in this Island and has received their approval. Coming to the Council as I do without having heard the merits of the Bill

discussed in its previous stafs I feel bound to vote for the Bill.

The Hon. A. DE A. SENEVIRATNE:—Sir, a remark fell from the last speaker signifying that officers of justice had been consulted with regard to this clause. I must protest against this kind of consultation in secret. Why is not the result of the consultation placed before Council? What is the good of stating that one Member has conferred with certain Judges who expressed their views favourably on the bill. I see no force in it at all. I think the opinion of the Judges would be very weighty indeed, but such opinion ought to be laid before this Council in order that members of Council might be able to scrutinize it. I think it is very unfair we should be treated in this fashion.

The Hon. the ATTORNEY-GENERAL:—With regard to the Judges of the Supreme Court my friend the late Chief Justice Sir Burnside has often exercised a much wider jurisdiction. I have known him give a sentence of 6 months.

The Hon the Acting PRINCIPAL COLLECTOR OF CUSTOMS:—I have known of a year.

The Hon. the ATTORNEY-GENERAL (continuing):—We have limited the power of the Judges of the Supreme Court We have reduced it to three months and the Police Magistrate's power is limited to a fine of R50 subject to appeal to the Supreme Court.

H.E the LIEUT.-GOVERNOR:—Does the Hon. the Sinhalese Member wish to take a division.

The Hon. A. DE A. SENEVIRATNE:—Yes, sir.

Council then divided, the amendment of the Hon. the Sinhalese Member being negatived by 11 votes to 4.

The Hon. the ATTORNEY-GENERAL:—I move sir, that the words 190 in Section 12 be changed to 188. Correction made.

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS:—Sir, I move the amendment of sub-section 4 Section 12.

In lieu of exercising the power given by this Section, the Court may, if it thinks fit, transmit the record of the judicial proceeding to the Attorney-General to enable him to exercise the powers conferred on him by "The Criminal Procedure Code, 1883," *or proceed in manner provided by sub-section (b) of section 149 of the said Code.*

I move that the words *after Criminal Procedure Code 1883* be deleted, and that the following words be inserted:—"Or the Court shall pooceed in manner directed by the 835th section of the Civil Procedure Code, 1889, and by the Criminal Procedure Code, 1883." It is these two Sections which direct the operations of a Judge when a witness is guilty of perjury.

The Hon. the ATTORNEY-GENERAL:—Now that the amendments have been gone through I bring up the Bill before Council and move that the Report of the Law Officers of the Crown be read upon it. If it is necessary it can again be referred to the Law Officers.

The Hon. A. DE A. SENEVIRATNE:—I think it is very desirable that all the amendments should be produced together in order that Hon. Members may have an opportunity of studying the amendments. It is a very undesirable proceeding to take the third reading immediately after certain amendments have been introduced.

The Hon. the ATTORNEY-GENERAL:—It is for the Council to say.

H.E. the LIEUT-GOVERNOR:—The Council will probably express its wishes on the motion for the third reading of the bill being put.

The Hon. P. COOMARASWAMY:—I don't object to the procedure suggested, but I would call the attention of the Council to Rule 60 which states,

The bill as amended shall be circulated amongst the members and a copy be transmitted by the Clerk to the Law Officers for their opinion.

The Hon. the TREASURER:—The point of order is very clear. Clause 61 states that when a Bill has gone through sub-Committee it shall again be brought up by Council and if Council shall deem it necessary it shall again be submitted to the Law Officers of the Crown. If any Member wishes to move that it be remitted to the Law officers of the Crown he can do so and we can then proceed to business.

The Hon. P. COOMARASWAMY:—After what the Hon. the Treasurer has pointed out I think the course suggested by the Attorney-General is quite correct.

The Hon. the ATTORNEY-GENERAL:—All the Law Officers of the Crown say is that "there is no legal impediment to its execution by the colonial tribunals &c."

Report of Law Officers of the Crown read.

The Hon. the ATTORNEY-GENERAL:—Sir, I move the third reading of an Ordinance to consolidate the "Law relating to oaths and affirmations in Judicial proceedings and for other purposes."

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS seconded.

The Hon. A. DE A. SENEVIRATNE:—I would divide Council on the third reading.

Council divided: Ayes 11, Noes 4.

Bill read a third time.

BUDDHIST TEMPORALITIES ORDINANCE.

The Hon. the ATTORNEY-GENERAL:—I rise sir, to move the second reading of "An Ordinance to amend the Buddhist Temporalities Ordinance 1889." I explained the objects of the Bill at the first reading and I do not intend to say anything more.

The Hon. A. DE A. SENEVIRATNE:—I have read my Hon. friend's opening speech when he introduced the Bill to amend the Buddhist Temporalities Ordinance. I have failed to see the necessity for these amendments. He has not told us in his speech and I do not see that any necessity exists for the proposed amendments except in the case of the Dalada Maligawa. I trust that this, like the last Bill we have had to do with, is not what may be called a Government Bill so that, judges or others in high position having expressed their opinion, the official members of Council are bound to vote in a certain way. There can be no doubt the Buddhist Temporalities Ordinance was intended to confer a very great benefit on the Buddhist Community It was passed with the very best intentions and a machinery that had not been tried in this country before, was, for the first time, brought into action. Certain Trustees existed before for the management of Temple funds and these trustees were removed on the ground that they had misappropriated the funds belonging to the trust. A certain other class of Trustees was appointed. The reason for the charge was that buildings were neglected, religion was not advanced, money and lands which were left for religious purposes were misappropriated, and temples were left in ruins. But this ordinance was passed in 1889. It has been in operation ever since and we hear on every side that the Buddhist Temples are in a worse condition, the funds are not devoted to the purposes for which they were intended, priests are starved in certain cases and, certainly, the temples are going into wreck and ruin. Since the Ordinance has worked in that way are we going to give to these trustees,

greater power? Are we going to transfer the Dalada Maligawa and its funds to the same class of men who have, so far, not done any thing for the good of the places over which they had charge. I would submit that it is our duty to see that the funds are not misappropriated. We have a duty by the funds of the Buddhist Community. It should be remembered that certain lands belonging to these Temples were exempted from taxation before, and if the Government in the days when they levied the tax, gave it up for the benefit of that community they had an undoubted interest in looking after these lands. They still have this interest, having entrusted a certain class of persons with the management of these funds, and therefore, we should see that the funds are properly managed. But are we going to give greater power, to the persons who have mismanaged these funds. The Ordinance enables the Governor to appoint a Commissioner, and a Commissioner was so appointed, I believe some years ago. The report of the Commissioner was very much to the effect that the Trustees had misappropriated the funds. He thought that the Buddhist Temporalities Ordinance enabled *laymen* to misappropriate what Priests had perhaps misused before. In the case of the incumbents there is a certain safeguard. They are men without any families and are responsible to their community. The lay Trustes are men with families. If the incumbents misappropriated money their own community would certainly condemn their action, but in the case of the Trustees they were only amenable to the District Committees. What have the District Committees done to prevent Trustees misappropriating the funds? The District Committee appointed the Trustees and the Trustees are only amenable to the District Committees, so that, between them, the property is mismanaged and the public can in no way interfere. I think therefore to strengthen the hands of the District Committees or the Trustees would be the greatest mistake in the world. I shall be obliged to oppose the amendments that have been proposed, especially as my Hon. and learned friend has not given any reason for these amendments. If it can be shown that, in in so far as in them lay, the Trustees have taken this money either for the furtherance of education, for improving Buddhist places of worship or for acognate purpose I shall not object to the Dalada Maligawa managed in the same way; but, seeing other buildings have been mismanaged, I think it would not be right on our part to give the custody of the Dalada Maligawa also to the same people. When the Buddhist Temporalities Ordinance was introduced I thought so well of it that I seconded the first reading of the Bill in Council and I believe that, if amended in other directons than those proposed, it would work a great deal of good to the community. I think amendment would be further postponed if necessary we allowed the proposed amendments to be passed. There is one other objectional amendment and that is in Section 4. Referring to the Ordinance it will be seen that the incumbents who are here required to furnish these particulars have nothing whatever to do with these particulars. It is the Trustees that are in charge and the incumbents are deprived of the trust and yet they are compelled, if this amending Ordinance passes, to furnish accounts. So I think it would be a very unfair way of treating the incumbents. I would refer more especially to section 14 of the Ordinance. It casts the duty upon the District Committee of ascertaining and recording in a book, to be kept for the purpose, the name and situation of each temple in the District, the name of the Trustees of each temple, the average annual income for the preceding three years, the annual offerings, &c. These are particulars to be ascertained and recorded in a book by the District Committee, and yet it is the incumbent who is punished if he fails to furnish any information. How can he possess any information? It is impossible, because he is deprived of the trust entirely. These are accounts that must be kept by the District Committee or the Trustees while there is a penalty imposed upon the incumbent who fails to furnish these particulars. I submit that would be very hard indeed. I failed to notice—I should have mentioned it before in the 4th section that I cannot see the object in making Trustee include Trustees or a majority of Trustees. The Trustees are empowered to do certain things. Is the majority of Trustees empowered to do what a particular Trustee is alone empowered to do by the Ordinnance, one Trustee being appointed to each temple. In Section 17 it is stated "there shall be one Trustee for every temple" and yet the majority of the Trustees may do exactly what the one Trustee does. It would be very hard on individual temples if the majority are to manage every temple. These Trustees, being appointed by the District Committees, and accounting only to the District Committee do not mind what individual temples suffer, and so long as they do not offend the District Committee, they can have their own way and mismanage in any manner they please. With regard to these matters perhaps I am not in a position to express an opinion on management or mismanagement of the funds so well as gentlemen who are Buddhists themselves can do. We have a member of this Council who can express an opinion. Let him declare here that there is one temple that has profited by the management of these trustees and I shall be prepared to consider the amendments, but believing as I do, and hearing on every side that Temple funds are mismanaged I think it would be unreasonable to expect amendments of this kind to be acceptable to this Council.

The Hon. the KANDYAN REPRESENTATIVE (Mr. W. Ellawela):—Sir, the Buddhist Temporalities Ordinance came into force some five years ago. Immediately after that Trustees were appointed and Committees were formed and up to the present day I have not seen one single Committee which can show actual work. Every Committee had gone half way or no way at all and I don't expect in the future to see them showing any work. The temples, especially the Minor temples are going into wreck and ruin through the mismanagement of the trustees and I think, it is useless to go in for these partial amendments. If it is the intention of the Government to work the system, I say this, that the whole Ordinance should be remodelled and not in parts, and the machinery that is now provided for the working of the Ordinance should be altogether remodelled, with a provision to have a Civil Servan as the motive power of that machine. Until that is done I would never expect to see any work done.

The Hon. P. COOMARASWAMY:—Sir, I desire to say only a very few words. I do not pretend to know much about the Buddhist Temporalities or the principle of the Ordinance. But my attention has been directed to one fact and

that is, if the Dalada Maligawa is brought under this Ordinance, the Kandyan Chiefs will be placed in a position very prejudicial to themselves. Whatever the Buddhist religion may say about caste, it cannot be forgotten there is a caste system prevailing among the Kandyans very strongly; and it is feared that if the Divada Nilame who is a man of great importance, were thus brought under Trustees his position would be very much lowered in the eyes of the people; for, it must be remembered that under the principal Ordinance the Trustee is nominated by every male householder, and therefore if a majority of male householders happened to be men of low caste then it follows they can and may select a low caste man as Trustee who will, under the powers of this Ordinance, override the high position of the Divada Nilame. That is one of the things that has been pointed out. The second is the objection that was taken by the Hon. the Sinhalese Member to the Incumbents being called on to furnish certain information required by this Ordinance. How, I ask, can the Incumbents supply this information when the Trustees are in possession? Before the trustees had taken charge the duty might have been laid on the Incumbent, but I cannot understand how you can call upon a priest to give the particulars mentioned in this Ordinance—to give an account of funds of which he has not been in charge for over five years. Another point to which I would call attention is, that it is not fair you should inprison them for not furnishing these particulars. To imprison priests who are, as it were, worshipped by the laity, would I think, be a very hard thing. When the Marriage Registration Bill was before Council the mover of the Bill, the Hon the Principal Collector of Customs, very properly deleted the clause which enacted that clergymen who failed to furnish certain forms under that Ordinance should be imprisoned. In the same way I would suggest, that what is not good for Christian Ministers is not good for Buddhist Priests. I think that nothing of the nature of imprisonment should be inserted in the Ordinance. Another matter to which my attention has been called is section 7 rendering illegal the alienation of immovable property to any Buddhist Priest unless under certain conditions. You are trying to remove from a class of Her Majesty's subjects the right to which every subject is entitled. We have nothing to do with what the Buddhist religion says about priests owning property, and surely it is not for this Legislative Council to deprive any of Her Majesty's subjects of that right if he choose to exercise it. You are surely doing an injustice that cannot be properly estimated at the moment. To say that no man, because he becomes a Buddhist priest, can receive a gift, can own land, can have a mortgage, would be a grievous wrong. These objections have been pointed out to me both by laymen and priests, and if my Hon. friend, the Attorney-General, intends to commit this Bill to a Sub-Committee I trust these matters will be discussed before it. The Bill is essentially one which should go before a Sub-Committee. I am certain if these matters are brought to the notice of the Attorney-General and the Sub-Committee they will receive every consideration.

The Hon. the ATTORNEY-GENERAL:—I may say it was my intention when I moved the second reading of the Bill to state that it would go to a Sub-Committee and all the subjects which have been so ably discussed here will go before that Sub-Committee. If that assurance is satisfactory, discussion can be carried on in Sub-Committee.

The Hon. P. COOMARASWAMY:—Do I understand that all these particulars would be considered?

The Hon. the GOVERNMENT-AGENT, WESTERN PROVINCE (Mr. Dawson):—The old Ordinance has been referred to pretty freely by members of Council. It would only be the amendments that would be discussed in Committee, I presume.

The Hon. the ATTORNEY-GENERAL:—Certainly; according to the rules of this Council we cannot consider the provision of the old Ordinance.

The Hon. Sir JOHN GRINLINTON:—Would it not be in the power of the Committee to discuss any subject other than in the present amending Ordinance, for, so far as I can see, the Ordinance would only remedy one evil? There are several things in the old Ordinance which require attention. I took a part, a very considerable part, in passing the original Ordinance, and it has been represented to me that matters in it require reconsideration, and I think they do. I would like to see the Bill recommitted and to have a full discussion the subject.

H.E. the LIEUT.-GOVERNOR:—If the Bill is referred to a Sub-Committee to discuss it consideration of it, will be in accordance with the standing rules of the Council. One rule bearing on the point, to which an Hon. Member has referred, is that an amendment which affects the principle of the Bill would not be permissible. I understand that would be the ordinary rule of discussing Bills. The Attorney-General will correct me if I am wrong.

The Hon. A. DE A. SENEVIRATNE:—If we knew what the principle is we must not touch, then we shall know how far we can amend the previous Ordinance.

H. E. the LIEUT.-GOVERNOR:—The question now is the second reading of the Bill. I should like to say before this is put that the Attorney-General who has charge of the Bill was absent while the correspondence which led to the framing of the Ordinance was going on. All the suggestions which have been made were at the instance of the several Provincial Committees which are the elected governing bodies of the Buddhist Temporalities. It is rather disappointing to hear that this step in the direction of the franchise was so much discouraged by Members who have spoken. The Hon. Member has spoken of the appointment of a Commissioner as if Government had taken a very great step. If the Hon. Member had referred to the section under which the Commissioner was appointed he would have seen he was appointed for a certain very limited purpose. I think the Commissioner certainly went very much beyond the terms of his Commission in the remarks he made. The Hon. Member referred to the unsuccessful working of the Buddhist Temporalities Ordinance at present. I should think that was a very sufficient reason and justification for all the amendments. The Provincial Committees—the governing bodies—asked us to amend the Ordinance.

The Hon. W. W. MITCHELL: It seems to me that the time to attack the principle of this Bill is now, before it goes into Sub-Committee. What is the principle of the Bill? Is it clause 4, or what is it? If it is clause 4 which makes it the duty of the incumbent to furnish information to the Trustees, then we know where we are. I take it that this is the very essence of the Bill, and that this is what is anxiously desired by the Trustees, and that is the main reason why Government brings in this Bill. I can understand the Trustees may find the greatest possible difficulty in getting information, simply because the priests in possession choose not to give it.

The Hon. Abdul Rahiman :—Sir, I think the word "imprisonment" should be deleted from the Bill we have been discussing, and a fine, recoverable by civil action, be substituted. It is a hard thing to convic a priest for some little misdemeanour, such as are mentioned in the Ordinance. It is unfortunate that the Buddhist Temporalities Ordinance is not working very well and to the satisfaction of the whole community, though I understand in some parts of the Island it has worked very well. The secret is this. First, before this Ordinance came into existence, somebody pilfered the temple income. The Ordinance came to the rescue. Now somebody else is going to take their share. I am of opinion that a special Commissioner should be appointed for the whole Island. That would ensure the working of the Ordinance. Further I have heard of a very large extent of land being alienated and the Ordinance will continue to be ineffective without supervision. Government Agents have other duties to attend to and could not supervise, so that it would be necessary to appoint a Commissioner who might be paid from the Temple Funds.

The Hon. the Government Agent, Western Province :—I should like to say one word. It may seem strange that I am interested in this question, but I may explain that I had the honour of writing a Memorandum on the subject of the Buddhist Temporalities for the benefit of Sir A. Havelock, when he assumed duty as Governor. With your permission, I shall read the last clause of the memorandum :

"My own opinion (for which I have not been asked and which I offer therefore with an apology for my presumption) is that the registers to be made under Section XIV., and upon the accuracy of which so much depends, will, and cannot be prepared with even an approximation to satisfaction *without the aid of a Commissioner*: and I am further of opinion that the Commissioner should in each case be the Government Agent or A.G.A. of the district, and that he should receive no remuneration for his services; his duty being merely inquisitorial and supervisory, and 'all in a day's work.'"

I gather from the remarks of the Hon. the Representative of the Sinhalese that there has been disappointment at the general working of the Ordinance and that that disappointment arose from the inaction and inability of the Trustees to give the information necessary to prepare the register to which I have just referred. As to their inaction I do not know anything; as to their inability I can quite understand it. This section 4 is just such a section as gives them the power of forcing the Incumbents to give them the information upon which they are to prepare the register. How are they to prepare it otherwise? Who is to tell them what the annual offerings and the income of the Temple are, but the man who receives them? Who are to tell the nature and extent and value of the paraveni and maruveni panguwas and other lands? The Hon. gentleman said it was the duty of the Trustees to see that the funds of their temples were not misappropriated. I don't see how the Trustee can do that if he does not know what the funds are. The Hon. gentleman further remarked that all the temples were in a less satisfactory condition structurally now than they have been for years. That, I think, is open to doubt. It may be the case, but that is not the result of the Ordinance of 1889. I would ask the Hon. gentleman who seems to take an interest in this question to be kind enough to read this Memorandum which I wrote on the whole question in 1889, and I think he will be further enlightened upon this important subject.

The Bill was then read a second time.

The Hon. the Attorney-General :—I move that Council go into Committee on the Bill —Agreed.

The Hon. the Attorney-General :—I move that the following be appointed a Sub-Committee: —The Hon. the Treasurer, the Hon. the Govt. Agent, Western Province; the Hon. the Govt. Agent, Central Province; the Hon. P. Coomaraswamy, the Hon. A. De A. Seneviratne, the Hon. W. Ellawela, Sir John Grinlinton and the Hon. the Attorney-General.

The Hon. the Attorney-General :—With reference to the next Ordinance on the Order of the day, it has been standing over waiting a report from the Municipal Council. That report has not yet been received and I think it had better stand over.—Agreed.

The Hon. the Attorney-General :—I rise, sir, to move the second reading of "An Ordinance to extend the Jurisdiction of the Courts of Requests and to amend the procedure therein." I stated to the Council when I moved the first reading, the reasons for the introduction of the measure in Council. I now move the second reading.

The Hon. A. De A. Seneviratne :—Would there be any inconvenience in putting off the second reading to a subsequent date? I can see no particular hurry about it. There is no likelihood of the community suffering any great or sudden loss by the Bill being taken up later when the unofficial seats in this Council are filled. There is one vacant, a very important one as regards Bills of this kind, a Bill to which great prominence was given in H. E's. address to this Council, and I think it would meet the wishes of the public if the discussion of this Bill were taken up later. Your Excellency must be aware of the numbers of public meetings that have been held and memorials presented with regard to this Bill. Of course all these appeals can be considered, in Sub-Committee, but would it not be desirable that Government should consider these memorials and make up its mind before the Sub-Committee is to consider them.

The Hon. P. Coomaraswamy :—I think, sir, I must agree with the Hon. the Sinhalese Member in his remarks just now with regard, not only to this Court of Requests Ordinance, but in regard to the Evidence Act next in order on the agenda, as well. Both are Ordinances of a very important nature and I think it is but right we should expect that all the unofficial seats should be full before important measures like these are discussed. I believe Mr. Wendt the Representative of the Burgher Community will be here in one or two months, otherwise it would be necessary for the Government to appoint somebody to act for him. I do not think that important Bills like this should be discussed in the absence of Mr. Wendt. This is purely a matter for the legal Members of Council, and I think, it would be a pity not to have the benefit of the advice and arguments of the Burgher Representative in respect of these two Bills. Besides there is no urgency. You may pass it now or six months hence; nobody will be injured by delay. I would therefore support my Hon. friend and ask Government whether the Bill before Council and this Evidence Act, which is equally important, could not be postponed for a few weeks until the arrival of the Burgher Member. It is not our fault that Government have not chosen to have that seat filled.

The Hon. W. W. Mitchell :—Sir, I would

prefer to have the second reading deferred. I have a letter from the Hon. the Planting Member regretting his inability to be here today, and pointing out that the Planters' Association desire to discuss certain points of this Ordinance in Committee. That perhaps might be another reason for delay. I do not know when the Burgher Member may be here.

The Hon. P. COOMARASWMAY :—1st December.

The Hon. W. W. MITCHELL :—Council may be closed at the end of December.

H.E. the LIEUTENANT-GOVERNOR :—The Government is always disposed to consult the convenience of Unofficial Members. With regard to the Official Members, I may say it is immaterial how often we meet, but when the Unofficial Members are summoned up here every week merely to postpone measures for two months we shall lose our whole time. It cannot be said that these measures have been rushed in any way. Both these Bills have been published for at least two months in the *Gazette*, and the question arises: what is the use of publishing them if, after they have been published and when they come before Council, we are asked for further postponements. I will be influenced by the wishes of Council; but I feel the Government would not be doing its duty to the public in allowing business to be generally postponed to such a very large extent.

The Hon. P. COOMARASWAMY :—If Your Excellency will permit me, I should like to say a few words. The Procedure Codes were before the public for more than 12 months before they came up in Council. Surely if so long a delay was necessary in that case it is far more necessary that an extension of time should be granted in regard to the ordinances regarding Courts of Requests and the Evidence Bill. We have got three other Ordinances on the agenda which I am sure will not be finished either today or at next sitting.

The Hon. the ATTORNEY-GENERAL :—I may say that I propose that this Bill of the Courts of Requests should go into Sub-Committee. In that case I will proceed with the second reading.

The Hon. A. DE A. SENEVIRATNE :—There is one reason why this Bill should not have been taken today, and that is in order to discuss properly the principle of the Bill. I called for certain returns at last meeting. The returns might have been placed before this Council on the very day I called for them. There could have been no difficulty, because the returns might have been called for from the Supreme Court and the Registrar could have given them within a few hours. It was not placed before us and when we ask that the second reading be taken later, we are told that really we have not shown much cause for postponing its consideration. I think, sir, we have been very badly treated in this matter. Your Excellency was pleased to observe that the Court of Requests Ordinance had been published for more than two months. It is not the publication one looks to. Of course one can read in the *Gazette* the clauses, but one looks in an Ordinance like the Court of Requests for principles. The principles are explained by the mover of the Bill at the first reading, and these principles have to be debated at the second reading. It is for that reason that a greater interval should elapse between the first and second reading of a Bill of such great importance. So much for the refusal of a postponement of the second reading of this Bill. To go to the Bill itself. My Hon. friend said the Bill was due to the recommendation of the Retrenchment Committee—that the reason for the Bill was practically the recommendation of that Committee.

The Hon. the ATTORNEY-GENERAL :—My Hon. and learned friend will pardon me. I never said the reason or the necessity of the Bill was due to the recommendation of the Retrenchment Committee. I said that no apology was due on my part for introducing the Bill as it had been recommended by the Retrenchment Committee. I gave the reasons for the Bill afterwards.

The Hon. A. DE A. SENEVIRATNE :—If no apology was needed, I don't see why apology was referred to unless my Hon. friend thought some people expected him to make an apology. Why was the word referred to? Such is not the practice with regard to other measures. Well then, no apology was needed. The recommendation of the Retrenchment Committee is contained in paragraphs 11, 12 and 13 of the Report of the Public Expenditure Committee and this is how they make their recommendation :—

> The Committee respectfully desires permission to exceed the scope of the reference made to it by recommending that the *ad valorem* jurisdiction of the Courts of Requests may be raised from R100, the present limit, to R300.

They start by saying that they desire to exceed the scope of their reference. Having gone beyond what was referred to them, they go out of their way to recommend this thing. We must see upon what grounds they proceeded. The grounds are given in the Appendix attached to the Report of the Public Expenditure Committee and I should desire to make a reference to the sort of evidence which was given on this point before the Committee. The latter clause of para 13 states :—

> It will be seen that the lawyers examined have given evidence in favour of the enlargement of the *ad valorem* jurisdiction of the Courts of Requests.

When we refer to the evidence given by the lawyers we find that the lawyers examined were first Mr. Templer, who appears to have been examined on 11th September 1894. I cannot say what questions were put to him, but the answers are given in the Report. He says :—

> "I have advocated the jurisdiction of the Courts of Requests being raised to R200. This would relieve the District Court of Colombo of one-third of its work, but the proctors object to such a step being taken. I believe the Attorney-General would not object to this. The Attorney-General and I myself believed that raising the jurisdiction of the Court of Requests to R200 would effectually relieve District Courts."

There is nothing at all in this evidence to warrant the recommendation of the Expenditure Committee to raise the jurisdiction to R300. As regards one of the two lawyer witnesses we may say that the recommendation is not supported by the evidence. If we refer to Mr. Ramanathan's evidence, who was the other witness on this point, we find that what he says is this: He appears to have given evidence on 25th Sept. 1895 :—

> "I am of opinion that the jurisdiction of Courts of Requests generally might be raised to R150 and a few of the best Commissioners who are known to possess the confidence of the bar might be empowered to hear cases involving value up to R200."

What was the reason that the gentlemen were questioned on this point, that is, raising the jurisdiction of the Courts of Requests. I would submit it was with a view of relieving the District Courts which were said to have been very hard worked. The Commission go on to say in the 11th paragraph as a further reason for raising the limit of R300 that

"The gold value of R100 has fallen from £10 to £5 7s 3½d since the limit was originally fixed and R200 would now more nearly represent the limit then intended to those who were in the habit of referring to a gold standard. The increase would benefit suitors because the costs in Courts of Requests are far lower than in District Courts, and if, as seems proper, the District Judges at outstations, where they have ample leisure, and the Magistrates have none, were instructed to take up all the Courts of Requests work, the change would be a distinct advantage to all concerned."

Even without the comparison of silver with gold the Committee should have recommended only an increase of jurisdiction up to R200 because that was the utmost limit that both the witnesses recommended. I don't know whether the members of the Commission who were present on that occasion were aware that the District Judges were also, in outstations, Commissioners of the Courts of Requests, but if they were it is very strange that the Committee made that recommendation. Further it is stated (para 12):—

"Furthermore in Colombo the District Judge would be greatly relieved because the separate Commissioner of Requests would then take over from him a large share of the work with which he finds it difficult to keep abreast."

In paragraph 13 (the first clause) states:—

In the re arrangement of the Departments proposed by a majority of the Commission, the change would be equally advantageous as relieving the District Judges of a considerable amount of work for which ample provision has been made in the Court of Requests."

It is then to relieve the District Judges from a considerable amount of work that the jurisdiction of the Courts of Request is to be raised to this amount. I have already pointed out that the evidence before the Commission does not bear out that recommendation. It might be asked why is it that the members dissenting from the finding to the Commission on this point signed the report. I thought it would suggest itself to my learned friend to ask the question, how is it that they neglected to safeguard themselves by declining to sign this report? That is a question that would naturally suggest itself. My explanation is this:—The report that is signed by all the members of the Commission gives the effect of certain resolutions arrived at from time to time. What I read just now, paras 11, 12 and 13, simply give effect to a resolution that was arrived at in the absence of some of the members of that Commission—in the absence of myself and the Hon. the Representative of the Tamil community, there being present six members of the Commission. It was proposed by the Hon. the Government Agent, Western Province, that in Courts of Requests the *ad valorem* jurisdiction should be raised from R100 to R300. They carried that unanimously and to give effect to that resolution they drafted these paragraphs to which I have called attention. Signing by all the members of that Commission does not at all show they accepted it. We were bound to sign it because it was a report giving effect to the various resolutions that from time to time the Commission arrived at. So much to explain how I, as a member of that Commission, signed a report which contains these paragraphs. When this draft report was brought up for consideration, seeing that the question of the raising of jurisdiction was settled, so far as the Committee was concerned, I attempted to reduce the amount to R200 because I found that that was the utmost limit the evidence justified us in recommending the jurisdiction to be raised to. I moved and my Hon. friend the representative of the Muhammadan community seconded my motion but it was carried against us. In my opinion the members of the Retrenchment Committee were very badly treated, in that the Government adopted as the very first, the very thing which was entirely outside the reference to that Committee. We have made several recommendations in which we agreed unanimously, but these recommendations were not given effect to and Government have taken up only this one which certainly was not unanimously agreed to. But there were objections raised and this Council cannot be ignorant of those objections that the raising of jurisdiction would be inconvenient if it empowered Commissioners, as they now are, with their inexperience to hear cases up to R300. Evidently Government conceded that it would not be an advantage to allow such inexperienced men to hear such cases and therefore the Government, I beg leave to say, did not give effect to the recommendation of the Retrenchment Committee with regard to raising the jurisdiction of the Courts of Requests, but they said,—"we will give only partial effect to that recommendation; we will raise the jurisdiction of the Courts of Requests, but the same persons who are now hearing that class of cases will be empowered to hear them in the future." H. E. the Governor told us in his address that it is the same class of persons that will hear these cases so that it is perfectly clear the Government have conceded it would not be an advantage to let inexperienced Commissioners hear that class of cases. I say the principle involved in the recommendation has not been adopted by Government, but what they have done is to let the District Judge hear, as Commissioner this class of cases." I say what is the advantage? With regard to the raising of this jurisdiction I think my Hon. and learned friend will remember that when the Courts Ordinance was originally published in the Ceylon Government *Gazette* it was proposed to raise the jurisdiction of Courts of Requests to R150. I find that the *Gazette* containing the publication of that Bill is dated 9th January, 1888. The Government appear to have, on reconsideration and after consultation with members of the Bar,—I am aware that a Committee composed of the Bar sat upon the question,—withdrew that recommendation to raise the jurisdiction of the Courts of Requests to R150 and they were content to allow the jurisdiction to remain at R100, for, in the Government *Gazette* of October 19th, 1888, I find another draft in which the Courts of Requests is granted R100 jurisdiction only. So that this is a point that has been considered by the Government, and what is more it was considered by this Council, for the original Bill giving jurisdiction to Courts of Requests up to R150 was read a second time and referred to a Sub-Committee. That Bill was withdrawn, so that in 1888 this matter of jurisdiction was considered and the Government and this Council thought proper not to raise the jurisdiction above R100. Now is there any need for increasing the jurisdiction? I take it that the principle of the Ordinance is not to enable the Commissioners of Requests to hear cases up to R300, but to enable District Judges to take up cases above R100 and up to R300 and dispose of them according to the procedure now obtaining in the Courts of Requests. I say is it necessary to raise the Jurisdiction of the Courts of Requests in this manner, if the same thing can be done in a much more simple way. By the procedure of the Courts of Re-

quests is simpler for a certain class of cases, why not so amend the law that the District Judges may adopt this simpler procedure, and why restrict the benefit of simpler procedure to cases involving a money value of R300. If it is a better and simpler procedure, less costly and securing speedier justice, why should those who litigate for R4,000 or any large sum be entangled in a cumbersome system. While I do not admit that the procedure of the Court of Requests is simpler, I am prepared for the sake of argument to accept the word of my Hon. friend on this point. Judgments it is said can be more speedily obtained in the Court of Requests than in the District Court, but this depends largely on the nature of the case, as was pointed out at the meeting held by members of the profession. One of the speakers said, and he was a speaker certainly competent to express an opinion, that the procedure in the Courts of Requests did not necessarily ensure speedier justice being secured. I am surprised that my Hon. friend did not think of assimilating the District Court Procedure and the Court of Requests Procedure. I object to this procedure which is now proposed for the reason among others that the consideration of the simplification of procedure of the District Courts will be still further postponed. I have always been in favour of the simplification of the procedure in the District Court as well as in the Court of Requests. By all means simplify. Then with regard to the matter of costs, if my Hon. friend wanted to relieve suitors, why not revise the Table of Costs. There is an Ordinance which says so much shall be charged in the District Court and so much in the Court of Requests in certain cases. It would be a simple matter to adopt the procedure which obtains in India with regard to these matters, making the costs proportionate to the amount involved. I should have thought that that would be simple enough, but here simplification, it appears to me, is attempted to be brought about in a round-about way. There are inconveniences which have already been pointed out at these public meetings—inconveniences attending the procedure that has been proposed. My Hon. and learned friend said I think that the District Judges except the District Judge of Colombo could easily take up this class of cases, adopting the Courts of Requests Procedure, in the Courts of Requests themselves. One of the advantages that was put forward was that as there is a limited number of District Courts and a greater number of Courts of Requests it must be an advantage to the suitor to go to the Court of Requests. As regards that, I believe that the suitor would prefer to go to the District Court to have his case disposed of rather than to the Court of Requests; for this reason, that when he goes to the District Court he has to pay his proctor a small fee, say two guineas, but if he has to take that proctor to the Court of Requests he has to pay him five guineas. It stands to reason that if a proctor has to go out of his station he charges more. Take the District Court of Kandy for instance. Supposing that the District Judge at Kandy had to go to hear a case say at Urugalla or at some place where there is a Court of Requests. A man who has an action pending before the District Court gets it cheaper done by his Counsel because he has to pay the loss incurred by his advocate or proctor in travelling to—Urugalla, we will say. The suitor has to pay the proctor not merely for appearing, but for the trouble of going out of the station. And further I would direct the attention of Members to the inconvenience to suitors in the absence of the District Judge, and though some one may act in his absence I would point out that cases have to be postponed till the permanent judge comes back, because he may have partly heard these cases, and because it is desirable that he should try them. If the District Judge is going to sit in the Court of Requests, the inconvenience would be very much greater. I cannot see there would be any advantage to be gained by the procedure that has been suggested. Then, there is another matter,—that is as regards the personal attendance of the defendant. That is another point about which public opinion has expressed itself. I don't know whether my Hon. and learned friend means to press this point. I understood he would leave it to this Council to decide, but of course all matters are really left to this Council. That is not a concession. There is really nothing in my Hon. friend's saying "I leave that matter to the Council:" but it certainly implies a startling proposition equivalent to saying "certain things we have determined upon, and shall carry them through and other things will be left to the Council." I do hope that this Council will insist upon this requirement of personal appearance of the defendant being omitted from this Bill. A great deal of inconvenience would be caused to every class of clients. I speak, more especially of clients, from my own knowledge. I am not in a position to speak with regard to the position of gentlemen who are members of the Chamber of Commerce or of European gentlemen who litigate regarding large sums of money, but I am in a position to speak from two points of view—as a member of the native community, and also as a practising Advocate; and looking at it from both points of view, I may say there would be a great deal of inconvenience occasioned by compelling defendants to appear in every case of this class of cases. It would be inconvenient in this way. It may be very important for a defendant to be out of the place where he is summoned to appear on that very day. At present the law allows him to appear by Proctor. If you compel him to appear in person he either has to allow judgment to go against him because he does not appear, or otherwise he would be put to very great hardship, and perhaps would not be able to keep the other engagement which might be equally pressing. Apart from that there is a large number of people of the native Community who do not like to appear in Court. They dislike it very strongly. Take the case of a lady. There are ladies I know who have no objection to appear in Courts of law, but there are others who object very strongly. If a lady employs a washerman, for instance, he may bring an action against her, say for R200 and if she is compelled she may not like to appear in Court and she may be obliged to pay simply to avoid doing so. That is one example out of many that would suggest themselves to anybody. The present law gives sufficient relief. It does not prevent anybody who likes appearing in person and no one is obliged to employ a pleader. He can state his defence to the Court under the present law. Why deprive him of the privilege that he at present enjoys of appearing by proctor? Some people regard this as a matter that serves the Proctors for an outcry. I don't know how that impression has got abroad. Proctors would really make more money if you allowed this procedure to pass, because as my Hon. friend stated the Proctor's advice will not be dispensed

with, but his responsibility for the answers will be gone. If a Proctor has prepared answers he is responsible for what he has written and if he has put in a false or fictitious defence he will be cast in costs. We have known cases, not many it is true, where proctors have been cast in costs for mismanaging their client's case. This is a matter for the Supreme Court: do we wish to deprive the Supreme Court of the jurisdiction that it exercises over these people? Are we not finding fault with the Supreme Court if we interfere with that jurisdiction. At present if a proctor mismanages his client's case or wilfully does something wrong with regard to it, he is punished by the Supreme Court--the Supreme Court can order him to be struck off the roll, it may be, or punish him in a variety of ways. My Hon. friend paid a very high tribute to the assistance rendered by the Chief Justice in the matter of this Ordinance. I must endorse that vote of thanks to the Chief Justice who certainly bestows the greatest pains in eliciting the truth in every case and undoubtedly it is very satisfactory to see the way he has been working, and with regard to the assistance rendered in connection with the Ordinance, I think the public ought to be extremely thankful to him because it shows that he is willing to work even harder than he is doing now with regard to appeals. An appeal is not to be taken on questions of fact except by leave of the Court, but the person losing may petitions the Supreme Court. The Supreme Court may then allow the appeal and the appeal comes to be argued. What is the result? More work for the Supreme Court. The Supreme Court undertakes to do what the proctor has been doing, hitherto, advising as to appeals. Has the proctor's advice as regards appeals been so very bad. The return I called for will show if it has. My Hon. and learned friend stated the other day of the number of cases in which appeals had been lodged, 40 per cent had been set aside. Does that show that the appeals are in a bad state —that there have been frivolous appeals. I may state that not one appeal has been dismissed on the ground that it was frivolous. In 1893 there were 379 cases before the Supreme Court, of these 125 were set aside or modified, and 13 were dismissed for non-appearance. There is, I may explain, a section of the Civil Procedure Code which provides that the Supreme Court may dismiss an appeal if the appellant does not appear, either in person or by Counsel. The number which were affirmed out of the 379 cases was 179, but my Hon. friend said to this the other day "so far as appeals go, why, out of six appeals from the Supreme Court to the Privy Council five of the judgments were set aside and one was affirmed for reasons other than those given by the Supreme Court."

The Hon. the ATTORNEY-GENERAL corrected the speaker pointing out that out of five appeals to the Privy Council four judgments were set aside and one affirmed.

The Hon. A. DE A. SENEVIRATNE said:—What does that show? If it proves anything, it proves this that even the Supreme Court does not arrive always at the truth and that in these cases we have to go to the higher Court of the Privy Council to get justice done. That to my mind shows that appeals should not be restricted. But I say that the procedure which is proposed involes more work to the Appeal Court. The Appeal Court is overburdened with work now. It has not disposed of appeals from the District Court of last year. And look at the amount of work it will have to do in every appeal where there is no responsibility on the part of the Proctor. The client will petition the Supreme Court and the Supreme Court is too conscientious not to look into the merits of the petition. It will send for the case and carefully peruse the record so that the losing client, perhaps a man who should have lost, gets an opinion on his case for nothing at all—paying no fee to Counsel—whether there is a good appeal or not on the facts. Then as soon as the appeal is read through and it is allowed, how is the successful party placed? The Supreme Court has allowed it as a good appeal and when that appeal comes to be argued how does the respondent stand? He has to convince the Supreme Court that the appeal which has been allowed is a bad appeal. Where there is one appeal now there will be two appeals then so that this procedure will only involve the Supreme Court in more work. The thanks of the public and of this Council are due to the Chief Justice for the offer he has made. But I do not think Council should accept that offer. I have tried to avoid all reference to the arguments used in the several petitions that have been presented to this Council. I feel sure that this Council will consider the arguments so advanced. The members of the legal Profession met in solemn conclave over this Bill and have sent their joint opinions by a memorial which was presented the other day. I read their arguments and it appeared to me they were sound, and, judging from the expressions of opinion outside, I see that the public also have accepted these opinions as sound. I do not know how far members of this Council have considered these arguments, but if they have, then no further arguments I could submit would be necessary. There was another memorial presented today—I do not know whether Hon. Members heardthat memorial—it was read, but whether they heard it is a different question. It is because of that that I supposed it would be better to postpone that Bill. But it has been pressed and I trust although it has been pressed the discussion will not be concluded because it would keep us very late. I have a great deal more to say and if this Bill goes into Sub-Committee I think I shall occupy the time of the Sub-Committee also. I do trust that the Bill will not go to Sub-Committee. Of course, if this is a Government Bill as it is called, that is to say the Executive Council has decided to pass this Bill because His Excellency the Governor has referred to it in his address; then, we are powerless. I do trust that the official members of this Council are not bound to any policy with regard to this Bill and that they are free to express an opinion with regard to the arguments that have been placed before them in the several memorials. I think, sir, the discussion on this question has been carried on in a very temperate spirit and it is not desirable that it should be otherwise; but, at the same time, I have very reason for believing that the public will think that their opinions have been very much disregarded if the Government will not consider the memorials that have been submitted.

The Hon. ABDUL RAHIMAN said:—I support the Bill with certain modifications. It is a boon conferred upon these unfortunate litigants, who are lingering in law suits, by simplifying the It will give relief and the case will be settled speedily at a lower cost. Suitors

need not make a long journey to institute actions at distant district Courts; they could get that done near their houses. There are two difficult points. First with regard to the forced personal attendance of the defendant. I consider that should be modified. In the case of an absentee who might have been prevented from attending personally to answer a plaint on a fixed day, the case would be decided against him. This I think unjust. It is a common thing for coast Moormen and Tamils to exact money from those who were in the habit of travelling by raising an action against them in Court. When such people knew that the defendant was bound to attend personally they would force the latter to give them a large bribe in order to let him away. In the case of a merchant or trader a man might sue him for R200 or R300, and the defendant wa bound to attend. Perhaps his other businesss might be more useful and he might make more out of it than R200 or R300 in which case he would allow judgment to go by default. A wrong would be done him and a temptation held out to raise false cases. It was very wrong that women of all classes should be compelled to attend Court personally. It might be all very well for European women to attend, but native women, unless those of loose character, disliked to appear in Court. In such cases Counsel should be allowed to represent them. Whoever retains Counsel, should pay the costs themselves provided such costs, do not exceed R20 It is an admitted fact that the lawyers get hold of people and exact large sums from them. The exorbitant costs exacted from losing parties is not only confined to the lawyers but is allowed by the Civil Procedure Code. It is the custom of ignorant people to grumble when their appeal case is decided against them, but I think that to slur the appeal privilege should not be interfered with. The other object of this bill is to give relief to suitors but there is a greater evil which does harm—the exorbitant rate of interest exacted from needy persons. As much as 60 per cent. is often exacted, and I strongly urge upon a clause being inserted in this Bill limiting the rate of interest in all Court cases to 9 per cent. notwithstanding any written agreement.

The Hon. W. Ellawella :—Sir, I feel bound to express my opinion on the subject though I have not had time to study the question. Nor do I know much about the practice that prevails in the District Courts or in the Courts of Requests so as to be able to form opinions upon the question of procedur. But I can say that the general opinion of thepublic, so far as it can be found out, both in my part of the country and in Colombo is against the Bill. The people do not object to the raising of the jurisdiction. They object to the difficulties put in the way of appeal and the obligation of the defendant to state his case in person. These are the great objections that the generality of persons bring forward against the Ordinance.

The Hon. P. Coomaraswamy :—Sir, the reasons given for the introduction of this measure both by H. E. the Governor and by the Hon. the Attorney-General in his remarks on the first reading of the Bill were:—(1) that the Retrenchment Committee had recommended the raising of the jurisdiction of the Courts of Requests; (2) that by consigning certain cases to the Courts of Request there would be speedier administration of justice; (3) that heavy costs would be done away with by sending themto the Courts of Requests and (4) that the procedure would be simpler in the Courts of Requests than in the District Courts. The ordinance is accordingly introduced and it enacts first of all that the jurisdiction of the Courts of Requests be raised from R100 to R300. It further enacts that the right of appeal on questions of fact shall be done away with, unless certain very cumbersome conditions are complied with—by applying to the Commissioner himself or to the Supreme Court for leave to appeal. Thirdly, this ordinance enacts that the party defendant shall not have the right to appear by his pleader. Many meetings have been held throughout the Island of which Your Excellency and Members of Council must be aware and, unlike other ordinances, in the case of this particular enactmente, the meetings have been more numerous and more unanimous than in the case of any other. Memorials have been presented to this Council, whilst the speeches and arguments that have been set forth against the Bill have been published so that I will not take up your time by making a long speech. But there is one argument about certain principles of this Bill which I think in fairness should be stated. Nobody objects to the principle that justice should be speedy and that justice should be inexpensive. On these two facts we are unanimous both the people who assembled at the severa meetings and every one of us here present. We only oppose the form in which it is proposed to grant us this relief. So far as the Retrenchment Committee is concerned, I think it has been very properly pointed out by my Hon. friend the Sinhalese Member that their Report is not a unanimous Report. My Hon. friend the Muhammadan Member, he and I were against raising the jurisdiction of the Court of Requests to anything like R300. We conceded up to R200 and what is more, in connection with this, Mr. Templer who had, large experience in this Colony and who acted as District Judge, and Mr. Ramanathan who is the present Solicitor-General, a man of vast experience, have all seemed to think that R200 is the utmost limit you can go to. I think instead of fixing the limit at R300 it would be very much better to raise the jurisdiction to R150 as a tentative measure and if that is found to work properly let us further raise the jurisdiction afterwards. It must be remembered that for nearly thirty or forty years we have tried the present system in the Courts of Requests. Why not raise the limit of jurisdiction to R150 or R200, but no more, and try if the Courts of Requests will carry out the proposed relief satisfactorily. If, after fifteen, ten or five years it is found they have done their work, well, let us raise it higher. As to the question of heavy costs I must ask whose fault is it? We had a very much simpler procedure in our Courts in former years. Attorneys-General when they come to occupy the seat of my Hon. and learned friend, the first thing they do is to introduce an Ordinance as if we have not enough of them. They seem to think the first thing they have to do is to introduce something to mark their name. In this spirit one learned gentleman has given us the Procedure Code and the Civil Code. Both employ very cumbersome procedure and necessitate heavy costs. If there were 15 defendants in a case in former years you would send one summons setting forth: that such a case is instituted against you: come and answer it on a certain day. Now you have to serve each of them with a copy of the summons, each with a copy of the bond, if there is a bond, and each with a translation of the libel or plant. Does your Excellency fancy and do Members of Council fancy that

lawyers can make all these copies and not charge for them. They have to employ and pay their clerks. Increased costs are not the fault of the suitor, not the fault of the Courts, but the fault of previous Attorneys-General who have been foolish enough to introduce into our Courts unsuitable Ordinances. I say "foolish" advisedly. If the costs are high, one would think that Council would try to grant relief to all suitors. Surely it is not said that only suitors in cases under R300 are suffering from heavy costs? Surely all other suitors who have cases above R300 are also suffering from heavy costs. If one of the reasons for the Ordinance is that suitors should be relieved from heavy costs I say, that all suitors must be equally relieved; and what is more to relieve them, not by introducing an Ordinance here to refer only to those suitors who have got cases of R300 and under, but to alter the procedure of the District Court in respect of all cases. Then I say there would be relief to all. But this is only partial relief which I think is a mistake. I say that under this Ordinance costs would not be reduced. I have read it more than twice over and there is nothing within the four corners of the act to say that costs shall be reduced.

The Hon. the ATTORNEY-GENERAL: I may explain that the costs now in force in the Courts of Requests will hold good. You will find that the repealing clause repeals certain words in the Schedule to the Civil Procedure Code. Of course it my Hon. friend has not read the Bill he cannot be expected to know that.

The Hon. P. COOMARSWAMY:—I have read the Ordinance and I am perfectly right. My Hon. and learned friend has referred me to the schedule which repeals certain parts of a certain Ordinance.

The Hon. the ATTORNEY-GENERAL:—The costs in the Courts of Requests are laid down in the Civil Procedure Code. There are words in the Schedule to this rule which repeal parts of that Code. The result is that the costs in the Courts of Requests will be the same as now charged. The words "and not exceeding R100" are what is repealed. You will find that it leaves the costs just as they are in the Court of Requests.

The Hon. P. COOMARASWAMY:—Then the costs will be the same for a suit of R300 as for one of R100.

The Hon. the ATTORNEY-GENERAL:—Quite so.

The Hon. P. COOMARASWAMY:—Then I am mistaken and I am thankful to be corrected. (Proceeding):—My objection to this Ordinance is not so much that it raises the jurisdiction of the Courts of Requests to R300. It does not matter to me whether it raises it to R300 or R3,000. I have always felt that once you place a man in the position of a Commissioner or a Judge on the bench,—we must take it he is quite competent to try cases. If he is not, it is simply dishonest on the part of Government to employ incompetent men. Once you admit that a man can try a case involving 5 cents you admit that he can try a case of R5,000. The two great questions in this Bill are, as is pointed out, the question of the right of appeal and the question as to whether the defending party shall not be permitted to file his answer by his pleader. It has been pointed out already by the Hon. Member for the Sinhalese that, of the number of appeals very nearly half of them have been modified by the Supreme Court and the judgments of the lower Courts have been set aside or amended. Why interfere with this right of appeal? The right of appeal has not been abused. Why should Government try to interfere with the right of appeal, a right of appeals I regard as desirable. The Hon. gentleman has prepared to give way on it. The restriction If, as it is said, the intention is to relieve the Supreme Court of its work, it has been clearly pointed out that such would not be the case, I think if Members will only read the Bar Memorial they will find that instead of decreasing the number of appeals, the number will be largely increased. These are my views on this Bill but I cannot sit down without referring in this connection to a matter of great importance to all of us and to all the people. The present Chief Justice is frequently trotted out now like they bring out a clown in a play for the purpose of amusement. It is said he is doing this and that. What does it mean? It certainly means that his name is brought out in order to influence us. We are not to be influenced by the mere name of a man because he is a Chief Justice. Now, sir, in putting forward the name of the Chief Justice as one of such immense authority, are Members of Council at once to say "aye" "aye" to everything he says? We must first consider whether he is competent to advise. Who is he? What is he? What has he done in the Colony? Certainly he has been Chief Justice for more than two years, but does he know the country, the people, the language, and customs? He is only the Chief Justice and his appointment as Chief Justice depends on Secretaries of State of different temperaments. The man may be an able man, but because he is Chief Justice, are we to be influenced by what he has said?—I think we should have called for the opinion of the Supreme Court in all matters of this kind. But the Supreme Court does not consist of one Judge, but of three Judges. We should like to have the opinion of a man like Justice Lawrie, who has been in this country for more than 20 years, and who knows all the customs of the people. I am told that he saw fit in writing to the Chief Justice to express his opinion that he was dead against this Bill. I ask why, when the present Chief Justice expressed his opinion to the Government about this Bill, he suppressed the opinion of Justice Lawrie. We should also like, supposing we have the opinion of the Chief Justice before us, to have the opinion of a man like Mr. Justice Browne who has practised as a practising lawyer here and who has been acting as an able and earnest Judge for several years. I think the interference of any one Judge in matters of legislation is highly prejudicial to the fair discussion of a Bill like this before Council. It is quite natural that many Members not knowing the wheels within wheels which revolve round these matters, may be influenced when the name of any particular eminent man is mentioned. It is a pity it should be so because I think the high office of Chief Justice is brought into contempt by such interference.

The Hon. W. W. MITCHELL:—Sir, the subject has been discussed at such length that I think it is hardly necessary for me to prolong it at this hour of the night. I am in favour of increasing the jurisdiction to R300. Long ago the jurisdiction of the Courts of Requests (R100) was equal to £10 sterling. Today £10 is equal to R175 of our currency, therefore, the jump is not so great as was endeavoured to be made out by my Hon. friend on the right (the Tamil representative). I am not in favour of compulsory attendance of the defendant in person and I rather gathered from what the Attorney-General said in introducing the Bill that Government would not adhere to this point, and Government would be prepared to give way on it. The restriction

tleman concluded by referring to the action of the Chamber of Commerce which body supported the views he had expressed on the Bill remarking that with the expression of the above views he would support the second reading.

The Hon. the ATTORNEY-GENERAL :—Sir, I feel very pleased with the discussion that has gone on at this Council on the Bill, because it rather strengthens the hands of the Government. Nearly every speaker round the table has approved of an increase in the jurisdiction of the Court of Requests. Secondly every speaker is nearly agreed with regard to the desirability of the simplification of the procedure. This Bill undoubtedly does tend to simplify procedure. Every speaker round the table has approved of the principle of the Bill by which costs will be reduced. Not only the speakers in this Council have said so, but the members of the legal profession have said so in the memorial they have forwarded to Government. That memorial proves that the Bill carries out, though not in the precise form they desire, the principles stated in it with regard to the simplification of procedure and the reduction of costs. It is urged by the Hon. the Sinhalese Member that he cannot see the advantage which is to be gained by cases being heard in Courts of Requests even though these Court are nearer to the suitor, because he says the suitor will have to take a Proctor many miles for the purpose of conducting that case. But the law does not lay that duty on the suitor. If the suitor does take the Proctor he has to pay him and not lay the charges on the unfortunate individual in the case. All that we desire is that when a person loses a case he should not be saddled with the costs which his adversary choses to incur. If this Bill becomes law, the expenses will fall on the person who employs the Proctor and takes him these number of miles. It is not everyone that belongs to the richer classes. It is not everyone who is fortunate enough to retain counsel so illustrious as the Hon. the Sinhalese Member. It is for the poor and not for the rich we are legislating. A great deal has been said about public meetings and about memorials. I would like to tell the Council one story with regard to a large public meeting. I will not withhold the name of my informant, it was told me by Mr. Muttu Coomara, a Proctor of the Supreme Court or District Court. He came to speak to me about a public meeting of Chetties and said that the Chetties in Colombo were opposed to this Bill, not on the ground that they object to the jurisdiction of the Courts of Requests being increased, but because they understood that if they got judgment in the Courts of Requests for a sum of R200 or under they would not be able to arrest the person of the debtor. I said "Mr. Muttu Coomara, where do you find that law? All the law says is that a writ of execution shall not be issued for a sum under R200. The law does not say the Court of Requests shall not issue a writ of execution." If the law was such as was stated by Mr. Muttu Coomara and also as was suggested by a Member of this Council to me on another occasion they had only to come to me as a member of Council and say "With regard to the increase of the Jurisdiction of the Courts of Requests we quite agree that Courts of Requests should have that Jurisdiction given them, but at the same time provide in your Bill that where Judgment is given on a debtor provision should be made that he should be arrested and sent to prison." If that is their desire why did not they ask it. A motion is proposed and carried and a resolution sent to Government to show the views of persons present at that meeting. I was positively told by Mr. Muttu Coomara that it was simply under the impression that they could not arrest men for a Judgment of R200 in the Courts of Requests that persons present at that meeting opposed the increase of the Jurisdiction. That seems to show a good deal of the misunderstanding has prevailed in the public mind with regard to this Bill. Reference was made to some of the memorials sent in. Government has considered the memorials as they came in and it is not the fault of Government if they come in too late to be considered. With regard to one particular memorial that came from Kandy. I looked through the list of names. I personally don't know many residents in Kandy, but I may mention that H. E. the Lieut.-Governor also perused it. There was not a single name of any person either of us knew attached to the memorial and it contained the names so far as we could judge of none of the wealthy gentlemen and traders in the District. The Hon. Gentleman then moved the second reading of the Bill.

The Hon. A. DE A. SENEVIRATNE :—called for a division and Council divided.

Ayes 12 Noes 3 (Sinhalese, Tamil and Kandyan M.'sL.C.)

The Hon. the ATTORNEY-GENERAL :—I move, sir, that the Bill go into Committee for the purpose of appointing a Sub-Committee. Agreed.

The Hon. the ATTORNEY-GENERAL :—I move, sir, that the following be appointed a Sub-Committee:—The Hon. the Acting Colonial Secretary, the Hon. the Treasurer, the Hon. the Principal Collector of Customs, the Hon. P. Coomaraswamy, the Hon W. W. Mitchell, the Hon. A. de A. Seneviratne, the Hon. Abdul Rahiman.—Agreed.

The Hon. the ATTORNEY-GENERAL :—I move, sir, that the Council do resume. Agreed.

THE SUPPLY BILL FOR 1896.

The Hon. the ATTORNEY-GENERAL moved that the next motion standing in his name—the second reading of "An Ordinance to consolidate, define, and amend the Law of Evidence" be postponed in order to let the Supply Bill be proceeded with.

The Hon. the Acting COLONIAL SECRETARY :—I rise to move the second reading of the Supply Bill. According to the usual practice I will, if the Second Reading be taken, move for the appointment of a Sub-Committee to consider this Bill. I move that "An Ordinance for making Provision for the Contingent Services for the year 1896 be read a second time.

The Hon. the Acting AUDITOR-GENERAL seconded.

The Hon. W. W. MITCHELL :—Sir, at this late hour of the evening I will make my remarks on the Supply Bill as brief as possible. It is with great satisfaction we hear of such a large amount of revenue as 21 millions of rupees to deal with in the coming year. Undoubtedly this is largely the result of the success of the tea enterprise, but it must be borne in mind that Ceylon cannot hope to have perfect immunity from bad times; and it would be unwise to calculate upon such large leaps and bounds in revenue as we have been accustomed to during the past few years. I have been pleased to see in the Supply Bill that so much is to be expended on public works, especially on works of a useful nature. At the same time, I cannot help feeling regret to see so many works of a useful kind shut out, owing, I presume, to want of funds. An omission I would specially refer to

is that the estimates do not provide a sufficient sum to admit of a survey for the railway in the Kelani Valley both on a broad guage and on a narrow guage. The Commission has sat for a long time and reports handed to Government which have been sufficient to satisfy all unprejudiced minds and the matter will have to be hung up unless provision is made. This survey will have to be made soonee or later and the sooner the better. All the arguments which have been brought forward have been most convincing and, as if that was not enough, now the very elements have come to our assistance to try and convince Government. We have the river in flood and the roads covered with water and impassable, rendering it impossible to communicate with the Kelani Valley where there is every prospect of being a rice famine. Then there is the question of the Uva feeding roads. No provision has been made for them with the exception of one. Bridges are required on the road from Naula to Elahera leading to Pallagama which will cost about R15,000, but there is only the small amount of R3,500 provided in the estimates. There is no provision made for roads in Madulsima, from Verelapatena to Tavalampelasi, nor for the road from Teldeniya to Migahakiula. In respect of telegraphs to Yatiyantota to Kotagala and to Neboda, extensions should be made. In regard to Education I see it stated in the Message which was read to us at our last meeting to Council, there has been an increase of R45,000 in the amount to be set aside, but I think it will be found that the great bulk of the increase in the past year has been expended in Colombo and that outlying and neglected provinces have received very little in the way of expenditure on education for a great many years past. With regard to the Medical Service it is stated in the Message that the would be increased by a sum of R53,925. I find, on adding up, that the amount in the Supply Bill expended on hospitals, dispensaries, and medical officers' quarters is the large sum of R133.000. That, of course includes new buildings which are to be erected in various quarters. It will be for the Committee to inquire if this large expenditure is absolutely necessary. With regard to the Military expenditure it will be seen that there is a sum of R170,000 to be provided, additional to what this Council deems to be sufficient for the purposes of defence. I conclude that this expenditure has been ordered, and I would ask whether a despatch has been received in this Colony, the purport of which was communicated by H. E. the Governor as having been received by telegraph. I notice that the expenditure on the Volunteer Force is to be increased by the sum of R6,700. so that our Military expenditure will be very largely increased, especially if we take into account the amount of rebate, a return of which I have moved for. In regard to compensation for exchange that has been estimated for in the details as given in the Bill. In 1894, in July, certain resolutions were passed by this Council and it was provided at that time that only one-half of the amount recommended to Council should be paid, and the disposal of the remainder would be considered when the estimates for last year were brought forward, and if it was then deemed that the finances of the colony warranted the voting of the bill amount. It was stated in the resolution I refer to that, when the estimates of Revenue and Expenditure of the year were before it, Council will have to vote the full amount as recommended by the unofficial members as from 1st January 1895, providing the financial position as then disclosed clearly showed that the larger amount could be granted, whilst having due regard to the requirements of public expenditure. I take it that in each year we have to see that due regard to the requirements of public expenditure is exhibited before this amount is voted by this Council. It will therefore be necessary for members of the Sub-Committee again to consider whether urgent public works which are required have been sufficiently provided for to admit of the vote for compensation for exchange being continued. As regards retrenchment, no retrenchment that I can see appears in the report. The Retrenchment Committee's Report was made in March last; seven months have elapsed, and still there does not appear to be any sign of any of the recommendations in that Report being given effect to. With regard to the reduction of and retrenchment in expenditure which was promised when the paddy tax was repealed—a tax, in amount, which would have been very useful today if we had it—but the expenditure goes on very much as before. I would ask that Government would give information as to whether the recommendations of the Retrenchment Committtee are likely to be given effect to, thus freeing a certain sum of public money for public works. I will not detain Council with further remarks. I will only express the hope that it will still be found possible in Sub-Committee to recommend the insertion of some of the works I have endeavoured to enumerate.

The Hon. Sir JOHN GRINLINTON:—Sir, at this late hour of the evening I do not intend to intrude on the time of Members, but I cannot remain silent when I see some of the works we have been agitating for, for a couple of years, left out. First of all I will take the feeders to the railway. We all know that the Haputale Extension to Bandarawella has not paid and therefore it is most desirable that we should put all the traffic possible on that line. Unless you have railway feeders I don't see how it is possible to get the amount of traffic which otherwise we would get. With regard to the Namunukuli-Passara Road, which the Director of Public Works considers should be a principal one, all the arguments that could be adduced have been adduced for extending that road. If the road be extended it would bring a considerable amount of traffic to the railway which is not possible now. With regard to the portion of the Bandarawella and East Haputale. Road, I would urge improvement for the same reasons, and I do trust Government may see its way to place sums of money, even on account in the Bill, so that these useful and important works, so necessary to the extension of the railway may be included in the Bill this year. Another subject that has occupied our attention in Council is the Ritigahaoya Bridge. Either the Government Agent or the Acting Government Agent of the Province has strongly recommended that a bridge should be built there. The planting community of the District have urged it through the Hon. the Mercantile Member, through the Hon. Member for the Planting Community, and I have urged it myself. I believe it to be a most important Bridge and one which should be made with as little delay as possible. I have listened to my Hon. friend on the right (the Hon. the Representative of the Mercantile Community). With most of his remarks I thoroughly agree and it will be my duty to urge these works on the attention of the Sub-Committee, should I be a member of that Sub-Committee.

Hon. P. COOMARASWAMY :—Sir, I cannot be silent and refrain from supporting my Hon. friend on the left (the Hon. W. W. Mitchell) on his question as to the suggestions made by the Retrenchment Commission. It is very nearly seven months since the Report was presented, and it is high time Government told us what they are going to do with the Report of that Committee. Surely if they could not have undertaken all the suggestions made by the Retrenchment Committee they could have taken up one or two of the many important matters suggested in that report. They were quick enough to choose the subject of the Courts of Requests Ordinance, but they have not been quick enough to take up any real matters of vital interest to the Colony.

The Hon. A. DE A. SENEVIRATNE :—There is one subject which has not been referred to by the speakers but which at the present time demans attention—the subject of floods. Flood outlets were provided for in the estimate for this year, but the money has not been expended, I understand, because the land required for making the outlet has not be acquired. I trust that the Sub-Committee will have the question of flood outlets very much in view.

The Hon. W. W. MITCHELL :—Hear, hear.

H.E. the LIEUT.-GOVERNOR :—The Hon. the Representative of the Mercantile Community and other Hon. Members have made one a two remarks to which I feel it my duty to reply. The Hon. Member who represents the General European Community I am sure would not have made the remarks he has made in respect of the feeder roads of the Uva Railway if he had not been absent from the Colony for some months past. As other Hon. Members and the community are aware H.E. the Governor has given a very great amount of attention and considerable time to the consideration of that question. The former has visited each road more than once and has in each case given his decision with an advantage which Members of Council do not possess. The proprietors have applied for an extension of the Naminakuli road for 2 miles under the Branch roads Ordinance and provision will be found in the Supply Bill for the Government moiety for this extension. For the reason shortly stated in the Governor's message, the road to Ambawelle will be made on the entire charge of general revenue. In the case of the Ampitiyakande road, it is proposed to make a section at the expense of general revenue and the remainder under the Branch Roads Ordinance, and although the proprietors have not yet expressed their assent to the proposal it is expected that they will do so. For the Passara-Madulsima road which also is to be constructed under the Branch Roads Ordinance, the surveys and estimates have been prepared, but the proprietors have shown no willingness as yet to pursue the proposal. Mr. Mitchell has stated very truly that there were a great many items omitted. The original list of works for 1896 amounted to over two millions, and in due time, as we have funds in hand, other important works will be undertaken. The Government have to make a selection, and they have endeavoured, with all the information before them, and exercising discretion, to make the best selection possible. The question of flood outlets, especially at the present time, comes with practical force. It is a very *difficult question*. The Government are by cautious degrees acting on so much of Sir John Coode's originally not very complete scheme as is understood to be accepted. Hon. Members may be aware that certain observations have been taken. Sir John Coode never committed himself to any decided opinion. Mr. Matthews, who was out here lately as Consulting Engineer of the Harbour Works, refused to give any decisive opinion until certain observations which would take twelve months in making had been taken. Those observations are in the course of being taken now. In regard to the Military Contribution, the Council are in possession of all the information the Government have. We have no further communication beyond the telegraphic communication already published. I make these remarks because I am more responsible for the details of the Supply Bill than anyone else, and I only regret that circumstances prevent me from meeting members in Sub-Committee, as I have done for years past, and giving them all the information in my power, and justifying the Government proposals. I am sure the Officer acting for me will be equally willing to render the information.

The Bill was read a second time and Council having gone into Committee on the motion of the Acting Colonial Secretary was referred to the following Sub-Committee: The Hons. Messrs. W. T. Taylor, F. R. Saunders, A. R. Dawson, R. K. MacBride, L. F. Lee, P. Coomaraswamy, A. de A. Seneviratne, W. W. Mitchell, Sir J. J. Grinlinton, and Giles F. Walker.

The Hon. the Acting COLONIAL SECRETARY :—Sir, I move that this Council resume. Agreed.

The Hon. the Acting COLONIAL SECRETARY :—Sir, I move that Council do adjourn till this day week—Wednesday 6th November—at 3 p.m.

Council rose at 6-30 p.m.

WEDNESDAY, NOVEMBER 6th, 1895.

Present :—The Lieut.-Governor, Sir E. Noel Walker, (presiding); the Hons. W. T. Taylor, C.M.G., Acting Colonial Secretary; T. E. B. Skinner, Acting Auditor-General; F. R. Saunders, C.M.G., Treasurer; C. P. Layard, Attorney-General; Lionel F. Lee, Principal Collector of Customs; A. R. Dawson, Government Agent, W.P.; Allanson Bailey, Government Agent, C.P.; R. K. MacBride, C.M.G., Director P.W.D.; W. W. Mitchell, Mercantile Representative; A. de A. Seneviratne, Lowcountry Sinhalese Representative; Sir John J. Grinlinton, General European Community Representative; P. Coomaraswamy, Tamil Representative; Abdul Rahiman, Muhammadan Representative; and Giles F. Walker, Planting Representative.

The Clerk read the minutes.

THE OATHS ACT: A PROTEST.

The Hon. P. COOMARASWAMY :—Sir, before the minutes are confirmed I hope Your Excellency will let me mention a circumstance in connection with the last meeting of Council. When the third reading of the Oaths Act was taken, I asked for a division in order that a protest might be handed in, but through an oversight this was not done, and I now ask the indulgence of Council to allow me to hand in a protest. I have the protest ready, but in my copy there are certain errors which require correction, and if H.E. and Council have no objection I will hand in the protest next week. If Council give the permission I ask for, the intention of the Hon. the Sinhalese Member is to join in the protest.

H.E. the LIEUT.-GOVERNOR :—That does not affect the confirmation of the minute?

The Hon. P. COOMARASWAMY :—Yes, sir, in this way: Under the rules it is competent for any member of a minority to record the reason of his dissent from the opinion of the

majority, but it should be entered by the Clerk at the end of the proceedings. If I have missed my time I do not know whether I shall be in order in asking for the indulgence at any other time.

H.E. the LIEUT.-GOVERNOR :—Perhaps it will meet the wishes of the Hon. Member: if, after the confirmation of the minutes I put the question that the Hon. Member be granted the permission he asks for.

The Minutes were then confirmed.

H.E. the LIEUT.-GOVERNOR then put the question that permission be granted to the Hon. P. Coomaraswamy to present the protest at the next meeting. Permission granted.

AGRICULTURAL INSTRUCTORS, ETC. : RETURN WANTED.

The Hon. P. COOMARASWAMY :—Sir, I beg to give notice that at next meeting it is my intention to move for a return showing for the last five years (1) the number of agricultural instructors employed under Government, (2) the number of agricultural instructors doing other than agricultural work, (3) the number of superintendents, teachers, and scholars in the Colombo Agricultural School, (4) the salary and allowances paid to each, (5) the results of the improved cultivation since 1887 when they were first appointed, and the effect of the system on the village cultivator, (6) names of village agricultural schools that have been abolished since, (7) the extent of land under cultivation by the different instructors.

THE CEYLON PENAL CODE : A PROTEST.

The Hon. P. COOMARASWAMY :—Sir, with the permission of Council I beg to present a petition from the Mowlanas, Priests and Alims, and the other Muslims of Colombo with respect to the Ordinance to amend the Ceylon Penal Code. It is in the following terms :—

Colombo, 5th November, 1895.

His Excellency the President and the Hon. Members of the Legislative Council of Ceylon, Colombo.

The Humble Petition of the Mowlanas, Priests, and Alims and of other Muslims of Colombo,

Most Respectfully Sheweth,

1. That at a representative meeting of the Muslims of Colombo, held on the 4th instant, in the Hall of their Mosque, at New Moor Street, Colombo, the proposed Ordinance to amend the Ceylon Penal Code having been fully considered, the undersigned were, by a resolution passed therein, appointed a Committee to have a petition embodying the views of the meeting prepared, with authority to them to sign and cause the same to be duly presented to your Hon. Council on behalf of the other members. In pursuance of that resolution, they now beg most respectfully to address your Hon. Council, and to annex for your information a copy of the minutes of the said meeting.

2. Yours Petitioners having carefully considered the said Bill are humbly of opinion that the same is opposed to the principles of Islam, and would therefore seriously interfere with the matrimonial rights and status of Her Majesty's Mohammedan subjects in Ceylon, and hinder them in the free exercise of their religion. The laws regulating marriage and divorce among Mussulmans are so intimately connected and almost blended with their religion, that you cannot touch the one without seriously interfering with the other.

3. Your Petitioners have hitherto been *expressly* exempted from the operation of all the other marriage laws; and although the provisions of the present Bill are said to admit of such a construction as would make them inoperative as regards your Petitioners, they cannot trust to the uncertainties of judicial interpretation and allow the sacred rights and privileges hitherto conserved to them to be made subjects of argument and evidence. They would respectfully beg to be conceded the same express exemption as has from time immemorial been granted to them. Thankful as your Petitioners are for the good intentions expressed at the first reading of the Bill by your spokesman, they think it their duty, if the Bill is to receive the sanction of law, to insist on the insertion of such words therein as would make these intentions clear, and as have served the purpose in the existing Ordinances.

4. The provisions contained in the said Bill, your Petitioners would remind your Hon. Council, were in force in India at the time the Indian Penal Code was introduced into Ceylon; but the same were advisedly omitted in the Ceylon Code as our marriage laws and the Customs and habits of the people of this Colony bear no analogy to those obtained in India. In India, as your Hon. Council is aware, there are special acts regulating the marriages of the different races and nationalities; but in Ceylon we have nothing similar to this state of things. Our legislation on this subject may roughly be classified into Mohammedan and non-Mohammedan. How unsuited Indian Laws on this subject are to Ceylon will be seen from the fact that the copyist of those clauses from the Indian Code has not had the courage to transfer to our Code the sections immediately following them, viz., the 497th and 498th sections, which penalise adultery and the enticing away married women—offences which your Petitioners would be the foremost to desire cognisance taken of in Ceylon.

5. This piece of legislation is, besides, incomplete, the checks which Indian Criminal Law has provided against the abuse of these provisions being absent. There is not in our Criminal Procedure Code a section similiar to the 198th section of the Indian Code, which saves accused persons from vexatious prosecution under these sections; nor is there in our law of Evidence a provision similar to the 50th section of the Indian Evidence Act, which declares inadmissible certain evidence to establish some of the requisites of these offences. There is no amendment of the Criminal Procedure Code to solve the question whether the offences are cognisable or not, bailable or not, compoundable or not, triable by which Court, &c.

6. It has been stated on authority that the Bill did not affect the rights of those "who might be entitled by law to marry more than one spouse," but simply penalised that which was at present illegal. That this statement is not accurate will be seen from the fact that the 28th section of Ordinance No. 6 of 1847 prohibits and penalises the acts of any one who himself contracts such a second marriage as is contemplated by the Bill, or by his marriage makes another to do so, by providing a punishment of 3 years' rigorous imprisonment. But from this Ordinance the Mohammedans were expressly exempted. The necessity, therefore, for a second Ordinance is not apparent, unless it were meant to bring within its operation Mohammedans of a certain class, if not all of them. Under this Bill the question "Who is legally entitled to marry more than one spouse?" will always be a matter of discussion and evidence, and religion, as in the existing Ordinances, will no longer be a defence. Apart from other evils, this measure will, your Petitioners notice with alarm, be productive of the ignominy of their women having perforce to undergo appearance and examination in Court.

7. Unlike as in India, we have hitherto been happily free from the religious riots and feuds that have often seriously disturbed peace and good government. The Mohammedans have been the most law-abiding people, so long as their religious practices and customs were not interfered with; but they have been always sensitive to the least interference in these respects. They have been hitherto, free in the exercise of their religion, contented and happy subjects of Her Majesty the Queen. The responsibility, therefore, of anyone who would by any ill-advised measure, create discord and disloyalty, and undo in one day the work that engaged the toil of statesmen and wise rulers for ages, would be [illegible] to contemplate. The scenes which disgrace

Indian administration will not, we earnestly hope, come to be re-enacted in Ceylon.

Wherefore, your humble Petitioners pray that your Hon'ble Council would be pleased, either to withdraw the Bill entirely, or to insert the amendments already indicated.

For which act of goodness,
Your Petitioners, as is duty bound,
Shall Ever Pray.

I may explain that the Muhammadans held a meeting and appointed certain persons to draft a petition to Council against this Ordinance and to sign, it and, I may say, it is signed, unlike the petition in which the Hon. the Attorney-General and H. E. the Lieut.-Governor did not know a single name, by all the most respectable Muhammadan gentlemen in Colombo. I move that it be read.

The Hon. L. F. LEE:—You mean taken as read?

H.E. the LIEUT.-GOVERNOR:—I have seen the petition elsewhere; we may take it as read. Petition taken as read.

PUBLIC WORKS IN UVA: RETURN WANTED.

The Hon. GILES WALKER:—Sir, I beg to give notice that it is my intention at next meeting of Council to move for a comparative statement showing the several sums voted for public works in the Province of Uva as scheduled in the Supply Bills for the last three years, and the sums actually spent upon each work in those years.

NANUOYA RAILWAY AND NEGOMBO CANAL: RETURN WANTED.

The Hon. W. W. MITCHELL:—Sir, I beg to give notice of the following motions:—(1) To move for a return showing the full traffic and earnings to be credited to the Railway beyond Nanuoya for twelve months ending 30th September, 1895, made up in correspondence with the reports of the Commission on Railway Extension to Uva, and (2) to move for a return showing the amounts expended on the repairs and upkeep of the canal between Colombo and Negombo, in each of the last five years.

DISTRESS IN ANURADHAPURA.

The Hon. A. DE A. SENEVIRATNE:—Sir, I give notice that at next meeting of Council I will ask if complaints have been received by the Government of distress in certain villages of the Anuradhapura district, consequent upon restrictions placed on chena cultivation, and if so what steps have been taken to relieve the distress. I will also move for papers relating to the subject.

PAPERS, ETC., LAID ON THE TABLE.

The Acting COLONIAL SECRETARY laid on the table a Return of cases received in appeal from Courts of Requests for the last two years showing (1) the number of cases in which the judgment appealed from was set aside or modified; (2) the number of cases in which the judgment was affirmed; (3) the number of cases in which the appeal was dismissed for want of appearance and a Return of cases disposed of on evidence in the Courts of Requests during the last two years. Also numerical abstracts showing the number of persons in the several provinces of the Island liable to perform labour under the Ordinance No. 10 of 1861 during 1896.

CUSTOMS REBATE ON MILLITARY AND NAVAL STORES.

The Hon. W. W. MITCHELL:—Sir, in terms of notice, I move for a Return showing the total amount of Customs Rebate in each year from 1st January 1892, to this date, on Military and Naval stores imported, together with a list of the articles and their quantities, included in the concession under Ordinance No. 20 of 1892. It is very desirable to know what the Military Expenditure amounts to and this rebate is practically a part of the expenditure we incur in connection with the Military. The articles, I believe, are very, very miscellaneous, indeed, but I have no donbt the Collector of Customs will be able to furnish a Return.

The Hon Sir JOHN GRINLINTON seconded.

The Hon. L. F. LEE:—I have the Return here but I have not had time to look it over. I will lay it on the table, but possibly I shall have to revise it. I am authorised to say that the matter of the working of this Ordinance has been under the consideration of Government and is still under its consideration.

INCORPORATION OF THE CHAMBER OF COMMERCE.

The Hon. W. W. MITCHELL:—I rise, sir, to move the second reading of "An Ordinance to incorporate the Ceylon Chamber of Commerce." At the first reading I explained the objects of this Ordinance which are chiefly to enable the Chamber of Commerce to hold property. I need not therefore enter into it now, but I content myself with moving the second reading.

The Hon. Sir J. J. GRINLINTON seconded. Ordinance read a second time.

The Hon. W. W. MITCHELL:—I beg to move, sir, that Council go into Committee on the Bill. Agreed.

The Hon. A. DE A. SENEVIRATNE?—Sir, I have not the slightest intention of opposing this Ordinance, but I should like to refer to Clause 6. This deals with the whole of the schedule which is given at the end and in passing section 6 we shall be passing the whole of that schedule. I think it necessary to ask for information regarding some of the clauses in the several divisions of the schedule. The power to make rules is given in section 5 for certain purposes only—for the admission, withdrawal, or expulsion of members. Now, some of these rules are outside those powers. Of course they may be covered by the words "and otherwise, generally for the management of the affairs of the Corporation and the accomplishment of its objects," but I refer more especially to the part marked "miscellaneous" in the schedule. Clause 49 under the head of "miscellaneous" provides that "the tonnage scale of Ceylon shall be that detailed in appendix A." I ask, not that I have any objections to that scale, is it right that a certain body incorporated under this Ordinance should be empowered to declare, and that Government should be a party to the declaration that a certain scale is a standard scale? Under clause 57 of this section the Attorney-General is to be arbitrator if he likes. Does that mean without a fee? The Attorney-General may be asked for his opinion and judgment, but I know the Attorney-General, even where opinion was asked by the Municipal Council, has refused and very rightly refused, to do anything unless he was paid for it. Does this clause bind the Attorney-General to be arbitrator without a fee?

The Hon. the ATTORNEY-GENERAL:—I should certainly say at once, sir, it does not. (Laughter.)

The Hon. A. DE A. SENEVIRATNE:—Does section 57 of the schedule intend to avoid reference to the Courts in cases of disputes between Members? I think there are other rules also which appear to be outside the powers mentioned in this clause. However, if the Council does not object, I do not object to these rules.

The Hon. W. W. MITCHELL:—With regard to the first objection it seems to me that part of Clause 5 which has been referred to covers the whole ground inasmuch as it will enable the Directors to

make rules for the general transaction of business as well as for the particular business to which he has referred. With regard to section 57 in the schedule to which he has referred it does not refer to anything outside of the Ordinance because it says distinctly should any doubt or ambiguity arise "or any controversy shall take place among the members of the Corporation or of the Board of Directors as to the interpretation of Ordinance No. —." That is all: merely as to the interpretation of the Ordinance. If any dispute arises with it, it does not at all debar Members from going to a Court of law. It is only when any dispute arises as to the interpretation of this particular Ordinance that the Arbitration of the Attorney-General or other person will be required.

The Hon. the ATTORNEY-GENERAL:—There is not, I think, sufficient provision to enable the amendment of these clauses, I think it would be desirable in the interests of the Chamber of Commerce that they should have these powers.

The Hon. W. W. MITCHELL:—Does not the concluding part of clause 6 give these powers?

The Hon. the ATTORNEY-GENERAL:—That refers to rules made under section 5, but these are made under statute.

The Hon. W. W. MITCHELL:—The whole of the clauses are referred to in clause 5 not only a part.

The Hon. GILES WALKER:—Sir, I should like to ask a question on a point raised by my Hon. friend the Sinhalese Member, and that is whether the passing of the clause would necessarily involve the passing of the schedule as it stands. I understand the Hon. Member, to say if we pass clause 6 without further consideration that would involve the passing of the schedule as it stands without alterations. Speaking as a layman I should say it would involve the passing of the schedule subject to such amendment as may be made in Committee. In clause 5 there is a reference to the requirements of clause 7. If what my Hon. friend says holds good it appears to me by passing clause 5 we therefore pass clause 7 inferentially at the same time.

H.E. the LIEUT.-GOVERNOR:—Passing this clause does not necessarily commit the Council to it. Any one of the rules may be subject to discussion in the Committee.

The Hon. A. DE A. SENEVIRATNE:—In rule 2 occur the words "all firms and persons engaged in the general trade of Ceylon." With regard to the term "general," does that mean to qualify trade in any way? Has it any special meaning?

The Hon. W. W. MITCHELL:—I think, we recognise any one engaged in general trade, as not specially in the tea trade of Ceylon.

The Hon. the ATTORNEY-GENERAL:—I would suggest that clause 57 be altered to "on the subject of the interpretation of this Ordinance" instead of "as to the interpretation of Ordinance No.—189—." Agreed.

The Hon. P. COOMARASWAMY refering to appendix G, (Survey Reports and Arbitration Awards):—

Whereas it has been represented to the Ceylon Chamber of Commerce that in order to give to survey reports and arbitration awards an official character that they have not at present, and which circumstances have proved to be necessary, it is desirable that such reports and awards should be sealed and certified by the Chamber of Commerce,—

said:—It seems to me, sir, if there was a survey report required by a private party that he must go before the Chamber of Commerce and get an official report certified by the seal of the Chamber. Why, I ask, should I be compelled to go to the Chamber of Commerce and get their seal? Supposing a chetty had a quarrel with another chetty, why should he be compelled to go before the Chamber of Commerce and be required to get the official seal.

The Hon. the ATTORNEY-GENERAL:—There is nothing here that compels anyone. It merely states that you will get an official character imparted to certain documents if you take then to the Chamber and have them stamped with its seal.

The Hon. W. W. MITCHEL:—No one is obliged to come to the Chamber and ask for its seal to be impressed on a document.

Council on the motion of the Hon. W. W. MITCHELL having resumed, the Hon. gentlemen moved that the Bill be referred to the Law Officers of the Crown. Agreed.

The Hon. W. W. MITCHELL:—Sir, I give notice that with the permission of Council I will take the third reading at next meeting of Council.

THE CEYLON PENAL CODE.

The Hon. the ATTORNEY-GENERAL:—I rise, sir, to move the second reading of "An Ordinance to amend in some respects Ordinance 2, of 1883 intituled 'The Ceylon Penal Code.'" Some question has been raised by the Muhammadan community as to the applicability of Clause 362 of the bill to them. I would point out it only applies to those classes of persons to whom polygamy is forbidden and therefore a Muhammedan man would not come under its provisions but a Muhammadan woman would, because polyandry is forbidden both by their law and by religion. It is intended not only for the protection of one community but also for the protection of Muhammadans themselves. The object is that a man who is married, and who by his legal status cannot take a second wife, should be presented for his illegal act. Any member of the European Community out here who marries a second time while his first spouse is living, owing to his status the woman with whom he contracts the second marriage is not his legal wife, and whilst the illegality exists at present, this Ordinance contains provisions to penalise it. It is to protect our wives and ourdaughters that this Bill is now introduced to Council.

The Acting COLONIAL SECRETARY, Seconded.

The Hon. P. COOMARASWAMY:—Sir, perhaps my Hon. friend the Attorney-General has forgotten that these clauses were debated in Council in 1883 when the Penal Code was under consideration by this Council and I also think that either he is not aware or that he has overlooked the fact that these particular clauses which are in the Penal Code, when it was introduced, were omitted for special reasons, and for special reasons advanced, not only by Unofficial Members but Official Members, as for instance my hon. friend the Treasurer who was then the Government Agent for the Western Provice. Quoting from *Hansard* the Hon. gentleman read:—

"The Hon. the Government Agent, W.P., said, that clause 482 ('Every man who by deceit, causes any woman who is not lawfully married to him to believe that she is lawfully married to him, &c.' if passed would work an immense amount of mischief. It touched upon the key to very many Kandyan marriages. A great many people live as they think in honourable wedlock without registration. If a man then leads other people to believe that he was married and it is then discovered that he was married before to a woman still living he becomes chargeable under this section at once."

The general effect of this discussion was that special legislation should be introduced and these clauses should not appear in the Penal Code.

On that question the Hon. the Queen's Advocate who held the same position as my friend the Attorney-General now holds, Sir Francis Fleming, said :—

"It was quite clear that the general feeling is that this chapter should be omitted from the Code and from the little insight he has already gained into the subject he felt that the marriage laws required amending and under the circumstances he thought it would be better to postpone that subject for the present. Under the circumstances he moved that paras 482-485 be omitted."

I should like to know, why that being the case, instead of making it special legislation, the same penal clauses are now sought to be introduced into the Code.

The Hon. the ATTORNEY-GENERAL :—Marriage Laws have been lately passed through Council and no provision has been made with reference to these clauses, and it is necessary there should be some provision. In supporting this measure my Hon. friend will bear with me when I point out that it is supported by Mayne and other authorities in India. It does not affect in any way the Muhammadan people who are entitled to polygamous unions.

The Hon. A. DE A. SENEVIRATNE :—Sir, as regards the question of alterations in the marriage laws, my Hon. friend the Tamil Member in the quotation he made from the Council debates referred to the subject. The marriage ordinances spoken of were chiefly the ordinances that were applicable to Muhammadans and Kandyans. The Kandyan Ordinance was prior to that. As regards Muhammadan marriages, registration is not compulsory; so there is no change as regards the marriages of those communities and we are exactly in the same position as we were at the date of the discussion which was referred to.

The Hon. ABDUL RAHIMAN :—Sir, the assurance of Your Excellency and the introductory speech of the Hon. the Attorney-General, at the first reading of this Bill, are sufficient proofs that this Bill will have no injurious effect, on the indigenous Muhammadans. The absence of such words in the exceptional clause, caused some alarm, among the Muhammadans. It is desirable if possible that words to that effect should be inserted, in the exceptional clause which would clear away the doubt especially as this is an amendment to the Penal Code. Although, Muhammadan law permits polygamy, under rigid restrictions, only confined to such persons, as those who are able to maintain the plural number of wives with equality. It is a big order to comply with the formalities and the majority in Ceylon are monogamists. To regulate and test whether the intended polygamist is a fit person to sanction the privilege, I may say that no one class ever existed in Ceylon more ability. The existing system of Muhammadan marriage is totally uncontrolled. Although personally I dislike to extend the practice, which is dying away, more I do not wish to legalize. There is a petition got up by Muhammadans none of whom are polygamists who desire to follow in the footsteps, of their fore-fathers. Leaving aside, modern civilization, and morality they who insist upon that law, and custom, should not be interfered with. I am acting, only on their behalf, as a mouth-piece, I know not whether I shall be blamed or ridiculed by the public in general, and especially by the public journalists. I beg most respectfully to submit to this Council the insertion of the following words according to the introductory speech of the Hon. the Attorney-General, in no way affects the rights of those, who may be entitled, by law, to marry more than one spouse, nor does it in any way interfere with any class or community, who are legally entitled to commit polygamy." I understand that the existing, Muhammadan Code of 1806 is unrepealed and as far as that Code remains intact, the Muhammadans could continue to practice polygamy freely.

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS :—Sir, if Hon. Members will refer to the report of the debate to which the Hon. the Tamil Member has drawn the attention of Council they will find that the objection of the Council to the admission of chapter 19 depended on the difficulty of the question of what was bigamy? The 19th chapter of the Indian Act pretended to define what was bigamy but in Council and amongst members there was the greatest uncertainty. Mr. Ramanathan said "the law relating to marriage was exceedingly uncertain" and that "No lawyer in Ceylon, he thought, know the law that regulates Hindu marriages. Inasmuch as the Council was unable to define what marriage was, they felt their inability to define what bigamy was. An Ordinance has been passed which defines what is marriage, and the difficulty which Council felt then does not now exist. What this Ordinance intends to do is to punish a man who deceitfully makes a woman enter into a marriage contract with him, when she is not legally married. I cannot see that this Ordinance is affected by what has passed.

The Hon. the TREASURER :—Sir, I see that the Lieut.-Governor, Sir John Douglas spoke on the subject, and he appears to have taken a view which I endorsed on that occasion. It was that the chapter containing these clauses might prove somewhat hard on persons living in the Kandyan Provinces. Sir John Douglas spoke entirely from that point of view, and he moved the deletion of that chapter. I supported him and the reasons I then gave seem to me to deserve some consideration now, although they are not of so much force now as they were then. There are many persons who intend to marry, but who do not register under the new Kandyan marriage law. These persons contract a union which they believe to be thoroughly honourable, they live together as man and wife and they are received as man and wife in their own society though, strictly speaking, the marriage is illegal. If a quarrel should arise between these parties it would be easy for the woman to say she had been led by deceit to enter into this contract. The question is whether it is advisable to introduce a law of this sort as regards Kandyans, when there are so many cases of such unions and where it would be very easy for a woman and her relatives to bring up a charge of deceit on the part of the man. When a man and woman have been united under the Kandyan marriage act they very frequently seek to dissolve that marriage. And it would become by no means a difficult or an uncommon thing for persons to bring a charge of deceit against a man in order to have him convicted under these clauses. The Kandyan Act is now much better understood and these cases would not perhaps be so common, but it is a question for the Attorney-General whether he should not exempt persons who are subject to the Kandyan Marriage Act from the provisions of this Ordinance.

The Hon. the ATTORNEY-GENERAL :—Sir, with all due deference to the Council of those days I think they missed the main point of this section. The Treasurer does not appear to have noticed when he was Government Agent of the Western Province the word "deceit" in this clause if you read through what he said it would appear

that he was under the impression that where a person honestly believed he was marrying a woman he would be liable under this clause. He would not be unless, knowing that he did not lawfully marry the woman, he went through a ceremony of marriage. Consequently the whole of that debate turned upon a point which is not before us now.

The Hon. the TREASURER:—A man and a woman may honestly believe they are married; but I would point out that it is so easy for the woman afterwards to allege that there has been deceit. That is a point we must guard against.

The Hon. the ATTORNEY-GENERAL said the Hon. the Treasurer made no such statement and had not used the word deceit.

The Hon. the TREASURER:—Read my speech quoted from the *Hansard* of 1883 by Mr. Coomaraswamy, where I quote the words "who by deceit."

The Hon. P. COOMARASWAMY:—The Hon. Member did say "deceit."

H.E. the LIEUT.-GOVERNOR:—I am afraid we are getting a little disorderly. Members are addressing Council more than once on the second reading.

The Hon. the ATTORNEY-GENERAL:—I move that Council go into Committee.

The Hon. ABDUL RAHIMAN pressed for the insertion of the clause he had submitted.

The Hon. the ATTORNEY-GENERAL:—The amendment is rather verbose: its substance is contained in the present clause.

The Hon. ABDUL RAHIMAN in reply to a question said he wanted the words inserted in the "exceptional" clause.

The Hon. the LIEUT.-GOVERNOR:—Will the Hon. Member accept the assurance of the Attorney-General that the words he desires inserted are practically already in the clause?

The Hon. ABDUL RAHIMAN, so far as he was personally concerned, expressed his willingness to accept the assurance that had been given, but the Muhammadan community desired the words inserted. He was sorry to press the amendment.

The proposal was negatived without a division.

The Hon. P. COOMARASWAMY:—In this connection I believe the law has not been altered as to the accused in the case being allowed to give evidence. You charge a husband, say with having committed bigamy. He pleads he gave the woman information before he married her, but how is he to prove it if the law deliberately shuts his mouth. Therefore I would suggest that he should be allowed to give evidence.

The Hon. the ATTORNEY-GENERAL:—It is my intention to take up later on a Bill which will give all accused an opportunity of giving evidence.

The Hon. P. COOMARASWAMY:—That is taking it for granted that that Bill will pass. I think the proper thing would be to postpone the discussion on this clause till that other Bill is passed. I think the procedure is altogether irregular.

The Hon. the ATTORNEY-GENERAL:—Such provision as regards evidence would either come in the Evidence Act or in a Procedure Code. The Penal Code deals with nothing but penal acts. If the Ordinance to amend the Law of Evidence is not passed my Hon. friend can bring a Bill into Council. I would state with reference to the Penal Code it is almost taken from the Indian Act. It has worked very well in the Colony and it seems to me to be very carefully drawn. I would suggest that the proviso do stand.

The Hon. P. COOMARASWAMY again pressed his point that the subject should not be considered till the Evidence Act was passed.

The Hon. the ATTORNEY-GENERAL:—It is purely a technical question. If it is not passed and if my friend wants me to introduce a Bill giving every accused power to give evidence, I will be very pleased to introduce such a Bill.

Council having resumed,

The Hon. the ATTORNEY-GENERAL moved that the Bill be submitted to the Law Officers of the Crown. Agreed.

The Hon. the ATTORNEY-GENERAL:—Sir, I beg to give notice that at next meeting I will take the third reading of this Bill.

THE LAW OF EVIDENCE.

The Hon. the ATTORNEY-GENERAL:—I rise, sir, to move the second reading of "An Ordinance to consolidate, define and amend the Law of Evidence." In moving the first reading of this Bill I pointed out to Council what were the main provisions in which the English Law was altered. I desire now more particularly for the sake of Unofficial Members of this Council who are not members of the legal profession, to point out certain other points on which the law, if this Bill is passed, will differ from the law as it now exists. I will only deal with the principal differences between the provisions of this Bill and the English Law which now governs in this Colony. If Hon. Members will kindly refer to clause 8 of the Bill (illustrations J and K) they will find that there is a difference there with respect to the English law. In England the particulars of a complaint may not be disclosed by witnesses for the prosecution, either as original or confirmatory evidence and the details of the statement can only be elicited by prisoner's counsel on cross-examination. It is clearly, I would submit, advantageous in a criminal case that the court should be made acquainted with the original complaint as soon as possible. Legal Members of this Council are aware that the prosecuting counsel generally, adroitly brings this in by not expressly getting from a witness what the complaint was, but they say to the headman or police officer who is called: "A charge was; made to you, don't say what the charge was what did you do on that charge?" The man then says in reply that he proceeded to arrest the criminal. Sometimes in cross-examination it might be shown that the charge was a different one from that upon what he was taken into custody. I submit that it is much more desirable in the interests of justice that the court should know early in the trial, whether the charge originally made was the charge which is being preferred. As a rule, my experience teaches me to say that the original charge as made is the true one, before an opportunity has been given to concoct evidence, to produce false evidence, or to arrange for the appearance of witnesses to support such evidence. Next I would invite the attention of Council to clause 10 of the Bill. This clause extends the rule of the English law. In England only statements of conspirators, in furtherance of the common design can be proved, and important evidence is often shut out. Thus, a letter written by a conspirator to a friend giving an account of his own share in the conspiracy, but not intended to further the common object has been excluded. The legal Members of Council would remember that that was laid down in the case of Regina *v.* Hardy. The extension of the law in this particular clause was approved by Mr. Justice Cunningham of the Calcutta High Court, and with the permission of Council I would read the remarks he made with respect to the exten-

sion of the law on this particular subject. He says :—

"There can be no doubt that the section was intended to extend the rule of English law. It contains an express provision as to *time* viz., that the thing to be proved must have been said, done or written *after the time when the intention of the conspiracy was first entertained by one of the conspirators*, and express provision as to the nature of the thing, viz., that it must have been said, done or written *in reference* to the common intention. So long as the proposed piece of evidence fulfils these two requirements, the language of the section renders it admissible, and an exclusion of evidence with reference to the fact of the conspiracy having ceased, would be an introduction of English law, for which the present Act contains no sanction. So far as the reason of the thing is concerned, the advantage seems to lie with the Indian enactment. Five men, for instance, conspire to commit a burglary; the burglary is committed—the stolen property is disposed of, and the proceeds deposited in a bank. Each of the burglars on getting home, confesses to the commission of the offence and names his companions;—is it reasonable or unreasonable to exclude such evidence?"

It would be excluded under the English law. As to clauses 25 and 26 I think Members of Council,—at any rate I presume the legal Members, will —support the amendment of the law in reference to those two sections, which provide that confessions to a Police Officer below the rank of Inspector shall not be proved against an accused, and clause 26 further enacts that no confession made by any person, whilst in custody of a Police Officer, unless made in the presence of a Magistrate, shall be proved against such person. This differs from the English law, but is salutary in a country where the Police have been known, I regret to say, to extort confession. Clause 30 differs from the English law—the confession of one accused is not evidence against anyone but himself—but I am not prepared to ask the Council to pass that clause as it now stands, and I intend when we are in Committee to suggest to the Council that they should revert to the English law, and amend it so as to bring it into conformity with the English law (hear, hear). If Members will now kindly turn to clause 32 of the Bill, sub-section 5, they are aware that the declaration of an illegitimate member of a family is not admissible in pedigree cases in England. This clause will permit the statements of servants, friends and neighbours who have special means of knowledge being admitted in such cases and will do away with the distinction now drawn between matters of "public" and "general" interest which exists in our law. This is strongly recommended by said authorities as I have had an opportunity of looking into. Now read illustration A of the same clause, as the law at present stands, dying declarations are admissible only in criminal cases where the death of the deceased is the subject of the charge and the circumstances of the death are the subject of the declaration. This bill provides that such declarations will be admissible in civil suits and in criminal prosecutions for rape or any other ther, in England, to render a dying declaration admissible, the declarant must have been in actual danger of death, must have been fully aware of his danger, and death must have ensued. This is not the law of the Colony as altered by the Criminal Procedure Code. By this section such a declaration is made relevant whether the person who made it was or was not at the time when it was made, under expectation of death. I will now invite the attention of Council to clauses 36 and 38 of the Bill. These two clauses go rather further than the English law by making statements of facts in published maps or charts, and in maps and plans made under the authority of Government relevant, and in providing under clause 38, that any statement of law contained in a book purporting to be printed or published under the authority of Government is relevant, dispensing with the calling of expert evidence in foreign law. That I think the legal Members of Council will admit is a very great improvement; for it is rather difficult here to get expert evidence in Scotch law, and if they were able to take Scotch text-books, or Scotch legal authorities, it would be a great advantage to them in arguing cases. Clause 44 enables a party to a suit to defeat a judgment by showing that, in obtaining it he practised an imposition on the Court. This he is not allowed to do in the English law. Clause 45 only admits, the opinion of experts as to questions of sanity, and differs from the law as administered in the Probate Court in England in that respect, but it is not different to the law administered in other Courts. Clause 70 differs from English law when the validity of an instrument depends upon its formal attestation the attesting witness must always be produced. This clause dispenses with such proof when the document is admitted by a party. That, I submit, is reasonable. Then clause 123 enables a child who can give rational answers to questions, although of tender years, to give evidence. Such child is not competent under our present law unless believing in punishment in a future state for lying, and the child is generally taught before going into the witness-box. Clause 137 takes away the excuse from a witness of answering a question that will expose him to criminal trial when the question is relevant to the matter in issue, but it protects the witness, in providing that any answer given under these circumstances, cannot be proved against him in any criminal proceedings. It helps to elucidate the truth in a case, but protects him from all effects in respect to prosecuting afterwards. Clause 162 allows the testimony of a witness to be corroborated by a former statement by the same witness relating to the same fact. It is admissible in some cases, but is not generally admissible under the English law. Here it will be in every case. I may state that just before coming to Council I took the opportunity of looking into the English statutes to see the number of statutes in England, affecting the law of evidence which should be known to people who administered the law, and there are no less than 70 statutes in England dealing with the law of evidence. I trust that this Bill though I daresay it contains many imperfections, will commend itself to Members of Council and that it will become the law of this Colony.

The Hon. the Acting COLONIAL SECRETARY seconded.

The Hon. P. COOMARASWAMY :—Sir, before introducing a Bill of such a voluminous nature as this, and in many particulars altering the present law, I think it is for the Attorney-General to show that a new law is either necessary or has been called for by the profession, by the judges or by the people. I may take it that so far as the judges, or the people, or the profession are concerned nobody has asked the Hon. the Attorney-General to introduce this Ordinance into Ceylon; or if he cannot show that, he must, at least show that the present law of evidence is so unsuitable to this Colony that the introduction of any new code of evidence would be beneficial to us. If there is anything more certain than this, it is that our law of evidence is quite suitable,

The judges and lawyers understand it, even those "inexperienced Magistrates and Commissioners" to whom my Hon. and learned friend referred at the first reading of the Bill, I think they also can understand it if they study a small book like that I hold in my hand, a book called "Stephen's Digest of the Law of Evidence." It may be asked why was it introduced into India? I shall come to that point later on but before doing so I may say that in Ceylon the Portuguese and Dutch introduced their own laws and the Dutch system of laws, I think it will be admitted by my hon. and learned friend, was a very good system of law in those days; and afterwards the English law of Evidence has been gradually imported into this Colony, and, as I have said, everybody who has anything to do with our laws understands them very well indeed. Now for the question "why was this introduced into India?" The answer is simple. It is given by the Indian lawyers themselves; Mr. Stokes who was the Law Member of the Viceroy's Council and who edited this particular Act—the Evidence Act—which is now being introduced, says:—

"In the Presidencies, the English rules of evidence have always been followed, but in the Mofussil, where the courts were not required to follow the English law as such, though they were not debarred from following it where they regarded it as the most equitable, there prevailed in addition to a few rules expressly prescribed by the regulations made between 1793 and 1834, a vague customary law of evidence, partly drawn from the Hedaya and the Muhammadan law officers, partly from English text books and the arguments of the English barristers who occasionally appeared in the provincial courts; partly from the lectures on law delivered since 1855 in the Presidency towns."

Therefore it was right that a Code of Evidence should be introduced to prevail in all the Courts of India alike, but here it is not necessary, as there is no such differences in the law of evidence. The different Courts do not administer different laws but the same law. Now, sir, except in one or two instances, or to be more correct, in very few instances, this Ordinance that is introduced today is identical with the Indian Act No. 1 of 1872. If anybody compares the Act of 1872 with the English law of evidence he will find that the system is certainly not better than the English system. An attempt is made to deprive us of certainly, a better system—the English system—and to introduce the Indian system into this Colony where I believe so far as legal practice is concerned it is quite different from that of the Indian Courts. It must also be remembered, sir, that this Indian Act was passed 23 years ago. They have had plenty of time to see whether this Act is so much beneficial, and I shall read to Your Excellency and Council the opinion of a man, very able and of great eminence in India. In fact certain of the most important parts of this Act have been actually condemned, not only by the Law Member of the Viceroy's Council, but by the Judges of the Indian Courts; and it is even admitted by the author of the Act that he has gone further than he intended to go. I shall read some extracts about that:—

"Section vi. to xvi. deal with the subject of the relevancy of facts in judicial evidence and are in Sir James Stephen's own words, 'by far the most important, as they are the most original part of the Evidence Act as they affirm positively what facts may be proved, whereas the English law assumes this to be known and merely declares negatively that certain facts shall not be proved.' But it would appear on examination that these sections were framed under the erroneous supposition that relevancy means the connection of events as cause and effect: that they do not give the theory of relevancy in its simplest form; that they do not show in themselves the principle on which they had been founded; that one of them (section viii.), so far as it deals with the admissibility of evidence of statements has nothing to do with relevancy so called; that two of their sections (x. and xii.) are special rules covered by other sections; and that other two of them (sections vii. and xi.) are so drawn as to permit evidence of matter wholly irrelevant.'

Justice West, a Judge of the High Court of Bombay, referring to Section 11 (and that is a section the Attorney-General chooses to substitute for our law of evidence) says:—

"This section is expressed in terms so extensive that any fact which can by a chain of ratiosination be brought in connection with another, so as to have a bearing upon a point in issue may possibly be held to be relevant within its meaning. But the connections of human affairs are so infinitely various and so far reaching that thus to take the section in its widest admissible sense would be to complicate every trial with a mass of collateral inquiries limited only by the patience and the means of the parties. One of the subjects of a law of evidence is to restrict the investigation made by Courts within the bounds prescribed by general convenience, and this object would be completely frustrated by this admission on all occasions of every circumstance on either side having some remote and conjectural probative force, the precise amount of which might itself be ascertainable only by a long trail and a determination of fresh collateral issues growing up in endless succession as the inquiry proceeds."

This then is the law of evidence we are going to have in Ceylon. Mr. Stokes says similar remarks may be made as to the words in section 7 "or which constitute the state of things under which they happened" and as I have said Sir James Stephen thought it was expressed too widely in certain parts and not widely enough in others. The principal parts of it are condemned by the judges of the High Court and condemned by the Law Member of the Viceroy's Council and it is admitted by the author of the Act that it is capable of improvement. It was passed 23 years ago. These are clauses which were passed 23 years ago and which, after 23 years experience, judges and lawyers have shown to be, inadequate.—That same law is to be introduced into Ceyl on to replace what we all admit to be the best system of law of evidence namely the English Law. As if it were anything of great consequence, my friend the Attorney-General said that the English Law was contained in 70 Acts of Parliament. I will show you that, this unfortunate Act, passed 23 years ago has been amended by 140 Acts which have to be studied now and are not a part of this Act here. This is what the learned editor of this Act says.

"The Evidence Act has been, as will appear from the footnotes, and still more from commentaries such as Mr. Field's the subject of a large number of judicial decisions which have pointed out many defects both in form and substance".

I ask whether these defects which have been pointed out by the judges in form and substance, have been put into the Ordinance. There were such large defects in this Act that caused Parliament to declare it inapplicable to European Courts Martial held in India and thus to make an important exception to the rule that the *lex fori* Governed the law of evidence and in regard to these Courts Parliament reverted to the English law. There are certainly 139 different Acts after 1872 to amend, alter, and vary, in many important respects this Act of 1872 and yet this same Act is

now introduced here today. As is stated here (Stokes on the Anglo-Indian Codes) :—

"The different Acts which has been passed would be found to comprise a large number of laws which had been made since 1872, and which together with the beneficent legislation of the Indian judiciary, recorded in the Indian law reports, supply many of the omissions in Act 1 of 1872."

Now there is another matter to consider when new systems of law are introduced and it is this. Every man who has to practice or study such a particular system of laws has not only to attend lectures, but has to provide himself with innumerable books of reference and commentary which cost large sums of money. The introduction of this new system will entail a large expenditure upon members of the profession and upon the judges, and is it right, especially when you are introducing a system which is much worse than the present system, that they should be put to the expense of buying these books.

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS:—Why should they?

The Hon. P. COOMARASWAMY?—You would want the books for this reason—and the case would be the same as when you introduced the Civil and Penal Code from India. What is the result?—We are obliged to buy books containing Indian Acts and judgments in respect of those Acts and in the same way, as this is professedly an Indian Act, it is necessary to do so in order to see what are the conflicting opinions. It is therefore necessary That the profession—the lawyers as well as the judges—should buy expensive books—and hundreds of these in order that they may understand what the law is. Therefore I say let us leave this matter alone. If the English law requires it, amendment will no doubt be introduced soon. Some of us will admit that the lawyers here are a good deal superior to the lawyers in England, and if such amendments are introduced into the English law, let us follow the English lawyers. I should prefer English laws to Indian laws or to any system Indian or American, by which I mean the ancient American system—the barbarian,

The Hon. A. DE A. SENEVIRATNE:—Sir, the objects of this Bill were explained by my Hon. and learned friend at the first reading, besides its objects are sufficiently clear from the title "An Ordinance to Consolidate, define and Amend the Law of Evidence." My learned friend stated that this ordinance has become necessary because the law of evidence is contained in very large volumes and in volumes that are not easily obtainable by officers who are scattered over the Island. As has been pointed out, however short the Indian Code of evidence may be, the author of the Indian Evidence Act has made a Digest of the English law of evidence (a very small book of very few pages) and what is more he shows his authority for making out his text. He points out the law and quotes authority for every statement he makes. Therefore, when one is armed with this very small volume, which most judicial officers can afford to buy, it appears to me, one has got sufficient for the performance of his duties, at least outside the metropolis. Supposing a question arises on a certain point, if the judicial officer has a doubt, the Supreme Court can set him right and the Judges of the Supreme Court take pains to refer to English decisions on doubtful points. Once you do away with those decisions we have nothing to go back upon except this Ordinance. Now the Supreme Court Judges will have to study, hold me there would be a few important Ordinance, but they will not be able to go behind it. The question arises does this Ordinance consolidate the law of evidence in this country? We find in the very first section it applies to

"All judicial proceedings in or before any Court other than courts martial, but not to affidavits presented to any Court or office, nor to proceedings before an arbitrator."

There are three things that are excluded. Are we to go to another law to find out what the procedure is before these Courts. The subject of wills is not to be interpreted under this present Bill, but it is to be interpreted according to the English law of evidence so as regards this you have to go back to the English law. Judicial officers cannot avoid reading the big tomes referred to and in addition to this "very handy little Ordinance" they will have to read up the law of English evidence for interpreting wills. The real question in this case is, is there any necessity for this Ordinance? That is the one and only question I should like to be decided. Nobody can object to the consolidation of the law of evidence, but the real question is, has the time come, is there any necessity for our passing at the present time, a bill to consolidate define and amend the law. I have referred to the necessity for going to the English Law with regard to a certain class of cases. I was thinking of section 106:—

Nothing in this chapter contained shall affect the construction of wills, but they shall be construed according to the rules of construction which would be applicable thereto, if they were being construed in a court of justice in England.

It appears to me that the law of evidence as accepted in the Courts of England is the law that will govern the construction of wills. If the necessity for this Bill has been shown I cannot take any objection to my Hon. friend borrowing largely from the Indian Code. It is one that has been working, for some time whether satisfactorily or not I cannot say; I have no information from Indian authorities, but if it has worked well there, it may be expected, to a certain extent, to work well here. But why should we borrow a code from it, especially as the auther of that very code has been the author of the Digest of the Law of Evidence as it obtains in England. There is another matter which strikes me. This is a very important ordinance. When important ordinances were introduced into this Council or ordinances which related to the Courts of Justice, I believe it was the practice, I cannot say so with certainty, to obtain the opinion of the Judges of the Supreme Court. That opinion, if I am informed correctly used to be obtained by Government sending the Bill to the Judges for their opinion, which as soon as possible was sent to Government and very frequently placed on the table of the House. It appears to me to be a very advantageous thing for us to be directed by the opinion of the Judges on matters of this kind. If the opinion of the Judges has been obtained on this Ordinance the Legislative Council knows nothing of it. If my Hon. and learned friend the Attorney-General has the leisure, as undoubtedly he has the ability, to deal with questions of this kind, of course nothing need be said; but is it not the case that several important matters have not been dealt with, such as a Bill to put the Law of Mortgages on a satisfactory position. I may mention at once when I was nominated to my seat in the Legislative Council by His Excellency Sir Arthur Havelock, on that occasion Sir Arthur

dinances and he mentioned that our present Attorney-General was good enough to prepare this Act; in fact my hon. friend informed me that he had employed his leisure hours in drafting this Bill.

The Hon. the ATTORNEY-GENERAL :—I don't think I used the expression "leisure hours."

The Hon. A. DE A. SENEVIRATNE :—We will not quarrel over that expression. What I told H.E. as my opinion was, that I saw no harm in the Ordinance, that the Ordinance might be a good thing, but there was no necessity for it and that were other matters in which legislation was necessary, especially the Mortgage Laws which were in such a state of confusion. The Judges admit it and everybody would be glad for an Act on that subject. Apart from that Your Excellency will remember in 1883 there was a resolution of this Council upon a motion that I made with regard to the Codifying of the Bye-laws under the Forests Ordinance. They are in utter confusion. I was admitted by Your Excellency that even the Government were unable to find out what were the actual regulations in force at any one time and Council adopted a resolution that all bye laws should be codified each year and placed on the table of Council before Nov. 30th every year. I should have thought that the spare moments at the disposal of the Law Officers of the Crown would be devoted to subjects of this kind.

The Hon. the ATTORNEY-GENERAL:—What was the date?

The Hon. A. DE A. SENEVIRATNE :—It was on 29th November 1893.

The Hon. the ATTORNEY-GENERAL :—After this Bill was drafted.

The Hon. A. DE A. SENEVIRATNE :—The resolution adopted by this Council was :—

> That in the opinion of this Council it is desirable that all regulations, rules and byelaws made under any Ordinance and having the force of law should be codified each year and be laid on the table of this Council before November 30th.

Your Excellency was pleased to observe on that occasion that "the task is not an easy one but it shall be undertaken." Well, it is a long time since November 29th 1893 and, so far as the Legislative Council knows, nothing has been done towards placing those regulations that are in force, on the table. Now you can see the evil arising from the state of utter confusion of these byelaws To give you only one instance. Under Ordinance No. 10 of 1885 certain byelaws were made and I happen to have in my hand a copy of a case that came up in appeal the other day —a prosecution for the breach of a byelaw made under that Ordinance. It was a byelaw said to have been made under the Ordinance 10 of 1885 and dated 1st Sept. 1887. The allegation for the prosecution was that the breach of that byelaw was committed on 2nd December 1894. The case was argued and the accused were acquitted and my Hon. and learned friend the Attorney-General took an appeal from the finding of the Police Magistrate in that case. The appeal came up for argument on 3rd July 1895, before Mr. Justice Brown. Against the contention of the Attorney-General, there were two judgments of the Supreme Court reported. One of the Crown Counsel made application that the case should be put down before two Judges because there were those two judgments staring them in the face, with the result that the case was put down for argument on 2nd August 1895. On that day the Solicitor-General, who appeared in support of the Attorney-General's appeal, stated to the Court that the byelaw under which the prosecution was instituted was repealed, so that, at the time when these proceedings were instituted, while the trial was going on, and while the appeal was pending, the Attorney-General's Department was not aware apparently that the byelaw under which they prosecuted was not in existence and that it had been repealed. And there was this trial hanging over this man for so long! He had retained counsel to support the judgment of the Police Court, and he had to wait so many months for an admission on the part of the Attorney-General's Department that the byelaw, for the breach of which he had been prosecuted, was not a byelaw at all! Therefore, when one sees a case like this one sees the necessity of codifying byelaws. I merely mention this as showing the necessity that exists for doing such work, instead of preparing a Bill like that before Council. I say there is some far more urgent work of this kind wanting to be done. Then comes another question. Now, in India it is said that the Act has been found to work fairly well. At any rate in India there was a necessity for the law, as was pointed out at the time the Indian Code was introduced. The necessity was, that not only were there different systems of law in India, but the procedure in the different Courts was conducted in different languages. One sees at once the necessity, therefore, for an Ordinance which might be translated into different languages and would reduce to a system the procedure of different Courts. The question arises is it needed in our country? My answer to that is that as all the proceedings in our Courts in Ceylon are in English, this little Digest of Stephens would be handy enough for our Courts. When this Bill goes into Committee, we can consider the clauses of this Bill. Whether they are applicable to the requirements of this country and whether the changes which my hon. and learned friend wishes to introduce into the Law of Evidence are acceptable or not I cannot say. I think, for my own part, so far as I have been able to make out, most of these amendments on the English law are acceptable. That is not a point I wish to enter upon at this stage, but I should like the opinion of this Council to be taken as to whether it is desirable to introduce a new Evidence Act. If the English Law is not in a handy form how is it that the English Courts have gone on so long without codifying it? Can we not wait till the English Law is codified? Why do we want to borrow from India? Is it more desirable to borrow from India than from England? If we are to borrow at all let us borrow from England, instead of India. I will admit, for the sake of argument, that the Penal Code has worked satisfactorily. It does not follow that the Evidence Act of India will work equally satisfactorily. How has the Civil Code worked in this country. Why it was introduced into this Council with any amount of expressions of hope that the Procedure of the Courts would be simplified, and it was even hinted that the Proctors would be driven to seek another calling for a living. As a matter of fact what happened? Their work was increased, their costs were increased, in every way their practice flourished under the Procedure Code. There are some people I know who assert that even if the Courts of Requests Bill does pass and take away some work from the Proctors, this Bill will double the amount of work put into their hands to make up for it. I am sure my Hon. friend has no such intention. The Hon. the Attorney-General believes and I believe this

will do some good. But that is not a point to consider—whether this will do good or harm; but the question is have there been complaints in respect to the present system which call for a change? I desire to call attention to the difference between the Procedure Code and the Penal Code. The Penal Code, I beg to say, is a measure of substantive law which has worked satisfactorily and may undoubtedly do a lot of good and prove a blessing. I say the Law of Evidence is not substantive law. When I assert that, my hon. and learned friend the Attorney-General looks with astonishment because I make this statement in the face of a statement made by H.E. the Governor in his Address to Council where he said this would be an important addition to the substantive law of the country. I beg to say that neither H.E. nor this Council can make what is not substantive law, substantive law. I would refer my Hon. and learned friend to the remarks made by Stephen himself in his "Digest of the Law of Evidence." He says:—"When we remember that the Law of Evidence forms only one branch of the law of procedure, substantive law which regulates rights and duties ought to be treated independently of it." Apart from all that, Stokes divides his books into two parts and he calls one "Substantive Law" which deals with rights and duties and the other "Adjective Law" which embraces the law of procedure and the law of evidence. You have only to refer to any book on the law of evidence to ascertain that the law of evidence is never called substantive law. But that is merely a term, and if the Council defines it in any way, of course it will have the definition which is given to it in the same way as under Ordinance No. 10 of 1885. 'Forest' means all land at the disposal of the Crown, but the same remarks that would apply to the Penal Code would not apply here because the Penal Code belongs entirely to a different class, which is substantive law, whereas the Evidence Act is Adjective Law and not substantive law by any means. The question whether it is substantive law or adjective law does not matter—that may be said to be hair-splitting. The real question is, is there any necessity shewn for this Bill? I do not think my Hon. friend endeavoured to show there was much need for it and, if only on that ground, I shall be opposed to the introduction of this Bill. I think it is hardly fair we Unofficial Members should be expected to devote so much time and attention to this Bill when others, more urgent and equally important, are still not attended to. I do not wish to make any observations on the Bill itself. When it goes into Committee we shall pay very great attention to see that various clauses are introduced.

The Hon. ABDUL RAHIMAN:—Sir, not being a lawyer, it is a hard task for me to criticize the existing laws. But it appears to me that the laws, as they now stand, are too cumbersome to deal with. The present Bill will help to simplify things. The existing law is far too cumbersome and is very favourable to lawyers who generally turn white into black, whereas a minor Magistrate or a Judge could easily come to the point under this new Ordinance.

The Hon. the ATTORNEY-GENERAL:—Sir, the Hon. Member has stated that it is desirable that the Chief Justice and the Judges should have been consulted by Government. I am pleased to tell him that they have been consulted and I may further state that the Chief Justice approves of this Bill and has taken very great interest in it though it was prepared long before he came to the Island. He has made some suggestions with reference to it and suggested certain provisions which are inserted in a similar Ordinance, introduced by him in the Straits Settlements about the same time that I was drafting my Bill which is now before Council. It has been stated by my hon. friend, and I do not like to question anything he says, that the law of evidence is quite settled. I will only remark what was said to me by a very able English lawyer that it was a fortunate country which, in administering the English law, could claim that the law of evidence is settled. Why, the law of evidence in England is not settled. Long subsequent to the introduction of this law of evidence into India Sir James Fitzjames Stephen was requested by Lord Coleridge, then Attorney-General, to introduce a Bill for England similar to the one introduced into India. Sir James Fitzjames Stephen has been quoted as having condemned this Bill. I will quote a work published in 1893 in which he says "In the years 1870-71 I drew up what afterwards became the Evidence Act of 1872 repealing the whole of the law of evidence in force in India, which had been in operation since 1872, and I am informed that it is generally understood and requires little judicial commentary and exposition." It has been criticised, freely criticised by members of the Vice Regal Council in India, but what has been the result of that criticism? Has it been that those members of Council have introduced any measure to amend this Act? I admit that they have introduced two measures to amend it. They introduced one measure No. 18 of 1872 and another measure No. 3 of 1887. Those provisions amending the Act of 1872 are incorporated into this Ordinance now before the Legislative Council. Whilst amending the Act in certain points they did not attempt nor did the legal adviser of the Government of India attempt to amend the act of 1872 on the points criticised by my learned friend, showing, with ref erence to those points, that the Government of India could not have anything before them going to show that the Act itself was not working well in India. It has worked well in India and not only worked well, but has been subsequently introduced into the Straits Settlements and I am told by the Chief Justice that he found the Act introduced by himself of the greatest assistance to him when he was sitting as Chief Justice of the Straits Settlements. Now it has been suggested that this little treatise—Stephen's Digest—is sufficient for people requiring a knowledge of its contents to administer the law of this country and to be quoted as an authority in the country. I regret to state that that statement is inaccurate, because that book is no authority in our Courts whatever. When men have to go in for the study of the Law of Evidence, they do not go to text-books for the authorities, but to the law journals, law reports, *Law Times*, &c. The Judges of the Supreme Court have these references handy, but the officials who have to administer justice in outstations have not these references. This book gives references, but the official could not go to them to see whether they were properly quoted. Every member of Council who is a lawyer knows that text-books make false quotations and no lawyer with any self-respect would dare to quote as an authority Stephen's Digest, not even in this Colony by the lawyers, whom my hon. friend opposite (the Tamil member) has jibed at. They go to the ordinary authorities contained in the Law Reports. Never yet in my practice have I seen Stephen's Digest quoted as an authority in the Law Courts of Ceylon.

In reference to clause 106 alluded to by my Hon. friend the Sinhalese Member, it is my intention on another occasion to move the deletion of this clause, and I can give members of Council a very good reason for deleting it. In the construction of wills we do not follow the English law but the Roman-Dutch law. The construction of wills should be according to Roman-Dutch law until that law is repealed. The evidence to support certain items contained in a will or to prove the document may be governed by the paper that I now hold in my hand, but in regard to its construction I have only to state the deleted clause might be ambiguous and mislead judges in future. My Hon. friend has gone out of his way to make a personal attack in this Council upon me. He has stated that when he took up his appointment as a member of Council he was told by the late Governor that this Bill now before Council had already been drafted. Knowing that, being well aware the Bill was drafted, long before he made any application to this Council upon the Forest byelaws, he still asserts that my time had better been spent in codifying these byelaws and these rules. Unfortunately for this country my time has been spent in codifying these byelaws, and I would appeal to my Hon. friend the G. A., C. P., if I have not been trying to lick into shape byelaws, made under existing Ordinances. Unfortunately I was not a member of the Executive Council when the particular Forest Byelaw referred to were rejected, and the explanation of the delay in codifying them is that the Solicitor-General has had the greatest difficulty in getting hold of the officer interested in the matter. Government have done their very best to codify these bye-laws. It is not a question of a minute, or ten minutes, but hours, weeks, years, to get them codified. My learned friend said a certain appeal was withdrawn. It was withdrawn on my instructions. I was informed when the appeal came forward by the Government Agent of the Province, who ought to have known the bye-laws in respect to his province, that the bye-law was in force. Knowing that, I felt compelled to take the opinion of two judges. I ask any lawyer whether I had not a right to get the opinion of two judges if I thought the opinion of one judge was wrong. I tried to get the opinion of two judges, but when things were looked into more carefully it unfortunately turned out that the bye-law was not in operation. It was no fault of mine or of the unfortunate Crown Counsel who has been attacked today for no reason whatever; the circumstance has nothing whatever to do with the measure now before this Council. The sole object of the Hon. the Sinhalese Member's speech is to shew that I am not doing my duty. I appeal to members of Council whether I am not doing my duty and working for the Colony as hard as any man can work. My Hon. friend has referred to the law of Mortgage and I wish to know if he will introduce a bill to simplify the procedure in that respect?

The Hon. A. DE A. SENEVIRATNE:—I will when I am Attorney-General.

The Hon. ATTORNEY-GENERAL:—I hope the day will soon come when my hon. friend will be Attorney-General. If my hon'ble friend has studied the question of the mortgage law he will find that drafting or codifying it is very difficult. I tried to codify the Law of Mortgage many years ago, but I found my work was a failure. I have not, however given up hopes yet for being able to introduce a bill into this Council codifying the Law of Mortgage, but I feel certain my hon'ble friend the Sinhalese Member will be one of the first to oppose the Bill saying, "You are altering this law or interfering with that or causing some expense to gentlemen outside the Council." (Laughter.) I can assure the Council it is my intention to goon further codifying the law of this country. It is very desirable, if possible, to introduce into this Council a law in regard to the Sale of Goods which was introduced last year into England. The Law of Partnership and the Law of Bills of Exchange, as colified in England is in force in this Colony but the law relating to the Sale of Goods, although adopted in England, cannot be applied here owing to the Roman Dutch Law.

The Hon. A. DE A. SENEVIRATNE:—Sir as a matter of personal explanation with reference to what my hon. and learned friend has said as to my conversation with the H.E. the Governor, I would like to state that the conversation with His Excellency the Governor, took place after the Council had resolved upon that motion. It was when I was nominated a second time to the Legislative Council.

A division was then taken, and the second reading carried by twelve to two, the voting being:—

Ayes (12)	*Noes* (2).
Hon. W. T. Taylor	Hon. P. Coomaraswamy
,, T. E. B. Skinner	,, A. De A. Seneviratne.
,, F. R. Saunders	
,, C. P. Layard	
,, L. F. Lee	
,, A. R. Dawson	
,, A. Bailey	
,, R. K MacBride	
,, W. W. Mitchell	
,, Sir John Grinlinton	
,, Abdul Rahiman	
,, Giles F. Walker.	

The Hon. P. COOMARASWAMY:—Sir, I think we should adjourn at this stage. Some of us have been working since 12 o'clock and some consideration should be shown to Unofficial Members of Council, who are made to work more than they ought to do, considering the rapid way ordinances are passing through this Council. Is it the intention fo the Attorney-General to submit the Bill to Sub-Committee?

The Hon. the ATTORNEY-GENERAL:—My intention was to take it in Committee of the whole House so as to give an opportunity of having the points fully argued and so that all remarks should be made across the table.

The Hon. P. COOMARASWAMY:—I move that Council do adjourn till Wednesday next at 3 p.m.

After a pause,

The Hon. the Acting COLONIAL SECRETARY:—I move that Council do adjourn till next Wednesday at half-past two o'clock in the afternoon.

Council was preparing to rise when

The Hon. P. COOMARASWAMY interposing said:—Sir, what has become of my motion.

H.E. the LIEUT.-GOVERNOR:—I think it has always been the practice for the Colonial Secretary to move the adjournment.

The Hon. the Acting COLONIAL SECRETARY:—My motion is that Council do adjourn till next Wednesday at 2-30 p.m.

The Hon. P. COOMARASWAMY:—Then that is an amendment.

H.E. the LIEUT.-GOVERNOR:—It has always been the practice for the Colonial Secretary to move the adjournment. Certainly I can say for the last eight years it has been so.

The Hon. P. COOMARASWAMY:—Is it to be understood that no one else has the right to move the adjournment?

H.E. the LIEUT.-GOVERNOR :—I do not rule that; I simply refer to what has been the practice.

The Hon. P. COOMARASWAMY withdrew his motion and that of the Hon. the Acting Colonial Secretary was carried.

Council rose at 5-20 p.m.

WEDNESDAY, NOVEMBER 13th, 1895.

Present:—H.E. Sir E. Noel Walker, Lieut.-Governor (presiding); His Excellency Major-General W. Clive Justice, Officer Commanding the Forces; the Hons. W. T. Taylor, Acting Colonial Secretary; T. E. B. Skinner, Acting Auditor-General; C. P. Layard, Attorney-General; F. R. Saunders, Treasurer; Lionel F. Lee, Acting Principal Collector of Customs; A. R. Dawson, Government Agent of the Western Province; Allanson Bailey, Government Agent of the Central Province; R. K. MacBride, Director of Public Works; W. W. Mitchell, Mercantile Representative, A. De A. Seneviratne, Lowcountry Sinhalese Representative; Sir John J. Grinlinton, General European Community Representative; P. Coomaraswamy, Tamil Representative; M. C. Abdul Rahiman, Muhammadan Representative; and W. Ellawella, Kandyan Representative.

MINUTES.

The Clerk read the minutes of the previous meeting.

ASSENT TO ORDINANCES.

H.E. the LIEUT.-GOVERNOR intimated that H. E. the Governor had given his assent to the following Ordinances:—

(1) Ordinance No. 8 of 1895, intituled "An Ordinance to repeal the Ordinance No. 29 of 1894, and to amend 'The Kandy Waterworks Loan Ordinance, 1884';" and (2) Ordinance No. 9 of 1895, intituled "An Ordinance to consolidate the Law relating to Oaths and Affirmations in Judicial proceedings and for other purposes."

A PROTEST.

THE Hon. P. COOMARASWAMY :—Sir, I beg to hand in a protest signed by the Sinhalese Member and myself against the Oaths and Affirmations Ordinance. The Protest was in the following terms:—

We desire to record our protest against the passing of the Ordinance entitled "An Ordinance to Consolidate the Law relating to Oaths and Affirmations in judicial proceedings and for other purposes."

We deem the eighth, ninth and tenth sections inexpedient and injurious on the following grounds:—

1.—The resort to the practice of decisory oaths sanctioned by the eighth section will insensibly rob the regular judicial oath or affirmation of the solemnity that now attaches to it as the sole mode of attestation recognized by law in our Courts.

2.—The extension of decisory oaths to matters of a criminal nature, as contemplated by sub-section 1 of section 9 will seriously interfere with, and in many cases defeat, the ends of justice.

3.—Sections 8 and 9 constitute legislation of a character manifestly retrogressive. The decisory oath is a procedure, which the best and most experienced Judges in the island had long ago emphatically condemned; which public opinion has discountenanced; and which has how become obsolete. To give such a practice the recognition of law would be to revise the barbarity of times now happily past and to afford ampler occasion and temptation to perjury.

4.—The section 12, sub-section 1 seems to us to be absolutely wrong and dangerous in principle. It is further replete with mischief of a widespread and alarming character. It violates the fundamental principles of British Law, in that it virtually punishes a person without trial constituted as our judiciary are at present the majority of whom, according to the words of the Governor in his address to the Legislative Council on 9th October last, "consist of Civil Servants without a special legal training"——to make a witness liable to punishment for perjury, because "*in the opinion*" of Judicial Officer he has given false evidence, without the safe-guard of a regular trial will undoubtedly be to imperil the liberty of thousands of ignorant but honest witnesses. Cases which have occurred only recently and in Colombo make this too clear to require further statement. In our minor Courts, witnesses are often disbelieved by Magistrates on grounds which, subsequently, enquiry shows to be altogether insufficient.

5. According to the English law of evidence, the evidence of one witness is sufficient to convict a man of murder; whereas in cases of perjury, two witnesses are absolutely necessary; the Law thus setting more value on a man's character than even on his life. To render witnesses liable to punishment without a trial would spread alarm among them and it would become difficult to get witnesses to come forward to give evidence. And when they do come, it may induce them to shape their evidence to suit the views formed by the judge. This would strike at the very root of the Administration of Justice.

6. It has been urged in favour of these sections that they are Law in India or in the Straits Settlements. We submit that this is no sufficient recommendation. The condition of the people of this island in regard to customs and social progress is much in advance of that in India and the Straits. There the Rulers were compelled to adopt partially the existing practises of different nationalities and adapt themselves to existing circumstances. Ceylon on the contrary, when the English took possession of it, had been already made conversant with Western Laws and Institutions; what therefore, suits the one country will not necessarily be found suitable to the other.

7.—The Bill contains no provision for the proper administration of the decisory oath. Indeed it would be difficult to prescribe forms of oath and affirmation which would be binding on the consciences of different religionists. Besides, there is always a possibility of evasion by clever expedients which can be avoided only by a system of strict surveillance. In fine, though decisory oaths may theoretically have much to recommend them, yet practically they will fail in their object, namely, the elucidation of truth and eloignment of falsehood.

P. COOMARASWAMY, A. SENEVIRATNE.

A PETITION.

The Hon. P. COOMARASWAMY :—Sir, I beg leave, with the permission of Council, to present a petition against the introduction of the Courts of Requests Ordinance. Petition which was worded as follows was taken as read :—

To Excellency the President and the Honourable the Members of the Legislative Council of Ceylon.

The humble memorial of the undersigned residents of Kandy and its neighbourhood, sheweth :—

1. In pursuance of a resolution passed at a public meeting held in Kandy to consider the Draft-Ordinance which proposes to raise the jurisdiction of Courts of Requests and to introduce certain important changes in the procedure of these Courts, the Memorialists beg leave to address your Honourable Council on the subject of the said Ordinance.

2. The Memorialists beg to express their opinion that the said Ordinance would, if passed, injuriously affect them and all classes the of community, as shown by various public meetings recently held in Colombo, Kandy, and other parts of the Island, and that it would be both unjust and impolitic on the part your Honourable Council to adopt such a measure in the face of opposition by the public for whose benefit it is supposed to be introduced.

3. The Memorialists beg to point out that the public have not asked for any change in the *existing* rules relating to Courts of Requests, and that there is no necessity which can justify interference on the part of your honourable Council with such rules.

4. To the large majority of litigants who are native villagers and small traders, the sum of R300 to which the jurisdiction of Courts of Requests is to be raised, represents a great deal of the purchasing-power of money; and it is of vital importance to this section of the community that cases in which they are interested and which involve claims exceeding R100 should be heard and determined in District Courts which are presided over by more experienced Judges than those of Courts of Requests, while as a rule, the best professional assistance is procurable in District Courts.

5. If the object of the proposed increase of jurisdiction be to reduce the cost of litigation, the Memorialists would point out that the remedy is to revise the present scale of charges applicable to District Courts, and not to compel an exchange of Courts.

6. The Memorialists have hitherto exercised the right of filing written defences in cases before Courts of Requests with the aid of Proctors and Advocates. There is no reason why parties-defendant should be deprived of the undoubted right and advantage of obtaining professional help in all cases where they can afford and are willing to pay for such help. Hitherto parties-defendant had the option of either stating their defences orally or by writing: and by long established preference they have elected to state their defences in writing and through the intervention of Proctors and Advocates. To carry the proposed rule into effect would be to disregard public opinion on the point.

6. The rule requiring oral defences would be unworkable. The Judges of Courts of Requests have already enough to do in the hearing and disposal of civil and criminal cases. To saddle them with the task of hearing and examining parties-defendant in civil cases with a view to finding out defences and then recording them would entail an amount of labour that must seriously interfere with the more important duties of these Judges, in the hearing and determination of cases for trial both of a criminal and civil nature.

7. It is too much to expect from Judges of Courts of Requests in the midst of their every-day work in connection with trial cases, the patience, calmness and consideration with Proctors and Advocates as trained draftsmen can bring to bear on the work of ascertaining the nature of a defence and then framing an answer consistent with law and fact.

8. The general incompetency of Judges of Courts of Requests has been repeatedly proved by the large number of their judgements which have been set aside by the Supreme Court in appeal. It would endanger the interests of parties-defendant to make these Judges pleading-drawers; for the result would be that parties-defendant who do not know their legal rights in regard to claims, would be deprived of such defences as the law allows them.

9. The memorialists object most strenuously to the proposed restriction of the right of appeal. This right has been the only safeguard against wrong findings on law and fact. The judgments of the Supreme Court on appeals from Courts of Requests amply prove that the judgments of these Courts require revision and correction even as these Courts are at present constituted, and it is therefore unfair to the public to increase their jurisdiction while taking away the right of appeal in cases which are now tried by experienced District Judges whose judgments and orders are subject to appeal. If the denial of the right of appeal be intended to relieve the Supreme Court of work, the Memorialists would urge that the reason is not one which should commend itself to your Honourable Council.

The Memorialists therefore pray that it may please your Honourable Council to reject the said Ordinance.

CHENA CULTIVATION IN ANURADHAPURA DISTRICT.

The Hon. A. DE A. SENEVIRATNE, in terms of notice, asked:—

If complaints have been received by Government of distress in certain villages of the Anuradhapura District, consequent upon restrictions placed on chena cultivation, and if so, what steps have been taken to relieve the distress, and to move for papers relating to the subject.

Sir, so long ago as May last I received a petition on the subject, but I did not present it to Council because it was not worded as it should have been, the writer having but an imperfect knowledge of the English language. But I have heard from certain people who came to see me that restrictions have been placed on Chena cultivation in the Anuradhapura District. The matter was referred to in the Administration Report of 1893 wherein Mr. Nevill the Government Agent says:—

> The usual rice cultivation exists here, and chenas are sown with kurakkan or gingelly. One or two Tamils have small plots of tobacco in the Province. I believe cotton might be grown with great success, somewhat on the Egyptian system, over a large area in Tamankaduwa, but at present no cotton is produced here. In regard to chenas the policy was initiated in 1892 of diminishing this wasteful and unsatisfactory system, so far as Crown lands are concerned. Owing, however, to the exceptional distress of the year, and uncertainty in regard to the expected rains, it was thought best to allow chenas in 1893, carefully restricting them to scrub jungle under ten years' growth.

These were the remarks the Government Agent, North-Central Province made with regard to agriculture in his Province in the year 1893. What is stated to me is:—with regard to some of the villages there are no paddy lands which are supplied with water, and with regard to the other villages which are supplied with water there are no lands available and that the only possible cultivation in certain parts is chena cultivation. If there are any restrictions with regard to these, the people are reduced to very great distress. The petition I referred to was one signed by 1,200 people. They not only signed this petition but some of them came and saw me on the subject and, so far as I can understand, their complaint is this:—that they and their ancestors have cultivated chena land from time immemorial; that in 1872 or 1873—in the 70's at any rate—an order was made that they should obtain permits to cultivate their lands and they were informed that these permits were necessary to prevent them encroaching upon the Crown forests; and, as they had to pay nothing for these permits, but simply to make application to the village headman, there was no difficulty raised on their part to cultivate on permits. But in 1894 the payment of a rupee per acre on every chena was insisted on. That seemed to be the grievance on the part of these petitioners. Lately an English clergyman who is connected with a mission in that district took a great deal of interest in the people, seeing the distress that existed in that part of the country, and I am informed he brought that state of things to the attention of Government and his opinion—and there is no reason to doubt that opinion, because he has been there amongst the people—is that it is not the case of people having mud land sufficient for their maintenance, but it is the case where, unless they cultivate Chena land they have to starve. If that is the state of things I would submit it is undoubtedly the duty of Government to remove the restrictions complained of. The object of the restrictions appears to be in order that Government may assert their right to the Chena lands. It may be that it is a desirable thing for Government to assert that right, but the assertion need not be by the levying of a rupee per acre. The hardship is that the people cannot follow any other occupation. It is not as if there was a trade they could take

to. In these villages there is no other occupation and they only ask that they may be permitted to live—and their only mode of living is by Chena cultivation. I move for papers on the subject.

THE CASE FOR THE VILLAGERS.

The Hon. W. W. MITCHELL :—Sir, I second the motion. From information I have received, the condition of these people seems to be deplorable. I have not visited these villages, but I have the names of some of them viz :—Elleyadyullwewa, Pillawa, and Tamitagama. The water supply seems at times to be precarious. A water rate is charged for recent irrigation works, but after all the supply is insufficient and uncertain. Last year it was represented that the village of Eliya Dulwewa paid for 12 times as much water as Government could supply owing to the failure of the rains. All the available paddy land is in the hands of the wealthy cultivators and these poor people are dependent or the necessaries of life on chena cultivation. There is no work of any other kind they can engage in—I mean remunerative work by which they can earn money. Travelling about the villages one neither saw plate, chair nor spoon or any article of civilization in their home. From time immemorial they have enjoyed the privilege of cultivating chena in certain parts of the jungle about their villages. The uplands or watershed from which the village tank is supplied is looked upon as the natural inheritance of those villages for this purpose and it has always been so used. I believe in 1873 Mr. Dickson brought in a regulation to preserve the Maha Kellé or Government forest surrounding the native holdings and for this purpose, natives were required to point out to the headmen the amount of chena land that they wished to cultivate and in doing so they received a full permit to cultivate it as their fathers had done before them. In 1894, as has been represented by the Hon. the Sinhalese Member they were required to pay a rupee per acre. Government then tried to prosecute some of them and as I have been told failed to succeed. I think it is a pity that ancient privileges should be denied to them more especially in a case like this because the result naturally follows that, driven by starvation, they will very likely become criminals. If some concessions could be made I think it would only be merciful and right on the part of the Government. I would be very sorry indeed to have chena hacked down in all directions, but I think, as has been suggested, that the payment of one rupee could be waived and some smaller contribution levied.

The Hon. Sir JOHN GRINLINTON :—I have had some experience of the cultivation of chenas, and I feel bound to say that the fact of the chenas having been unprotected in some districts led to the destruction of forests and it was absolutely necessary that Government should step in and protect the forest lands adjoining these chenas. They were simply cut down wholesale, and I have no doubt protection was necessary in the case now under discussion. From the petition now laid before Council, which I have read and from some papers which have just been put in my hands I think, if it be the case that these people have been for a long period in the habit of cultivating these chenas and if they are really chena and not forest land, it would not have been much loss had the large sum of one rupee per acre not been charged. If it had been merely a nominal amount to show that the land belonged to the Crown I believe no complaint would have been made and I do trust in the interest of these people who are very poor and in some instances very ignorant, that Government will act with leniency and reduce that rate of one rupee per acre to some very nominal amount, but sufficient to show their right to the land, the more so, because the policy of Government has always been to help the cultivators of the soil not only in the North Central Province but in other Provinces of the Island.

The Hon. the Acting COLONIAL SECRETARY (Mr. Taylor):—Sir, I would answer the questions of the Hon. the Sinhalese Representative. Representations have been made to Government on behalf of seven villages in the North-Central Province.

Representations have been made to Government on behalf of certain villages in the North-Central Province that hardship is being caused by the enforcement of the Regulations adopted by Government with regard to Chena cultivation. These Regulations include the payment by cultivators of a sum of R1 an acre as rent and in acknowledgment of the rights of ownership on the part of Government.

It is in respect of this payment of R1 an acre that representations have been made as to hardship but the Government is unable to admit that a payment of R1 an acre can possibly cause distress to the cultivators.

In this province land tenure differs essentially from that of the neighbouring Kandyan districts in that there is no private ownership of highland unless by receipt of a Sannas or grant from the Crown. All high land is at the disposal of the Crown and the people are allowed to cultivate on permit which may be given free or otherwise. Up to 1873 all chenas cultivated on high land were subject to strict regulation of clearing, by permits. Subsequent to that date the permit system was continued and no payment was enacted till 1894 when it was settled; upon resolution of the Government Agents, that in all such cases one rupee per acre should be paid.

Then, sir, with regard to the remarks that have fallen from Hon. Members I add that the only representation that has reached Government has been a representation made by the Rev. Mr. Garrett of the Church Missionary Society and he wrote to the Government on behalf of the three villages that have been named by the Hon. the Mercantile Member. Well, sir, Government gave full consideration to the questions and came to the conclusion which I have just read to Council and the answer to the question is that Government cannot admit that this charge of one rupee per acre is calculated to lead to distress, more particularly as Government is quite prepared and has empowered Government Agents in the provinces, in cases of poverty, to dispense with the payment of that fee. Further the permits I believe, were issued through headmen, but it does not follow that these permits came into the possession of the cultivators free. But that procedure of giving permits through headmen was abolished and it was in place of that that it was intended to charge a fee of one rupee per acre. It was to maintain the position that the chenas are Crown property and that they are cultivated by permission of the Crown. I take some exception to the term "distress." No representation has been made to the Government about distress. I think I am justified in saying that a representation was made in respect of damage by elephants but the Government Agent, when he was communicated with, said nothing whatever about the subject of distress. He mentions the fact that no permits have been asked for by the villagers of these three districts. With regard to the motion of the Hon. Member I may state that papers are somewhat voluminous and may take sometime to prepare but if the Hon.

member wishes to see them they are entirely at his disposal.

The Hon. SIR JOHN GRINLINTON :—May I ask if it is one rupee per annum per acre or one rupee per acre for all time?

The Hon. the Acting COLONIAL SECRETARY :—One rupee per acre per annum. In view of what I have said, as the papers are at the disposal of the Hon. Member, but as they are so voluminous, I would venture to ask him to withdraw his motion for their production.

The Hon. A. DE A SENEVIRATNE :—I am not in a position to withdraw my motion. If the papers are so voluminous I would not insist on their being placedon the table at once. I would leave it to the Council to say whether they accept my motion or not.

The Hon. the Acting COLONIAL SECRETARY :—I am not prepared to accept the motion.

H. E. the LIEUT.-GOVERNOR then put the question as to whether papers should be laid on the table. A division was challenged and the motion was negatived by 8 votes to 7. The division was as follows :—

Ayes 7.	*Noes 8*
Hon. W Ellawela	Hon. the Director of Public Works
,, Abdul Rahiman	,, the Principal Collector of Customs
,, Sir John Grinlinton	,, the Govt. Agent, C. P.
,, A de A Seneviratne	,, do do W. P.
,, W W Mitchell	,, the Auditor-General
,, P Coomaraswamy	,, the Attorney-General
,, the Treasurer	,, the Colonial Secretary
	H. E. the Major-General

The Hon. A. DE A. SENEVIRATNE :—I did not ask that the papers be printed. I simply wish them to be at the disposal of Members of this Council. I suppose that is what is meant by laying them on the table.

H.E. the LIEUT.-GOVERNOR :—I don't think it matters much; the papers are at the disposal of the Hon. Member.

The Hon. the ATTORNEY-GENERAL :—If they are laid on the table they must be printed, according to the rules.

LAND SALES IN CINNAMON GARDENS.

The Hon. P. COOMARASWAMY :—Sir, I beg to ask in terms of notice—

Whether it is the intention of Government to sell to a Syndicate any extent of land in the Cinnamon Gardens, Colombo, and if they do, on what terms and to whom it is proposed to sell the land, and to move for papers.

Sir, I make this motion for two reasons, first, because I think, on principle, it is wrong that Government should negotiate sales of land privately and, second, because I am informed by the public papers—they may be correct or incorrect, I am not prepared to say—that high officials have taken part in, and are members of this syndicate which is going to purchase this land. It may be said Government have done their best to get the best price possible for this land, but they would only be able to judge the price by what was offered some years ago. The value of land has risen very much within the last few years I am told—I don't state it myself—that if the lands were parcelled out and sold they would get much more than R4,000 per acre which I understand the Syndicate has offered and the Government has accepted. I would say that if there was an offer for a lot of land of this extent, the most advisable course would have been for Government to publish in the *Gazette* a notice that there is an offer of so many thousand rupees for such an extent of land and, if there was no higher bid they would accept the offer. To part with such valuable land in Colombo in this way is certainly not a business-like proceeding.

THE G. A., W. P.'S VIEWS.

The Hon. A. DE A. SENEVIRATNE seconded.

The Hon. the GOVERNMENT AGENT, W.P. (Mr. Dawson):—Sir, I don't exactly know what the object of the motion is. It is a question whether it is the intention of the Government to sell to a Syndicate any extent of land in Cinnamon Gardens. That, of course, is a question that has to be answered by the Government. The Hon. Member has mentioned in his speech that it would have been very much better if those lands had been parcelled out and sold by public auction. I am not aware myself what the intentions of the Government are, but, as Government Agent, who has charge of the land and whose advice most probably may be considered in respect of it, I consider that the land could never be sold by public auction without a notified purpose. If it is to be sold at all it should be sold for a definite object;—it should be sold only for the purpose of erecting most substantial buildings for residential purposes and it should not be sold indiscriminately. The price put on it is very large or will be a very large one, and it will be purchased by people who are prepared to put proper buildings on the land. There has been land sold in Cinnamon Gardens in the immediate neighbourhood of the land under notice, in the last few years the price of which has averaged R3,708 per acre. The smallest price was about R2,440 per acre and the largest R4793 per acre. I believe if this land was sold privately for R4,200 all round the price would be exceedingly good. If the Government got R4,200 all round, they would be lucky. And if the land is to be exposed to public auction, I don't think it will fetch anything more than that price. But as I have said it should be sold for a clearly defined purpose —for building houses which will be an ornament to the locality. There can be no doubt to sell it indiscriminately by public auction would be a mistake.

The Hon. the Acting COLONIAL SECRETARY :—Sir, my reply to the Hon. Member's question is as follows :—

Government has expressed its willingness to sell to Messrs. Julius and Creasy for a Company two plots of land of about 40 acres in all in the neighbourhood of Havelock Race Course on the following conditions :—

(1) The price to be paid for such land to be R4,200 an acre all the land taken up to be paid for in full at the time of purchase.

(2) The drainage of the land to be on a plan to be approved of by the Municipality before the land is divided and built upon.

(3) Plans of the proposed buildings and the purposes for which they are designed to be submitted for the approval of Governor.

(4) The Company to undertake to erect at least five houses within eighteen months of their Incorporation and handing over of the land. Other houses to be built as fast as applications for the same are received.

That is the answer to the Hon. Member's question given in the order in which he puts his questions. With regard to what he has said about its being wrong on the part of Government to sell land otherwise than by auction, I may say that the Government in matters of this kind must regard it as you would regard any commercial transaction. Government has the right, and is only doing fairly to the interests of the people that it represents, in trying to do their best in disposing of their land, whether by auction or by private sale. In this instance Government was of opinion that it was doing the best it could by selling by private sale. I may remind the Hon. Member that

this is not the only instance in which Government has parted with sites for buildings without going through the form of a public auction. Council will be aware of the case of the site for the building of the Chamber of Commerce. Some allusion has been made to the price which has been fixed by Government: R4,200 per acre. Well, sir, the average of the sales that have taken place in Cinnamon Gardens for some time time past comes to R3,788 per acre. But the average of the sales of pieces of land in the immediate neighbourhood of the land that is now proposed to be taken up, and which are better situated was R4,160 so that Government; in fixing the price at R4,200, went a nearly as it possibly could to the average result of the sales of land. With regard to the suggestion that has been made with regard to the position of public officers, I may explain that the promoters of this Syndicate represented to Government that it would be a desirable thing that public officers should be allowed to take shares in the Company and if that was done a certain number would be reserved. The Government met that by saying that they would not regard the purchase by a public officer of shares, of an equivalent value of the land and house he proposed to acquire for himself, as opposed to the instructions of the Land Investment Minute, but any officer of Government who becomes an investor in the scheme without expressing the intention of securing a dwelling-house will be required to divest himself of any shares which may be acquired by or allotted to him.

The Hon. P. COOMARASWAMY :—There is only one remark which has fallen from the lips of the Colonial Secretary to which I would like to refer. It was made about the conditions of sale. You sell 40 acres of land to the Company and say they have to build only five houses in eighteen months; they are to build the rest of the houses as fast as application is received. Why not say instead "build five houses in eighteen months and the rest in five years?" Otherwise the Company will tell Government that no applications have been received, as an excuse for not proceeding with the buildings. I don't see any extraordinary conditions imposed on this Company. I may also mention that the price of land has gone up—I know about ten days ago three-quarters of an acre of land in Wellewatte sold for R9,400—land which four years ago would not have sold for R1,200 an acre. I move for papers on the subject.

H. E. the LIEUT.-GOVERNOR :—I would like to say I was a party to the negotiations with H. E. the Governor who is not present to speak for himself, and that, looking to the character of the application which was to build eligible houses of the very first class and to have a guarantee that residents would have no objectionable neighbours, it was absolutely necessary to sell a large lot and to shut out the competition which I undertsand the Hon. questioner to advocate.

UVA RAILWAY TRAFFIC RETURN CALLED FOR.

The Hon. W. W. MITCHELL :—Sir, in terms of notice given at the last meeting, I beg to move—

For a return showing the full Traffic and Earnings credited to the Railway beyond Nanuoya, for twelve months ended September 30, 1895, made up in correspondence with the Reports of the Commission on Railway Extension to Uva.

Sir, in the Blue Book of 1894 certain returns of railway revenue and expenditure are given. Amongst these I find that in the case of the Haputale line the revenue is given as R174,967·99 whilst the expenditure appears to be R187,798·49 the difference being R12,830·50 that being apparently the loss in working. I don't know how the details are made up and therefore I bring forward this motion with the view of obtaining that information. In the report of the Commission of 17th April 1886 it is pointed out that after providing for meeting the annual liabilities on the line there remained a surplus balance of R217,183 according to their estimate. Now the Uva Railway Commissioners, I understand, were always assured that the revenue from transport of the new Uva traffic would be credited to the Uva extension from Nanuoya to Colombo and *vice versa* less actual carriage expenses only. I don't know if the returns have been made up in conformity with this assurance and I should like very much to see in detail how the revenue is credited and whether this charge for the Uva traffic carried over the main line is merely entered at the actual cost. I believe in 1874 the actual cost of transport over the main line of the new traffic diverted was estimated at about 25 per cent. That I find on reference to the report of the Railway Inquiry Commission in a Sessional Paper No. 2 of 1875, but I have reason to believe that that was somewhat modified later. I rather think it was placed at 10 per cent though I am not quite certain. There is nothing in the Blue Book to give the information I wish for and I hope the figures may be given. I have no doubt the General Manager can very easily supply that and it will be interesting as showing at this time really whether the line between Haputale and Bandarawella is paying or whether it is not.

The Hon. Sir JOHN GRINLINTON :—I beg to second the motion.

The Hon. the Acting COLONIAL SECRETARY :—The information asked for by the Hon. Member will be prepared as early as possible and so far as possible in accordance with what the Hon. Member desires.

THE NEGOMBO COLOMBO CANAL.

The Hon. W. W. MITCHELL :—Sir, I beg to move—

For a return showing the amounts expended on the repairs and upkeep of the canal between Colombo and Negombo in each of the last five years.

Sir, there are always complaints being made with regard to this canal and I wish to see if there is ground for them. I wish to find out what amount has been expended on repairs and upkeep so that we may see whether, for the amount expended, it is in a proper state of repair. It is a most important means of communication between Negombo and Colombo, traversed as it is by numerous steamboats; and it is a great convenience more especially to native traders. It has been rumoured that the toll on the canal may be increased under the new Tolls Ordinance, which, I understand, is in the hands of Government and which will be brought forward at no distant date. If there is any increase it should be very small. The rates charged by these steamers are very low and if the rates are increased it will necessitate an increase of fares and curtail the advantage which these steamers supply. However the return will show if the amount of money that has been expended on the Canal justifies it, but at the same time I can hardly think the amount that is expended on the upkeep of the Canal would justify any large increase in the tolls such as would curtail the advantages of means of communication which they have at present.

The Hon. Sir JOHN GRINLINTON:—I beg to second the motion.

The Hon. the Acting COLONIAL SECRETARY: I have no objection on the part of Government to furnish the information asked for.

UVA PUBLIC WORKS.

The next item on the agenda paper was the following motion standing in the name of the Planting Member (Mr. Giles Walker)—

The Hon. Giles F. Walker to move—for a comparative statement showing the several sums voted for Public Works in the Province of Uva, as scheduled in the Supply Bills for the last three years, and the sums actually spent upon each work in those years.

The Hon. W. W. MITCHELL explained that he had a letter from the Hon. the Planting Member requesting that his motion might be allowed to stand over till next meeting of Council. Agreed.

THE AGRICULTURAL SCHOOL.

The Hon. P. COOMARASWAMY:—I beg to move for a return showing for the last five years—

(1) The number of Agricultural Instructors employed under Government.

(2) The number of Agricultural Instructors doing other than agricultural work.

(3) The number of Superintendents, Teachers, and Scholars in the Colombo Agricultural School.

(4) The salary and allowances paid to each.

(5) The results of the improved cultivation since 1887, when they were first appointed, and the effect of the system on the village cultivator.

(6) Names of village Agricultural Schools that have been abolished since.

(7) The extent of land under cultivation by the different Instructors; and to move for papers.

The question of agricultural instruction to natives of this Island was first mooted in 1883. Judging from the remarks that fell from Sir John Douglas who was then Colonial Secretary, it seems to me, that it was intended in a small way to give this instruction and not to incur a large expenditure annually and also that it was more of a tentative measure than anything else, and, if it proved to be a failure that the Government would have taken steps to stop this expenditure. Looking at the Blue Book for 1892 I find that the number of scholars in the school of agriculture was only 23. The cost to Government—the gross cost was R12,948·84. The amount of school fees recovered was R941·43 thus making a net expenditure to Government of R12,007·41. In the Blue Book for 1893 I gather that the scholars were only 19, or 4 less than in the year preceding. The net cost to Government was R12,728.11, the fees amounting to R859·75 and the gross cost being R13,587·86. According to the Blue Book for 1894 I find that the scholars numbered 20, the gross cost was R13,275·30, the fees recovered were R904·45 making a net total of R12,370·78. Speaking on the School of Agriculture, Mr. Cull, Director of Public Instruction, says that

"The Superintendent, Mr. C. Drieberg, in referring to the career of his students subsequent to their passing from his control, has recorded the fact that unfortunately few only are at present engaged in the cultivation of their ancestral lands. As the School of Agriculture was originally intended for the instruction of young men whose parents were in possession of landed property, it is a subject of regret that more of this class have not joined the institution.

"The School is, I fear, regarded by many as a place where a liberal education in the English language may be secured at a very moderate cost, and as many seek admission into it on that account alone, the time has arrived for acting upon the suggestion of the Superintendent with respect to making a considerable increase in the present fixed charges for board and tuition."

Looking at the report of Mr. Drieberg, the Superintendent of that School, he says that during the 11 years preceding they had turned out only 85 students. If the cost for every year exceeded R12,000, and it stands to reason that the same rate of expenditure was incurred during the previous 11 years, Government have spent between R140,000 to R150,000 to turn out 85 scholars. I think I am right in stating that Government are spending a large amount of money in an undertaking which has proved, I think I may say, a failure and which is not likely to be of any great benefit to the people of this country. It is with the view, therefore, of eliciting information whether it has proved of any benefit to this country that I move for the above return. I may say, sir, calculating the cost of each scholar at R50 a month, that if it is the intention of the Government to turn out a number of scholars each year it would be much better to send them to the Agricultural College in the Madras Presidency where the fees are cheaper and where the board and lodging will never come to R50 a month.

AN UNFORTUNATE STATE OF MATTERS.

The Hon. W. W. MITCHELL:—Sir, while regretting the unfortunate state of matters at the School of Agriculture I second the motion. I would be glad indeed to see it successful, but it appears to me the small number of boys educated there costs a very great deal too much. The latest Report shows that the fees charged are mere nominal rates. It seems too much to incur about R50 as has been said by my Hon. friend, when we receive only R10 in return. I would like to see the School a success, but if it is carried on as at present I don't see how that can be done.

The Hon. the Acting COLONIAL SECRETARY:—Sir, again I have to say that I am not in a position to oppose the motion. There is no reason why the information asked for should not, so far as possible, be given in the form desired, It will be difficult to give it in the form of a return in respect of No. 5. "The results of the improved cultivation since 1887, when they were first appointed, and the effect of the system on the village cultivator," but so far as it is possible the motion of the Hon. Member will be complied with. With regard to the School I think it must be admitted it has done a great deal of good since its establishment. Even though it has turned out only 85 young men it is a great thing to have turned out 85 men with a good knowledge of agriculture. It is unfortunate, and no Member regrets it more than the Government, that the School is not a greater success than it is at present and has been in the past; but that is hardly a reason for doing away with that institution. It is a good reason for Hon. Members to co-operate with Government and to try to induce the people to take greater interest in the institution and send their sons there to acquire the necessary knowledge and how to put it into practice.

The Hon. P. COOMARASWAMY:—I thank the Hon. the Colonial Secretary for the assurance he has given me, but I can say, however, that the sons and grandsons of owners of land would much prefer to go on with the cultivation which they found suited their fathers for hundreds of years. The Kandyan Member told me a little while ago that an improved plough had been introduced and an improved mode of cultivation, but that what is suitable in Western lands does not suit our people in Ceylon. We have not got the cattle suited to these ploughs the lands are not

of the same soil. The improved ploughs do not suit and that is why we do not want to launch into new methods and ruin ourselves. We have got on well heretofore and we wish to go on as before. In coconut planting under the improved Western cultivation I know an English gentleman who used to wash his trees with soap and water. That kind of cultivation will not suit us (laughter—Oh !) it is a well-known fact.

THE EXPLOSIVES ORDINANCE.

The Hon. the TREASURER :—Sir, I rise to move the first reading of "An Ordinance to amend 'The Explosive Ordinance 1894.'" Hon. Members will be aware that in the year 1893 an Ordinance entitled "An Ordinance for the prevention of accidents by Gunpowder" was introduced into this Council and was passed. The original was sent home in the usual course for allowance or disallowance by Her Majesty and it was sent back again to this Colony by the Secretary of State for the Colonies with the intimation that the law regarding explosives had received a great deal of attention in England, and some very valuable suggestions by Col. Magendie, Chief Inspector of Explosives were sent out with a proposal that the Council should frame an Ordinance more in accordance with the views which were therein expressed. The Council thereupon appointed a Sub-Committee to consider these suggestions and an amended Ordinance was laid before this Council. The result was that in the end of 1894 Ordinance No. 18 of 1894 was passed and was sent home for allowance or disallowance by Her Majesty. That Ordinance has been practically approved, but the Secretary of State has pointed out that there are two defects in the Ordinance which he suggests should be amended. One is that the Ordinance does not provide power to the Governor in Council to define and classify explosives, and the other objection is that clause 24 of Ordinance 18 of 1894, whilst it gives full power to the Governor in Executive Council to make general rules, does not give power to the Governor or to any local authority to make rules in detail which are considered necessary to regulate the use of explosives in this Colony. It was certainly the intention as it was the opinion of the Acting Attorney-General who drew the Bill of 1894, that the Ordinance which he drafted should give the powers which are declared to be necessary, but, as in the opinion of the Home Government, those powers are not sufficiently clear or explicit a draft Ordinance has been prepared by the present Attorney-General and that is the Ordinance which I have the honour to move the first reading of. I move the first reading of "An Ordinance to Amend 'the Explosive Ordinance 1894.'"

The Hon. the ATTORNEY-GENERAL :—Sir, I beg to second the motion.

Bill read a first time.

The Hon. the TREASURER :—Sir, I beg to give notice that I will take the second reading of the Bill at next meeting of Council.

THE INSPECTION OF MINES AND MACHINERY.

The Hon. the ATTORNEY-GENERAL :—Sir, I beg to move the first reading of "An Ordinance to provide for the Regulation and Inspection of Mines and Machinery." The attention of Government having been invited to accidents which occur to persons employed in plumbago mines, this draft Ordinance has been prepared for the purpose of regulating mines and the use of machinery and providing for the due inspection of the same and it empowers the Governor in Executive Council to make rules for inspecting and examining into the state and condition of mines and ensuring due ventilation in any mine or any part thereof; for regulating any matter and thing connected with or relating to the safety of the persons employed in or about any mine or factory, or connected with or relating to the fencing of machinery in, or attached to, any such mine or factory; for keeping mines and factories in a cleanly and sanitary condition; for the issuing of notices to the owners, superintendents, managers, or persons in charge of any mine or factory, calling upon them to execute any work for any of the said purposes; for the appointment of an inspector or inspectors of mines and factories; imposing restrictions on the cleaning of machinery while in motion; for imposing restrictions on the working of women and children between the fixed and traversing parts of any self-acting machine while such machinery is in motion; for the reporting to the Government Agent of the province by the owner, superintendent, manager, or person in charge of any mine or factory, of any loss of life or any personal injury to any person employed in any mine or factory by reason of any accident or mishap at such mine or factory; and for any other purpose necessary for carrying out the several provisions of the bill now before Council. If Hon. Members will refer to clause 10 which I have quoted they will find it provides for the making, altering, amending or cancelling of any rules necessary for carrying out the several provisions of the Ordinance. I move the first reading of "An Ordinance to provide for the Regulation and Inspection of Mines and Machinery."

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS :—Sir, I second the motion.

The Hon. W. W. MITCHELL :—Sir, I hope some time will be allowed to elapse before the second reading is taken. I have information that a good deal of opposition will be taken to this Bill on the part of plumbago mine owners, and I think it would be only right that time should be given to Hon. Members to study it thoroughly.

H.E. the LIEUT.-GOVERNOR :—How long has it been published ?

The Hon. the ATTORNEY-GENERAL :—It has not been published very long. With the leave of Council, I will bring it up, not at the next meeting, but the meeting after that.

The Hon. W. W. MITCHELL :—I believe that is scarcely sufficient; a month would be required.

The Hon. P. COOMARASWAMY :—It was only published in last *Gazette*.

The Hon. the ATTORNEY-GENERAL :—We are all anxious to prevent as far possible these accidents and the question has been pressed upon Government by Government Agents. In drafting the Bill I tried to affect the interests of people who work mines as little as possible. It was suggested we should bring in a Bill on the lines of the English Act which hon. members will find very much severer than the one I have presented to this Council.

H.E. the LIEUT.-GOVERNOR :—I should like to know if a whole month would be sufficient to discover objections to the Bill. I have not, until today, heard one single objection.

The Hon. the ATTORNEY-GENERAL :—It is not the intention of Government to impose any fresh tax upon the mining industry. It is merely to make such rules as are necessary for the protection of people working in the mines.

The Hon. W. W. MITCHELL :—It might be used as an engine of oppression, for no doubt

inspectors will be appointed, and further, rewards are to be given to informers.

The Hon. the ATTORNEY-GENERAL :—I think it is very probable that these inspectors would be the Government Agents or the Assistant Government Agents. I do not think Government wishes in the slightest degree to do anything in the way of oppression. What we want do is to see that these accidents do not occur, because it seems to us, these accidents are becoming a great deal too frequent.

H.E. the LIEUT.-GOVERNOR :—The Bill has been referred to as a measure of oppression. I do not see why there should be any opposition to the Bill. It proceeds from the Government in a spirit of humanity, in the interest of those people who lose their lives, of which there is a considerable number, not known to the community generally.

The Hon. W. W. MITCHELL :—Sir, as a matter of fact the Bill will operate over a very large area. There are tea factories everywhere and tea planters too were interested as the Bill concerns itself with machinery. They have had no intimation about it and they have not had an opportunity of seeing the bill as. I was only published for the first time in last week's *Gazette*. I think that at all events three weeks might be allowed to elapse before the second reading.

The Hon. the GOVERNMENT AGENT, WESTERN PROVINCE :—I think Government should allow some time to elapse. As regards Government Agents the Bill places one more straw on the back of the Government camel.

The Hon. the ATTORNEY-GENERAL :—I may be allowed to mention that the Bill has been introduced at the instance of one of the Government Agents in a province in which the accidents I have referred to have occurred.

The Hon. the GOVERNMENT AGENT, WESTERN PROVINCE :—But they are probably not prepared to accept your Bill as it stands.

H.E. the LIEUT.-GOVERNOR :—Will three weeks do?

The Hon. W. W. MITCHELL :—Yes.

The Hon. the ATTORNEY-GENERAL :—I give notice that I will bring up the Bill in three weeks for second reading.

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS : It might tend to hasten the passing of this measure if a return of the accidents which have occurred in plumbago mines were laid on the table.

The Hon. the ATTORNEY-GENERAL acquiesced.

THE CHAMBER OF COMMERCE ORDINANCE.

The Hon. W. W. MITCHELL :—Sir, I beg to bring up the report of the law Officers of the Crown on "An Ordinance to incorporate the Ceylon Chamber of Commerce" and move that it be read.

The Hon. Sir JOHN GRINLINTON seconded. Agreed.

Report of the Law Officers read.

The Hon. W. W. MITCHELL :—Sir, I beg to move that this Bill be read a third time and do pass.

The Hon. Sir JOHN GRINLINTON :—I beg to second.

Bill read a third time and passed.

The Hon. the ATTORNEY-GENERAL:—Sir I beg to bring up the Report of the Law Officers of the Crown on "An Ordinance to amend 'The Ceylon Penal Code.'"

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS seconded —Agreed.

Report of Law Officers read.

The Hon. the ATTORNEY-GENERAL:—Sir, I move the third reading of "An Ordinance to amend "The Ceylon Penal Code"' and that it do now pass.

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS seconded.

Bill read a third time and passed.

THE LAW OF EVIDENCE.

The Hon. the ATTORNEY-GENERAL :—I move, sir, that Council go into Committee on "An Ordinance to consolidate, define and amend the Law of Evidence."

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS seconded. Agreed.

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS moved that in clause 1, first line, the word "shall" be inserted in place of the word "may" making the clause to read "this Ordinance *shall* be called" &c.

The Hon. the ATTORNEY-GENERAL :—It is not obligatory. This is the short title of the Act which *may* be cited as "The Ceylon Evidence Ordinance 1895." It is not absolutely necessary to designate it by the short title.

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS replied that in the case of the Criminal Procedure Code, in the same connection, the words "shall be called" were used.

The Hon. the TREASURER :—I would refer the Hon. Member to the Merchandise Marks Act. There "may be called" is used.

The Hon. the ATTORNEY-GENERAL said no precedent could be quoted as to the use of the words "shall" or "may." It is not necessary to use the short title. If one cited the number of the Ordinance may would be sufficient.

Amendment negatived it.

The Hon. the ATTORNEY-GENERAL next moved the insertion of the figure "5" in line 2 of the clause so that the Bill might be cited as "The Ceylon Evidence Ordinance 1895." and of the words "January 1896" at the end of the clause, making it read "it shall come into force on the first day of January 1896.". Agreed.

The Hon. A. DE A. SENEVIRATNE said with reference to clause I, he would like to ask a question with regard to affidavits. He was aware that in India the act excluded affidavits and proceedings before an arbitrator, but he wished to know why these proceedings were excluded from the Ordinance before Council.

The Hon. the ATTORNEY-GENERAL replied that affidavits went rather further than evidence. A man might depose to a fact on affidavit which he could not depose to in giving evidence, so that the act was not applicable to affidavits. It was not usual in England to bind arbitrators down and a great deal of evidence was received by arbitrators which is not strictly speaking legal evidence.

The Hon. A. DE A. SENEVIRATNE pointed that Stokes was of opinion that affidavits should be included in the law of evidence. On page 833 of his Anglo-Indians' Codes he said :—

I. The Act (sec. 1) expressly declares that it does not apply 'to affidavits presented to any Court or officer,' words which include the answers to interrogatories. The Civil Procedure Code, sec. 647, empowers the High Courts to make rules providing for the admission 'in proceedings in any Court of civil jurisdiction other than suits and appeals.' of affidavits as evidence, and the Criminal Procedure Code, sec. 539 declares the person before whom affidavits for use on the criminal side of the High Court are to be sworn. But, apart from certain enactments as to the admission of affidavits, the applications to be supported by affidavit, and the answering of affidavits, there is no law as to testimony by affidavit except that contains in the Civil Procedure Code, secs. 194-197. These sections should be transferred to the Evidence Act and applied to both criminal and civil proceeding.

That was the opinion of Mr. Stokes and he simply pointed it out for the consideration of the Hon. the Attorney-General. whether he should not include affidavits in this Act.

The Hon the ATTORNEY-GENERAL rejoined that the opinion of Mr. Stokes had received due consideration. There was provision in the Civil Code for affidavits, but under the Criminal Procedure Code affidavits would not in future be accepted in Police Court cases.

The Hon. P. COOMARASWAMY pointed out that interrogatories might form part of the evidence in a proceeding. If affidavits were rejected interrogatories must be rejected.

The Hon. the ATTORNEY-GENERAL stated that was provided for in the Civil Procedure Code.

The Hon. P. COOMARASWAMY then drew attention to the words "any Act Statute Ordinance or regulation" in clause 2. He inquired whether as a matter of fact there was any Statutes in force in Ceylon. He knew they had ordinances and regulations but what about Statutes and Acts?

The Hon. the ATTORNEY-GENERAL replied they had the Imperial Acts and Statutes in force in Ceylon.

The Hon. P. COOMARASWAMY :—They are not in force as part of our law. They are enforced as being Imperial Acts which extend to this Colony.

The Hon. the ATTORNEY-GENERAL :—I don't follow my Hon. and learned friend. What omission do you suggest in the Clause.

The Hon. P. COOMARASWAMY suggested the omission of the words "Act" and "Statute."

The Hon the ATTORNEY-GENERAL did not think the clause required amendment in the manner suggested.

The matter then dropped.

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS :—Before you proceed further I should like to ask the Atterney-General whether he intends to insert here a section for omitted cases. I understood it was his intention to insert such a section.

The Hon. the ATTORNEY-GENERAL :—If I do insert it I should prefer to consult with the Chief Justice first. I had drafted a section with regard to it but I do not wish to put it in the Bill unless I am quite sure it won't affect the other provisions of the Bill. After I have shown this clause to the Chief Justice I will submit it to the Council.

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS asked if it would not be possible to make the definition of the word "Court" in para 2 of Clause 3, identical with the definition of Court in the Courts ordinance and penal Code and he moved the insertion of the the words "Courts Martial" after the words "Arbitrators."

Conversation took place on this point,

The Hon. the ATTORNEY-GENERAL contending the word "Court" was sufficiently defined in the clause and that as regarded the insertion of the words "Courts Martial" be held that was unnecessary, because, in the first clause, this exception was stated.

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS asked what was the effect of the illustrations in the Draft Ordinance. There was but one other Ordinance—the Ceylon Penal Code—in which illustrations were given and he wished to know if it was to be understood that the illustrations included all the cases to which the rule is applicable and that any case which is not illustrated is excluded.

The Hon. the ATTORNEY-GENERAL replied he should have thought that was quite manifest. An illustration was a thing which illustrated the text. It did not exclude any other offence. The Penal Code was full of illustrations but it did these by not exclude anything else penal under the statute.

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS moved the addition of a 3rd sub-section to section 3 "all other material things inspected or produced for the inspection of the Court in order to prove or disprove a fact in issue," such as the club or knife used by the murderer.

The Hon. the ATTORNEY-GENERAL replied that such an amendment was not necessary. If Hon. Members would turn to Clause 60 they would find that was provided for :—

Provided also that if oral evidence refers to the existence or condition of any material thing other than a document the Court may if it thinks fit require the production of such material thing for its inspection." Amendment negatived.

Refering to illustration (b) section 5: —

A, a party to a suit, does not comply with a notice given by B, the other party, to produce for B's inspection a document referred to in A's pleadings. This section does not enable A to put such document in evidence on his behalf in such suit, otherwise than in accordance with the conditions prescribed by section 104 of the Civil Procedure Code.—

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS inquired why the Indian Act had not been followed.

The Hon. the ATTORNEY-GENERAL explained that as the law was not the same he had to make the illustration different.

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS suggested the addition at the end of same sub-section of the words "or any section enacted in place thereof."

The Hon. the ATTORNEY-GENERAL did not think the amendment was required and the matter dropped.

The Hon. P. COOMARASWAMY drew attention to illustration (a) clause 6 :—

A is accused of the murder of B by beating him Whatever was said or done by A or B or the bye standers at the beating or so shortly before or after it as to form part of the transaction is a relevant fact.

The Hon. the ATTORNEY-GENERAL said the clause had been very carefully considered and this illustration had been very carefully considered. The clause did seem somewhat vague, but on the Judge was thrown the responsibility of deciding whether the facts to be proved are so closely connected as practically to form me group of facts. Members of the Council who were of the legal profession would remember that this corresponded to a similar vagueness in the English law. The discretion with regard to bye-standers was very large indeed. In this connection he referred to a case where the evidence of bye-standers had been admitted in Eglannd, viz. in Lord George Gordon's trial for treason. There, though he had no connection with the papers sold at the meetings at which he was present, they were admitted as relevant. He their re-referred to what Cunningham's says on the admissibility of bye-standers evidence that :—

The admissibility of statements of bye-standers will depend, not, as is the general rule in English Law, on the question whether the party, against whom the evidence is given, was present when the statement was made; *but on the* question whether the statement was made so shortly before or after the transaction as to form part of it. The *mere* fact of the accused not being present would not be ground for its exclusion. Sometimes such statements are

the best *possible* evidence. *Suppose*, for instance, that the question is whether A committed a murder at a particular house and time: a number of men are sitting in a room, one of them, B, looks out of the window, and says, "there goes A;" immediately afterwards screams are heard, the men rush out, and find the murdered person's corpse and the murderer fled. B's statement would be relevant as part of the transaction. It would also be admissible under Section 167 by way of corroborating B's evidence.

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS :—I do not follow my Hon. friend's reference.

The Hon. the ATTORNEY-GENERAL :—I refer to Cunningham's statement, as a commentator, to show that it is intended to throw on the judge the responsibility of deciding as to relevancy of the facts. Great latitude in this matter is allowed in England and I hope the same latitude will be allowed in Ceylon. In this case I do not wish to depart from the English law.

The Hon. P. COOMARASWAMY stated that Stokes stated that Clause 7 was so drawn as to permit wholly irrelevant evidence to be admitted. He was supported by eminent authorities and he himself was a lawyer of enemies—the legal member of the Viceroy's Council. The Hon. member thought it would be well for the Hon. the Attorney-General to consider whether he would not revise this clause. The Attorney-General, of course, as Council was constituted, had the power to say he must insist on a Clause and in fact, to pass the whole Ordinance, but he might defer to the opinion of the authorities referred to. Of course it was of no use his dividing Council on the point as the whole batch of officials would be against him

The Hon. the Attorney-General :—said he did not wish to press his views on Council in opposition to those of Mr. Stokes. The Act was passed in 1872 but Mr. Stokes had never attempted to amend the clause and the difficulty had been thought of by other people than himself. He might mention it had been continued in the Straits. He (the Attorney-General) did not say that was a reason for following it but the fact that no amendment had been made showed that there was difficulty in doing so.

The Hon. P. COOMARASWAMY understood from the remarks of the Attorney-General that he admitted the statement of Mr. Stokes that the clause would admit facts wholly irrelevent. Because in India they had not ammended the clause they were going, forsooth, to allow it into the Ceylon Act. Surely if it was proved wrong the hon. the Attorney-General was competent to make the necessary alterations and to pass it. To admit that the clause is wrong and then pass it because it was passed in India 25 years ago was he thought entirely wrong in principle.

The Hon. the ATTORNEY-GENERAL :—I don't mean to say I am going to put myself against Mr. Stokes. All I try to do is to amend the law and to keep it in consonance with the laws of India and the Straits.

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS took exception to the words "third person" in illustration (A) clause 7. What he objected to was the act of showing money to a third person in a case of theft being regarded as relevent evidence. That was not according to the law of England. Amendment negatived.

The Hon. P. COOMARASWAMY :—There is one thing I should have said a little while ago. My Hon. and learned friend said these are matters that ought to be left to the discretion of the judges. I do not agree with him for the special reason, that many of our judges are incompetent to decide in such matters not having a legal training. You are introducing a clause which judges of other lands have said brings in irrelevent evidence and judges, whom my Hon. friend said had no special training, (H.E. the Governor said the same thing in his address to Council) are to be allowed to construe this difficult clause. To let in irrelevant facts is a most dangerous thing. I think the way this ordinance is being passed over,—important sections which have been condemned by judges and commentators of great eminence—shows that among us are some who do not care what becomes of the law—but who say Simply let us incorporate what has been done in other lands. That is not the way an Act like this should be considered in Council.

With referenee to illustrations j and k the Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS asked if they were in accordance with the English Law.

The Hon. the ATTORNEY-GENERAL :—I pointed out that at last meeting.

With reference to illustration K :—

(*k*). The question is, whether A was robbed.

The fact that soon after the alleged robbery he made a complaint relating to the offence, the circumstances under which and the terms in which the complaint was made, are relevant.

The fact that he said he had been robbed without making any complaint is not relevant as conduct under this section, though it may be relevant as a dying declaration under section 32 sub-section (1), or as corroborative evidence under section 162.

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS held that to admit such evidence would be productive of infinite harm as it admitted self-made evidence not at present relevant.

The Hon the GOVERNMENT AGENT, WESTERN PROVINCE, remarked it was the tendency in Ceylon Courts to admit evidence of such kind. Headmen were often required to attend Court.

The Hon. the ATTORNEY-GENERAL thought it was an advantage for the Court to know the actual complaint that was made. The mere fact that a complaint was made did not prove a man was speaking the truth. It merely showed he made a complaint in a particular way. That was nearly always brought out in cross-examination.

The Hon. P. COOMARASWAMY was of opinion that if information given at the time were taken down then perhaps there would not be danger, but to allow a headman to come afterwards and say "the complainant said so and so" would be somewhat dangerous considering the nature of the headmen.

The Hon. the GOVERNMENT AGENT, WESTERN PROVINCE remarked it might be dangerous but it was generally the wish of the Magistrates, who were sitting on the benches of the Western Province at any rate, to require the headman to whom the complaint was originally made to attend at their Courts for examination.

The Hon. P. COOMARASWAMY :—To state what the Magistrates of the Western Province do proves nothing, especially after it was admitted by my Hon. and learned friend that they are men without legal training.

The Hon. the GOVERNMENT AGENT, WESTERN PROVINCE:—And therefore all the better Magistrates

The Hon. P. COOMARASWAMY next called attention to the illustration in connection with Clause 10:

Reasonable ground exists for believing that A has joined in a conspiracy to wage war against the Queen. The facts that B procured arms in Europe for the purpose of the conspiracy, C collected money in Colombo for a like object, D persuaded persons to join the conspiracy in Kandy, E published writings advocating the object in view at Galle, and F transmitted from Kalutara to G at Negombo the money which C had collected at Colombo, and the contents

of a letter written by H giving an account of the conspiracy, are each relevant, both to prove the existence of the conspiracy and to prove A's complicity in it, although he may have been ignorant of all of them, and although the persons by whom they were done were strangers to him, and although they may have taken place before he joined the conspiracy or after he left it.

He expressed a doubt as to whether it would be safe to admit as relevant the letter written by H. who was regarded as one of the Conspirators. He was of opinion that it would be rather dangerous and he inquired how the clause had worked in India.

The Hon. the ATTORNEY-GENERAL:—Cunningham points out that the advantage seemed to lie with the Indian enactment as against the English Law. I read his opinion at last meeting.

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS then referred to illustration (a) clause 14 "A is accused of receiving stolen goods" &c. Here he said A was charged with an offence, which was not an offence under the Penal Code. The words "dishonestly receiving" or "habitually receiving" should be inserted.

The Hon. the ATTORNEY-GENERAL did not think it necessary to state "'dishonestly' receiving stolen goods." Amendment negatived.

Clause 18 was next discussed :—

Statements made by a party to the proceeding, or by an agent to any such party, whom the court regards, under the circumstances of the case, as expressly or impliedly authorized by him to make them, are admissions.

Statements made by parties to suits suing or sued in a representative character are not admissions, unless they were made while the party making them held that character.

Statements made by—(1) Persons who have any proprietary or pecuniary interest in the subject-matter of the proceeding, and who make the statement in their character of persons so interested; or—(2) Persons from whom the parties to the suit have derived their interest in the subject-matter of the suit, are admissions if they are made during the continuance of the interest of the persons making the statements.

He pointed out that this was surely against the principle of the Criminal Law and that surely it did not apply to Criminal Cases. If it did not apply to Criminal Cases he thought that should be expressly stated.

The Hon. the ATTORNEY-GENERAL replied that the clause did not apply to Criminal Cases. With reference to Criminal Cases the word "accused" would have been used. The "party" mentioned in the clause was a party to the suit. He would think over the suggestion, though he believed the clause was clear enough.

The Hon. P. COOMARASWAMY then dealt with the explanation to clause 23.

Explanation.—Nothing in this section shall be taken to exempt any barrister, advocate, or proctor from giving evidence of any matter of which he may be compelled to give evidence under section 131.

A "barrister," he pointed out had no legal status in the Island. It would be dangerous to allow a man because he is a barrister and not admitted to practise in the Supreme Court claiming to exercise the right of not giving evidence. Say a planter who was a barrister, but not an Advocate in this Island said in a particular case: "I am a barrister, this man is my client and as such I should not be called on to give evidence." He moved that the word "barrister" be omitted.

The Hon. the ATTORNEY-GENERAL:—I have no objection. I must admit I am responsible for its introduction. Alteration made.

Clause 24 was referred to by the Hon. A. DE A. SENEVIRATNE:—

A confession made by an accused person is irrelevant in a criminal proceeding if the making of the confession appears to the court to have been caused by any inducement, threat, or promise, having reference to the charge against the accused person, proceeding from a person in authority and sufficient in the opinion of the court to give the accused person grounds, which would appear to him reasonable, for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

The Hon. gentleman wished for the deletion of the words "proceeding from any person in authority."

The Hon the ATTORNEY-GENERAL said the clause covered any inducement or threat held out by anybody. He would, however, be happy to look into the question.

Clause 25 was next discussed :—

No confession made by a police officer who is below the rank of an inspector shall be proved as against a person accused of any offence.

The Hon. A. DE A. SENEVIRATNE:—Why should we admit even an inspector? Why not have it the same as in the Indian Act? I think that would be very desirable. I move the clause be made to read "no confession made to a police officer shall," &c.

The Hon. the ATTORNEY-GENERAL:—I am quite ready to accept the amendment. My idea was that an Inspector was a person who might be trusted.

The Hon. P. COOMARASWAMY concurred with the Hon. the Sinhalese Member. He did not wish to say anything against the Inspectors of Police, but he had heard of cases where Inspectors of Police had concocted false evidence. He thought it was dangerous to give them this power.

After conversation.

The Hon. the ATTORNEY-GENERAL:—I move, sir, the deletion of the words "who is below the rank of an inspector." The clause will then read "No confession made to a police officer shall be proved against any person accused of any offence." Agreed.

The Hon. P. COOMARASWAMY:—Asked with reference to clause 27 if what a police officer was, was defined.

The Hon. the ATTORNEY-GENERAL:—The term "Police Officer" is defined either in the Penal Code or in the Criminal Procedure Code. If you wish the definition inserted I will do it.

The Hon. P. COOMARASWAMY expressed himself as satisfied.

In view of the remarks which had been made on the subject of judicial confession.

The Hon. the ATTORNEY-GENERAL drew attention to Clause 30 :—

30 When more persons than one are being tried jointly for the same offence, and a confession made by one of such persons affecting himself and some other of such persons is proved, the court may take into consideration such confession as against such other person, as well as against the person who makes such confession.

The Hon. Member proposed that for the word "may" the words "shall not" should be substituted deleting the words "as well as against the person who makes such confession."

The Hon. P. COOMARASWAMY and the Hon. A. DE A. SENEVIRATNE expressed themselves as satisfied.

Clause 31 next engaged the attention of Council :—

31 Admissions are not conclusive proof of the matters admitted, but they may operate as estoppels under the provisions hereinafter contained.

The Hon. P. COOMARASWAMY:—Supposing a defendant admits the claim of a plaintiff while giving evidence is not that to be taken as con-

clusive proof. I, a defendant in a case, might be put in the witness box and be asked "Do you owe this money." If I say "yes," is my answer not to be conclusive proof of my debt?

The Hon. the ATTORNEY-GENERAL :—That would be evidence on oath which is different from an admission. A man gives a receipt for money received. Under the English law he can go behind that and show that the money was not received. If the clause was altered he would not be able to go behind it. Members must know of a class of cases which is very common where a man leaves a receipt for money at my name and if I do not pay him he can prove afterwards that he did not get the money. Subject dropped.

The Hon. A. DE A. SENEVIRATNE drew attention to Clause 32 :—

Statements by Persons who cannot be called as Witnesses.

32. Statements, written or verbal, of relevant facts made by a person who is dead, or who cannot be found, or who has become incapable of giving evidence, or whose attendance cannot be procured without an amount of delay or expense, which under the circumstances of the case, appears to the Court unreasonable are themselves relevant facts in the following cases:—

(1) When the statement is made by a person as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases in which the cause of that person's death comes into question.

I think it is desirable to have the opinion of the Council on this Clause which is a departure from the English law. I think my Hon. and learned friend explained to Council that it was an extension of the English Law of Evidence. Whether that extension is desirable is, I think, a matter on which we may raise a question here and ask Members whether they regard it as desirable. It certainly does open a door to the admission of a large number of statements which are excluded at present in the English law.

The Hon. the ATTORNEY-GENERAL :—In my opinion it is desirable. I think the illustrations explain it. If A was murdered by B a statement made by A would be admissible. That is the tendency of present legislation.

The Hon. A. DE A. SENEVIRATNE :—That was not the point I intended to present, the point is in the next paragraph :—

Such statements are relevant whether the person who made them was or was not, at the time when they were made, under expectation of death, and whatever may be the nature of the proceeding in which the cause of his death comes into question.

Here the evidence of persons, who were not in the expectation of death, was admitted. In the case of a person who feels death to be imminent it is different because that would be a moment when he would not say what is not true but now, even though he did not expect death, his statement will be received.

The Hon. the ATTORNEY-GENERAL :—That is the law as it at present stands. The question of expectancy of death has been done away with for some time.

Sub-section 5 of clause 32 was next dealt with :

When the statement relates to the existence of any relationship by blood, marriage, or adoption between persons as to whose relationship by blood, marriage, or adoption the person making the statement had special means of knowledge, and when the statement was made before the question in dispute was raised.

The Hon. P. COOMARASWAMY said that it was a departure from the English law of evidence. In matters of pedigree the statement of an illegitimate member of a family would not be received as the law stands now. Why should this clause be necessary so far as an illegitimate member of the family is concerned.

The Hon. the ATTORNEY-GENERAL :—The distinction will be done away with very shortly. It is the difference between "public interests" and "private interests." The statement made by a person who had special means of knowledge is not conclusive proof, but the more of these statement you receive, the more likely you are to get at the truth. It is included in the case of "public interest" and there is no reason why it should not be received in cases of "private interest." Surely if a statement is good in the "public interest" it is good in the "private interest." If a person living in a house knows the relations between husband and wife surely his statement is as good evidence as that of a son living in the house. Subject dropped.

The Hon. P. COOMARASWAMY:—There is another thing I would like to call attention to—the words "Adoption between persons." There is no such thing known in this country. In the Indian laws adoption is allowed under certain conditions. In Ceylon it is not known. What is the object of putting in these words?

The Hon. the ATTORNEY-GENERAL :—What about Kandyan adoption? Subject dropped.

On the motion of the Hon. P. COOMARASWAMY the words "or printed" were inserted after the word "painted," making the clause read "a libel expressed in a painted or printed caricature" &c.

At the stage, clause 35 having been reached,

The Hon. the ATTORNEY-GENERAL said:—I move that Council resume. Agreed.

The Hon. the ATTORNEY-GENERAL intimated that the Sub-Committee appointed in connection with the "Courts of Requests Ordinance" had met on the previous day. He had no papers to lay before Council as they were not ready so that he would not proceed with the Ordinance that day.

The Hon. the Acting COLONIAL SECRETARY :—Sir, I move that Council do adjourn till Wednespay next, at 2-30 p.m. Agreed.

Council rose at 5-15 p.m

WEDNESDAY, NOVEMBER 20th, 1895.

Present :—H.E. Sir E. Noel Walker, Lieut.-Governor, presiding; H. E. Col. Corse-Scott, Acting Commander of the Troops; the Acting Colonial Secretary, (the Hon. W. T. Taylor); the Attorney-General (the Hon. C. P. Layard); the Acting Principal Collector of Customs, (the Hon. L. Lee); the Treasurer, (the Hon. F. R. Saunders); the Director of Public Works, (the Hon. R. K. McBride); the Acting Auditor-General (the Hon. T. Skinner); the Government Agent, W. P. (the Hon. A. R. Dawson); the Government Agent, C. P. (the Hon. Allanson Bailey); the Hon. Sir J. J. Grinlinton, the Hon. W. W. Mitchell, the Hon. Giles F. Walker, the Hon. A. De A. Seneviratne, the Hon. P. Coomaraswamy, and the Hon. Abdul Rahiman.

ADMISSION OF A MEMBER.

Col. CORSE-SCOTT, who has assumed the command of the troops during the absence of the General Commanding on leave, took the oath and his seat as a member of Council.

ORDINANCES ASSENTED TO.

The Acting COLONIAL SECRETARY :—I beg to announce that H.E. the Acting Governor has given his assent to the following Ordinance ;—

Incorporation of the Chamber of Commerce and the Ceylon Penal Code Amending Ordinance.

PUBLIC WORKS IN UVA.

The Hon. GILES WALKER:—Sir, I beg to move:—

For a comparative statement showing the several sums voted for Public Works in the Province of Uva, as scheduled in the Supply Bills for the last three years, and the sums actually spent upon each work in those years.

My object in asking for this return, sir, is due to the fact that rightly or wrongly, an impression seems to prevail among certain gentlemen who are largely interested in property in the Uva District, that some of the works which have been sanctioned during the last few years have not been pushed on so quickly as they might have been. I think it very desirable where such an impression prevails that, if it is wrong, it should be corrected and the public put right, and, in any case, I think it would be very desirable to have an official statement of this kind, showing the difference between the amount voted for important public works to be carried out by the Public Works Department and the amount actually expended. If I may go beyond the immediate question, I think it would be a good thing if Government would annually publish a statement to this effect, for this reason that a very large amount of unexpended money is brought over from one year to another. In the Supply Bill of last year an unexpended balance or re-votes of about one quarter of a million rupees are brought forward. Of this sum R17,800 are re-votes for the province of Uva and it is to enable those who are interested in this question, and who are not able to have easy reference to the Blue Books of the Colony, to see for themselves that I ask for this return. I think the publication of these figures will keep the public well informed and enable them to scrutinise and criticise the works which have been done or which have not been finished, with some degree of accuracy; and it would do away with the feeling that exists that the works are not carried forward with sufficient quickness during any one particular year. I trust the Government will have no objection to granting this return.

The Hon. W. W. MITCHELL:—Sir, I beg to second.

The Hon. the DIRECTOR OF PUBLIC WORKS (Mr. MacBride):—Sir, I am authorised to say there is no objection to furnishing the return which has been asked for by the Hon. Member. The annual returns are already published in the Blue Books of the colony and an exact statement of the estimated cost of each work and the exact expenditure during the year are to be found in these returns, so that the Hon. Member could have merely referred to the Blue Books for the past three years and found the figures he now asks for. With regard to the question of a large sum of money being brought forward, I may mention that the sum proposed to be brought forward next year is the smallest on record and that, comparatively speaking, it is probably only one-fourth certainly not more than one-third of what it used to be, we will say, ten or twelve years ago. Public Works instead of being backward in Uva are probably more advanced in this particular year than they have ever been before. Many public works in the country are delayed, sometimes by questions arising out of the site of a particular building not having been settled in the first instance, sometimes by difficulty in the acquisition of land from private parties and sometimes by questions arising whereby the private contribution for roads is not paid in time. Taking into consideration everything that has occurred this year and throughout the past three years I think the progress of Public Works in Uva as elsewhere has been very satisfactory. The return the Hon. Member wishes for will be furnished and can be furnished without any difficulty, but I repeat, the figures are to be found in the Blue Books and I presume every Member of Council is in possession of the Blue Books.

The Hon. GILES F. WALKER:—Sir, I have to return my thanks for the concession that has been made, but I wish to repeat that it is not so much for the benefit of myself or Members of this Council, but for those who have not easy access to the Blue Books that I ask that the returns shall be furnished in a form that shall enable any one not having the Blue Books, to easily ascertain what is the exact state of affairs.

THE COURTS OF REQUESTS ORDINANCE.

The Hon. the ATTORNEY-GENERAL:—Sir, with the permission of Council, I will take up what is second on the Order of the Day, first that is "An Ordinance to extend the jurisdiction of Courts of Requests and to amend the procedure therein."

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS:—I beg to second that motion. Agreed.

The Hon. the ATTORNEY-GENERAL:—I move, sir, that the report of the Sub-Committee appointed to consider this Ordinance be read.

The paper was worded as follows:—

We, the Sub-Committee appointed to consider the Bill entitled "An Ordinance to extend the Jurisdiction of Courts of Requests and to amend the Procedure therein," have the honour to recommend the adoption of the Bill with the amendments noted in the accompanying draft.

2. The Sub-Committee, with the exception of Messrs. Coomaraswamy and Seneviratna, who agree in the limitation of the jurisdiction to R200, approves the increase of jurisdiction to R300.

3. The Sub-Committee considers that Commissioners of Requests generally are competent to decide cases of the increased jurisdiction. The suggestion that these cases should be heard by the District Judges on circuit is rejected, the Sub-Committee considering such a course unnecessary and costly.

4. The Sub-Committee agrees in the exclusion of the provision requiring that defences should be stated orally to the Commissioner.

5. The Sub-Committee is of opinion that the re-introduction of the procedure of the Courts of Requests prior to the introduction of the Civil Procedure Code will greatly facilitate the work of these courts and render it more summary and expeditious.

6. The imposition of a stamp duty on the application for leave to appeal will prevent such applications being universal, while any hardship which might result from such a requirement is removed by the provision that after leave to appeal has been granted the petition of appeal shall be free from stamp duty. The Sub-Committee is, however, not unanimous in imposing any restriction on the right of appeal.

W. T. Taylor, C. P. Layard, F. R. Saunders Lionel Lee, P. Coomaraswamy, W. W. Mitchell A. Seneviratna, M. C. Abdul Rahiman.

Legislative Council Chamber, Colombo, November 20th, 1895.

The Hon. the ATTORNEY-GENERAL:—Sir, I move that Council go into Committee on the Bill. Agreed.

The Hon. the ATTORNEY-GENERAL proposed the insertion of words in the first clause making the Ordinance come into operation on the 1st January, 1896.

The Hon. P. COOMARASWAMY:—In view of the opposition on the part of the people and also of several of the Unofficial Members of this Council to this bill I think it would be well

that it should not come into operation on 1st January, 1896, as proposed, but that it should come into operation on the proclamation of the Governor in the *Gazette*. Indeed, this is a case where it is very desirable the matter should go, if it pleases Your Excellency, before the Secretary of State, and that he should read the petitions already presented, and a petition about to be presented from public meetings to be held in different parts of Ceylon in respect of this Ordinance. I would therefore ask the Attorney-General whether he would have any objection to inserting in the clause that the Ordinance is to come into force on proclamation by the Governor.

The Hon. the ATTORNEY-GENERAL :—There will be ample time to get the consent of the Secretary of State if the Ordinance comes into operation on 1st January 1896. There is, however, no objection to the amendment. I move, sir, the insertion of the words "shall come into operation at such time as the Governor shall by proclamation published in the *Government Gazette* appoint" in lieu of the words "——— day of ———" Agreed.

The Hon. A. DE A. SENEVIRATNE :—Sir, I wish to point out that amended copies of the Ordinance have not been handed round the table so that only Members of Sub-Committee are able to follow the proposals.

The Hon. the ATTORNEY-GENERAL :—The omission is a mistake. Copies have been sent for and they will be handed round the table in a few minutes. I think we might go on with the first few clauses without any inconvenience as there are few amendments in them.

With reference to clause 3,

The Hon. the ATTORNEY-GENERAL said :—It has been suggested by the Sub-Committee that the power given to the Governor with the advice of the Executive Council should devolve on the Attorney-General. I move, sir, that the words "Attorney-General" be inserted in lieu of the words "Governor with the advice of the Executive Council," that for the word "cases" (in the 12th line of the clause) the words "any such actions suits or matters" be substituted and also that the words "cases" (in 12th, 13th and 15th lines) be deleted and the words "actions, suits or matters be inserted in lieu thereof. The duty will then be transferred from the Governor with the advice of the Executive Council to the Attorney-General if this amendment is approved of by Council.—Agreed.

The Hon. P. COOMARASWAMY :—Since assenting to that report, sir, I have considered the matter and would suggest to the Attorney-General whether it would not be better that all cases should not be transferred by the operation of the Ordinance itself as soon as it is proclaimed.

The Hon. the ATTORNEY-GENERAL :—There would be some difficulty. The difficulty is this that there are some cases which might be partly heard and to transfer these cases would be very hard on the suitors

The Hon. P. COOMARASWAMY acquiesced.

Clause 4 which fixes the limit of jurisdiction of Courts of Requests at R300 being reached.

The Hon. A. DE A. SENEVIRATNE said :—Sir, I move the omission of the word "three" before the word "hundred" and the substitution therefor of the word "two" not only in that line (the fifth line) of the clause but wherever the words "three hundred" occur. At the second reading the Council adopted the proposal to raise the jurisdiction of the Court of Requests, but I don't think the adoption of that proposal necessarily includes the raising of the jurisdiction to R300. I think that the evidence which was given before the Expenditure Committee, the Retrenchment Committee as it has been called, fully established that the jurisdiction of the Courts of Requests might with advantage be raised. The evidence was to the effect that it could be raised to R200. It has been said that the District Judges themselves are the Commissioners of Courts of Requests in very many Courts. In such cases there cannot be much objection to their following the procedure prescribed in this Ordinance in preference to the very cumbersome procedure of the District Courts; but, seeing that the Government thought this additional power should not be placed in the hands of less experienced men, I would submit that to raise the jurisdiction to R300 from R100 would be too much of a leap. On reference to the schedule given in the Procedure Code it will be found that the first class of District Court cases are those under R200. If you give the Court of Requests jurisdiction to try cases up to R200 you simply remove the first class cases to the Courts of Requests. It is a fair division and I don't think much can be said against it, but if you raise the jurisdiction to R300, you not only remove from the District Court the first class cases, but a certain number of second classcases as well. The same classification holds under the Stamp Ordinance, but something was said in Sub-Committee that the stamps for the smaller cases have been reduced by the last Ordinance. On reference to the last Ordinance it will be found that so far from a reduction, even in the smaller cases, the stamps have been raised. If you refer to the two Stamp Ordinances of 1890 and of 1871 you find that there has been a raising of the stamps even as regards the small cases. There is also another point to be kept in view. With regard to cases that are transferred to the Courts of Requests, and over which the District Court alone had jurisdiction hitherto, where an appeal is taken, that appeal will come before one Judge. In those cases, when heard by the District Court appeals came before two Judges. These appeals are not only on questions of fact, but mostly on questions of law. My Hon. and learned friend, it will be remembered, admitted that even the Supreme Court was not infallible in these matters, and that the Privy Council had frequently set aside the judgments of the Supreme Court; and therefore it would appear to be reasonable, where questions of law are involved, that an appeal should come up before two Judges. You are depriving clients from having points of law which are involved in R300 cases going up for decision before two Judges of the Supreme Court by transferring this class of cases to Courts of Requests. I was willing to accede to the wishes of this Council and to consent to the raising of the jurisdiction of the Courts of Requests to R200. It will be remembered also that the Solicitor-General, who was Acting Attorney-General at the time he gave evidence, said that the jurisdiction of the Courts of Requests might be raised to R200 provided only experienced judges dealt with these cases. If the Court of Requests jurisdiction is raised to R300 and it is only that class of judges who hear cases, not much objection can be raised, because the same judges that are hearing these cases now will hear these cases then, under a different procedure; but there are others with less experience who are not to be trusted with such jurisdiction as stated at public meetings and admitted by the Government; and, therefore, I think it is

desirable that the jurisdiction should not be raised by such a sudden leap as from R100 to R300. I don't want to take up the time of the Council by going over this question again in detail. Objections have been urged and I think we must only urge objections to a bill as presented at a certain time. The Committee have agreed it is not desirable that District Judges should go on circuit and I, myself, was actuated in my consent to that by the fact that I thought the District Judge going on circuit would involve a great deal of expenditure. The object of the Retrenchment Committee was to reduce expenditure but if the recommendation of the Retrenchment Committee had been given effect to in the way that was intended by Government and indicated in the Governor's address to Council, then I feared that there would have been an addition to the expenditure rather than a reduction of expenditure. Therefore, I believe that the Sub-Committee recommended that the District Judges should not go on circuit to hear Court of Requests cases. There can be no objection to District judges as Commissioners hearing cases up to R300, but seeing it is the idea to raise the jurisdiction of the Courts of Requests, whether the Court is presided over by a judge of the status of a District Judge or not, I think it would be far safer to raise the jurisdiction to R200 and not R300. I move the alteration in the clause I have mentioned.

The Hon. P. COOMARASWAMY:—Sir, I support my Hon. friend the Sinhalese Member I shall not go over the same ground I went over at the second reading of the Bill, but, it seems to me, there are three things which to my mind ought to be remembered by this Council before they pass that clause as it stands. First of all I wish to point out that my Hon. friend the Principal Collector of Customs said in Committee that to transfer cases up to R300 from the District Courts to the Courts of Requests would be to transfer 48 per cent. of the whole number of cases in the District Courts; so that you will practically be relieving the District Courts—every District Court in the Island—of very nearly half of its work and it was also stated—I speak under correction by my Hon. friend on the right (the Hon. the Acting Principal Collector of Customs)—that the number of cases to be transferred from the District Court of Colombo would be 53 per cent.

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS:—Forty two per cent.

The Hon. P. COOMARASWAMY (continuing):—I stand corrected. For that amount of work to be removed from the District Courts in the Island, I think, would be a very great mistake, whereas if you remove cases only up to R200 I am sure the percentage would be very much less. The second thing is that the safeguard that HE. the Governor, in his address, said would be offered in this class of cases is now removed. According to that message it was proposed that the District Judges should itinerate and overlook the work of those Commissioners who were not of the status of District Judges. The Sub-Committee have very properly pointed out that this would be entailing an enormous amount of expenditure and the Committee have advised that the work should not be performed by the District Judges. Once that safeguard is removed I submit that the argument for the removal of such a large number of cases, which rested on this safeguard, falls to the ground; and, therefore, this large number of cases should not be transferred to the Courts of Requests. The third thing I would remind the Hon. the Attorney-General is that the jurisdiction of the District Courts now stands at R100 and upwards. In the District Courts are two classes of appeals known as interlocutory and final. There was a time when interlocutory cases were argued before single judges. It was thought advisable, I believe on the suggestion of the judges of the Supreme Court, and agreed to by the then Attorney-General, that these interlocutory appeals should be argued before two judges. That is what is done now. If in a case of over R100 it is deemed necessary that interlocutory appeals should be decided by two judges, I ask how can you now with safety say that final appeals in cases over R200 up to R300 may be decided by a single judge? It must be borne in mind that an interlocutory appeal goes to the Supreme Court and, even after the decision of two judges, when it comes back to the District Court it is competent for a party in the suit, in the final appeal, to question that judgment again. In a suit of over R100 the party there has the right to go over the same ground twice and to go before the three judges of the Supreme Court. Such being the case, and the law in regard to interlocutory appeals having only been altered within recent times, I say, does it not look like a foolish policy to go back to R300 cases and allow final appeals to be decided by a single judge? On these grounds I think it is my duty to support the motion of my Hon. friend the Sinhalese Member.

The Hon. the ATTORNEY-GENERAL:—Sir, with regard to the suggestion made that the Government have admitted that the Commissioners of Requests are incompetent to try these cases, I would point out no such admission has been made on behalf of Government in any way. On the contrary, when I addressed the Council on the introduction of the Bill, I pointed out that the Chief Justice had shown there was no distinction to be drawn between the Commissioners of Requests and the District Judges, and I said Government had as much confidence in the Commissioners of Requests as they had in the District Judges. With regard to the suggestion that it was not retrenchment for District Judges to travel about to supervise the work, I would point out the suggestion of the Retrenchment Committee probably arose from the likelihood that there would have to be an extra District Judge appointed for Colombo at a salary of R14,400 with pensionable rights, which would greatly increase the expenditure of the Colony. The object of the Government was to take away from the District Court of Colombo a large number of the cases, which the District Judge is incapable of deciding now, on account of the enormous amount of work thrown upon that Court. The small amount of money that would be expended in District Judges going on circuit to hear cases would be very small indeed compared with the annual salary of an Additional District Judge, who would have to be paid R14,400 per annum for an indefinite period and after a certain number of years there would be another officer allowed to draw pension from this Colony. In regard to the question of appeals I would venture to point out it is really a very questionable matter as to whether the judgment of one judge is not as good as the judgment of two judges. It is said that the judgment of one judge may be a lottery It would be as much a lottery with regard to a two-judge bench, because the strong man on the bench pulls the other man with him, and the result is you have the judgment of

one judge. This is not only known in this Colony. The matter has been frequently discussed in England, articles have been written on the subject, and it has been universally admitted, except in one very exceptional case, where there were two very distinguished men, that two judges are no better than one. A three-judge bench may have something to commend it, because you have a chance of two men pulling in opposite directions, leaving the actual decision to the third man. To urge that a two-judge bench is better than a one-judge bench is a thing that would surprise English lawyers who do not at all approve of a two-judge bench in appeal. Another reason for keeping the increase at R300 is the fact that in 1890 the stamp duty in cases under R300 was reduced and we have given suitors the benefit of that reduction.

The Hon. A. DE A. SENEVIRATNE signified his dissent.

The Hon. the ATTORNEY-GENERAL :—I am afraid my friend has forgotton the history of the stamp duties. In 1890 we made a considerable reduction on the duties inposed in the previous Ordinance in cases under R300. The duty having been reduced I think it is right that Government should now go a step further and give the suitor an opportunity of getting justice in our Courts in a cheaper way as regards costs. Undoubtedly if this Bill becomes law, the costs which will have to be paid by suitors will be very much more moderate than the costs which are now paid in the District Courts. With regard to the question of the number and the percentage of cases that would be taken away from the different District Courts, I would point out that in the majority of cases, the District Judges are also the Commissioners of Requests. In some other cases the District Judges are Commissioners of Requests but at present they do not often exercise that duty. The duty will remain with them. In such districts as those of Galle, Colombo and Kandy and the larger towns, the great majority of cases are instituted in the district in which the District Judge sits and these cases will continue to be brought before the District Judges of those districts. I had a conversation with the District Judge of Kandy on the subject and he pointed out that his work would not be greatly reduced. I see no reason for altering the views Government have formed of increasing the jurisdiction from R100 to R300.

The Hon. A. DE A. SENEVIRATNE called for a division when his amendment was negatived by 13 votes to 2 :—

Ayes 2 :—The Hons. A. De A. Seneviratne and P. Coomaraswamy.

Noes 13 :—Col. Corse-Scott, The Hons. the Acting Colonial Secretary, the Attorney-General, the Acting Principal Collector of Customs, the Acting Auditor-General, the Director of Public Works, the Treasurer, the Government Agent, W. P.; the Government Agent, C. P.; W. W. Mitchell, Giles F. Walker, Sir J. Grinlinton, and M. C. Abdul Rahiman.

The Hon. A. DE. A. SENEVIRATNE :—I move sir, that the whole of clause 13 be omitted. I do not believe that according to the amended Bill there will be much restriction of appeals. I may say the amendment is an improvement on the original Bill, but at the same time, parties in a case, who have not succeeded in the lower Court, will make it a grievance that they are not allowed to have matters settled by a Court of Appeal. I believe in every case where a party himself thinks, that he has got a chance he will appeal because the responsibility which was exercised hitherto by the proctor and advocate is now removed. Indeed the application is made by the losing party in person and if by some chance the application is allowed it is all right; if not, he simply loses the amount of the stamp and nothing more. There have been very many cases in which, parties were willing to appeal, but counsel was consulted in time with the result that there was no appeal in many of these cases. The proctor or advocate may now advise, but he cannot be held responsible for bad advice. It must be remembered that the appeals from the Court of requests have not been very many. My Hon. friend pointed out that in 1894 there were 14,458 cases decided by the Court of Requests and of this large number what was the number appealed from? Only 341 – so it does not appear that there were such a very large number of cases in which the losing party appealed and further I ask Hon. Members to look at the number of cases affirmed—it was 212. One can quite conceive that parties may think, there is a chance of succeeding, because affirmation might have taken place on some fault of procedure or it might be that some evidence was not led in the way it should have been. In the Courts of Requests appeal is only from the final judgment and one would have thought there was less reason for restricting appeals then in the District Courts. I think it would be far better not to restrict, even nominal appeals. Actually there are not many restrictions on appeals; but losing parties will think they have a grievance. On that ground I move the omission of clause 13.

The Hon. the ATTORNEY-GENERAL :—I am very glad, on behalf of Government, to think that my Hon. friend has approved of the amendment of this clause which has the advantage of imposing the stamp duty which did not exist in the original Bill, otherwise the clause stands as it did. With regard to the question of responsibility, this clause does not take any responsibility from the legal adviser in any way whatsoever. A man will still go to his legal adviser and the responsibility will still rest on the legal adviser. The bill does not provide that such petition must be made by the appellant ; it may be made by his proctor. The section does not in any way restrict appeals. It was not intended to restrict good appeals ; it was merely to restrict such cases, there may be only a few of them, where a man harasses a party to a suit by bringing appeals which are useless. These will be the only appeals that will be stopped.

Council then divided when the amendment was negatived by 13 votes to 2 :—

Ayes 2 :—The Hons. A De A. Seneviratne and P. Coomaraswamy.

Noes 13 :—Col. Corse-Scott, The Hons. the Acting Colonial Secretary, the Attorney-General, the Acting Principal Collector of Customs, the Acting Auditor-General, the Director of Public Works, the Treasurer, the Government Agent, W. P.; the Government Agent, C. P.; W. W. Mitchell, Giles F. Walker, Sir J. Grinlinton and M. C. Abdul Rahiman.

The Hon. A. DE A. SENEVIRATNE :—With reference to the words "damage or demand" which it is proposed to insert will my Hon. friend say whether the word "demand" will apply to land cases. These are the same words that are used in a previous clause but there it is with regard to a debt in which the "debt demand or damage shall not exceed R300." I believe the intention of my Hon. friend was not to deal with land and that appeals should be allowed in land cases.

The Hon. the ATTORNEY-GENERAL replied that

the Government did not intend to stop appeals in land cases.

The Hon. A. DE A. SENEVIRATNE moved the deletion of the words "in Chambers." in the Clause dealing with Appeals. He considered it was a matter that should be left to the discretion of the Judges of the Supreme Court whether an Appeal should be heard in Chambers or in open Court, where Counsel could be heard.

The Hon. P. COOMARASWAMY seconded. He thought the words "in Chambers" should be omitted or other words inserted whereby the matter was left to the discretion of the Judges. Why he asked should the discretion of the Judges be restricted by this Ordinance?

The Hon. the ATTORNEY-GENERAL replied that the Clause had been submitted to the Chief Justice It did not follow because matters were taken up in Chambers that Counsel might not appear. In view that the clause had been passed by the Chief Justice he was inclined to leave them. Anybody could appear in Chambers, and in England very much of the business of the Court was done in Chambers.

The Hon. the TREASURER asked whether the words to which exception had been taken provided that appeals must be taken in Chambers and whether, if they were omitted, it would be optional to hear appeals in Chambers or in open Court?

The Hon. the ATTORNEY-GENERAL indicated that appeals must be taken in Chambers.

The Hon. GILES F. WALKER said:—The objection to the insertion of the words was this. If they were omitted the matter was left to the discretion of the Court. Apparently from what fell from the Hon. the Attorney-General they were putting it once for all at the discretion of the present Chief Justice. The Hon Member was of opinion that it would be far better to leave it to the discretion of the judge before whom the appeal came.

The Hon. the ATTORNEY-GENERAL:—I have no objection to the omission of the words "in Chambers." Words omitted.

Referring to Schedule C.

The Hon. P. COOMARASAWAMY, asked:—Does it include contested and uncontested land cases? Surely you are not going to give the same amount of costs in both cases. There is a distinction made in money cases between contested and uncontested cases; why should there not be the same distinction in land cases?

The Hon. the ATTORNEY-GENERAL:—That is in accordance with the provision as it was in the old Ordinance of 1889.

The Hon. P. COOMARASWAMY:—It may be in accordance with that Ordinance, but I think it is wrong in principle.

The Hon. the ATTORNEY-GENERAL:—The reason for it is that in all land cases evidence has to be taken. You cannot get an *ex-parte* judgment without evidence.

In the two last paras but one of schedule C. the word "Commissioner" was substituted (1) for the words "the clerk of the Court" (2) for the word "Court," the words "review and" being deleted. The marginal alterations and amendments on the Bill having, on the motion of the Attorney-General, been made.

The Hon. the ATTORNEY-GENERAL reported the Bill as amended. Council resumed and on the motion of the Hon. Member it was referred to the Law Officers of the Crown.

H. E. the LIEUT.-GOVERNOR suggested that Council advance the business astage before taking up in Committee the Evidence Ordinance.

The Hon. the ATTORNEY-GENERAL:—We have no report on the Buddhist Temporalities Ordinance. Two or three meetings of Sub-Committee will be necessary before that is ready.

THE EXPLOSIVES ORDINANCE.

The Hon. the TREASURER:—I am quite ready to take up the second reading of the Explosives Ordinance.

H. E. the LIEUT.-GOVERNOR having signified his assent,

The Hon. the TREASURER said:—Sir, I explained at the first reading that this Ordinance was introduced at the express desire of the Secretary of State to amend certain omissions in the Ordinance of 1894. I have nothing more to say but merely to move the second reading of "An Ordinance to amend 'The Explosives Ordinance of 1894.'"

Bill read a second time.

The Hon. the TREASURER:—I move, sir, that Council go into Committee on the Bill. Agreed.

The Hon. the TREASURER moved that the word "may" be inserted in clause (5) in place of the word "shall" making the clause to read:—

"The breach of any of the bye-laws made under the provisions of this Ordinance shall constitute an offence punishable, on conviction, by a fine not exceeding two hundred rupees, and the explosives in respect of which, or being in the carriage, ship, or boat, or train of carriages, ships, or boats in respect of which such breach of bye-law has taken place, *may* be forfeited."

Agreed.

The ATTORNEY-GENERAL suggested that the words "the Governor with the advice of the Executive Council in the several Clauses of the bill should be altered to "the Governor in Executive Council" so as to be in accordance with the other provisions of the measure.

The Hon. the TREASURER:—I notice that in the principal ordinance the words used are "the Governor in Executive Council "with one exception (clause 20 where the words are "the Governor with the advice of the Executive Council.")

The ATTORNEY-GENERAL held there was a distinction and suggested that it would be well to follow the wording of the Original Ordinance—"the Governor in Executive Council,"—in Clauses 3, 4 and 6.

It was agreed to make this alteration.

The Hon. Sir JOHN GRINLINTON (returning to clause 5):—Sir, I think that clause is slightly involved, and that it is desirable to make it clear. I have read it three or four times but cannot understand whether it be the explosives, ships, boats, trains, carriages &c. or the explosives only that are to be forfeited. I think if all these things are to be forfeited in addition to a fine of R200, it will be a very serious matter.

The Hon. the ATTORNEY-GENERAL:—As I read the clause it seems to cover only explosives—"in respect of explosives" it reads.

The Hon. P. COOMARASWAMY:—"Or in respect of the boats, trains of carriages" &c. which load them.

The Hon. W. W. MITCHELL:—The boats in many cases, will not belong to the possessor of the explosives and it seems very hard they should be forfeited. The people on board the boat might know nothing about the regulations

The Hon. P. COOMARASWAMY:—Such a clause appeared in the Customs Ordinance and also it

must be remembered that clause 3 (b) for regulating the conveyance, landing, and unloading of explosives provides that the carriages employed shall be of a certain description. Supposing a company used a boat other than that described, surely that boat ought to be forfeited.

The Hon. Sir JOHN GRINLINTON:—Sir, in legislating in a matter of this kind it should be considered what description of people take charge of the cargo—ignorant men who cannot read. Explosives may be placed in the boats without the men on board knowing anything about them.

The Hon. the TREASURER:—It was to meet that, that I moved the insertion of the word "may," in order that it should be left to the discretion of the Court. There are cases in which a boat should be confiscated, in which case, the Magistrate would use his discretion, and his judgment would be subject to the appeal in higher Court.

The Hon. Sir JOHN GRINLINTON:—I would be quite satisfied with the insertion of the word "may."

The Hon. the ATTORNEY-GENERAL:—The insertion of the word "may" has already been moved and carried.

The Hon. the GOVERNMENT AGENT, WESTERN PROVINCE, was of opinion that there was something wrong with the wording.

H.E. the LIEUT.-GOVERNOR:—I think if the clause is read parenthetically it is quite plain.

The Hon. the ATTORNEY-GENERAL:—It was taken from the original—the English statute. I think it is the explosives that are liable to be forfeited.

The Hon. Sir JOHN GRINLINTON:—Let it be distinctly stated so that there can be no mistake.

The Hon. the ATTORNEY-GENERAL:—I originally stated it.

The Hon. GILES WALKER suggested the omission of the word "being."

The Hon. the TREASURER pointed out that sub-section d of clause 26 of the original Ordinance, taken from the English Act, was in similar terms.

The Hon. Sir JOHN GRINLINTON:—We have a good opportunity of correcting that now.

The Hon. P. COOMARASWAMY moved that the clause be made to read "and the explosives in respect of which such breach of byelaw has taken place shall be forfeited."

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS:—That suggestion altogether changes the intention of the section. The intention is that explosives should be confiscated under two circumstances viz., if a breach of byelaws has been committed in respect of the explosives themselves, the explosives are subject to confiscation; and when the breach of the byelaws has been committed in respect of the vehicle in which the explosives are being carried, the explosives are also subject to confiscation. The way in which I think the difficulty might be met, so as to defeat the scrutiny of a too critical appellate Court, would be the insertion of the words "the explosives" between the words "or" and "being," so that the clause will run "or the explosives being in the carriage" &c.

The Hon. the TREASURER:—That is the exact reading of sub-section d clause 26 of the original Ordinance. To bring the present clause into precise conformity with the clause which is already law it would be necessary to insert after the words "explosives in respect of which" the following words "such breach of bye law is committed."

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS, in respect that section d clause 26 of the original Ordinance contained the words "shall have been committed" inquired of the Hon. the Treasurer whether, having made the amendment under the impression that the vehicles would be confiscated, he wished to withdraw the word "may" which had been substituted for "shall" in the clause before Council.

The Hon. the TREASURER replied in the negative, adding that in any case the question of forfeiture of any article should be left to the discretion of the Court.

The clause was then made to read as suggested by the Hon. the Treasurer and the Hon. the Acting Principal Collector of Customs.

The Hon. the TREASURER.—I beg to report the Bill as amended and move that Council do resume. Council resumed.

The Hon. the TREASURER.—I move that the Bill be referred to the Law Officers of the Crown. Agreed.

THE LAW OF EVIDENCE ORDINANCE.

The Hon. the ATTORNEY-GENERAL:—Sir, I move that Council go into Committee on "An Ordinance to consolidate, define and amend the Law of Evidence." Agreed.

The Hon. the ATTORNEY-GENERAL.—With regard to the suggestion made by the Hon. the Sinhalese Member, with reference to the omission of words in clause 1. I am prepared to accede to the omission of the words "but not to affidavits presented to any Court or Officer." With reference to the suggestion made by the Tamil Member regarding Clause 18 I took the opportunity of consulting the Chief Justice who was of opinion that reading Clause 17 with Clause 18 it was clear that it referred to civil cases only. Another suggestion was made by the Hon. the Sinhalese member—relating to Clause 24 as to confession caused by inducement or threat. I have consulted the Chief Justice on the point and am prepared to make an amendment in the Clause.

Council then proceeded to discuss the Bill.

Clause 35 which deals with the relevancy of entries in public records was first refered to.

The Hon. A. DE A. SENEVIRATNE:—Sir, unless the entry was made at a certain time—soon after the event occured—I am afraid this would open the door to the admission of objectionable evidence. As an illustration I state the case of what are called wattorus. The ownership of a field may be given in a wattoru. Now that is a statement made in presence of a public officer—a headman—and if it is to be received as evidence of title to land it would be a most dangerous thing. Then again take the receipts say of the Municipal Council. Before a tax is levied a schedule is made out by inspectors of the amount, recoverable in respect of land, from the owner of such land. If the Court is to be guided by a statement like that as evidence of ownership I think it would be rather dangerous. Now, I should like my Hon. and learned friend to say if evidence of that kind would be received if this clause was passed.

The Hon. P. COOMARASWAMY:—I think, sir, the English Law is exactly as stated by my Hon. friend This is what Stokes says on the point:—

"In England, to render entries in public books or registers admissible, they must have been made promptly, or at least without such long delay as to impair their credibility and in the mode required by law, if any has been prescribed. The Evidence Act contains no such rule."

The Hon. the ATTORNEY-GENERAL did not see any necessity for the ammendment, for the reason that, according to the section, the entry must be made by a public servant in the dis-

charge of his duty and when his duty required an entry to be made at once it would have to be made at once.

The Hon. A. DE A. SENEVIRATNE:—I think from the reference made to Stokes my Hon., and learned friend will see that Mr. Stock's opinion was that this section does not curtail the rule provided by the English law of evidence. The Evidence Act contains no such rule. That, I think, is perfectly clear.

The Hon. the ATTORNEY-GENERAL:—This was before the Judicial Committee of the Privy Council which, as an authority, may fairly compare with Mr. Stokes. Subject dropped after further conversation.

The Hon. P. COOMARASWAMY:—I think it is right, sir, to call the attention of the Attorney-General to this fact, that this clause (clause 44) allows a party in a suit to plead his own fraud to defeat a judgment. The remarks made by Stokes on this point are:—

"In England, a party, to a suit would not be allowed to defeat a judgment by showing that in obtaining it he had practised an imposition on the Court. Under the Evidence Act, however, there is no such restriction, section 44, as now worded, permitting any party to a suit of other proceeding to show that a judgment was obtained by his own fraud or collusion."

It seems to me monstrous that any party should be allowed to defeat a judgment by proving that the judgment he got previously was obtained by fraud.

The Hon. the ATTORNEY GENERAL:—Mr. Stokes is wrong there again. No man can take advantage of his own wrong and I would point out that under clause 120 he would be stopped. I must admit that I was misled by Mr. Stokes myself.

In clause 45 the words "or genuineness" were, on the motion of the Atttorney-General, inserted after the words "or identity."

The Hon. the ATTORNEY-GENERAL:—I move the omission in clause 50 the words "section 28 of the Ordinance No. 6 of 1847 and."—Agreed

The Hon. the ATTORNEY-GENERAL:—This clause (52) differs from the Indian Act. I have brought it into conformity with the English Law.

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS drew attention to explanation (a) clause 54 "A previous conviction is relevant as evidence of bad character." He held that it was relevant when evidence of good character had been given; not otherwise. It would, under the Indian Act, be good evidence but not under the English Law. Consequently he did not think the explanation right.

The Hon. the ATTORNEY-GENERAL held that the explanation given was right.

The Hon. P. COOMARASWAMY:—It seems to me that it is clear if a man chooses to prove his good character it would be quite competent to prove his bad character. Subject dropped.

In section 67 the Hon. A. DE A. SENEVIRATNE said he did not know whether the word "signature" had been defined, so as to include anything more than a sign manual in the case of men who write. But there are many people who can only put their mark. In such case there was no proof as to their having executed a document. Unless "signature" was defined he thought there would be some difficulty.

The Hon. the ATTORNEY-GENERAL took it that "signature" included mark. He, however, would look into the subject.

The Hon. A. DE A. SENEVIRATNE asked for an explanation of the meaning of the words in clause 76 "any person has a right to inspect." Did that mean that public documents might be inspected by any person as a matter of right, or was there only a class of public documents to which the right extended? If that were so he thought a list of those documents accessible to the public should be prepared

The Hon. the ATTORNEY-GENERAL replied that it would be impossible to give a list. His learned friend knew that there were a great number of documents which were privileged and that there were privileged reports to which an outsider had no right to see. The question of privilege must be left to the judge.

After the words *London Gazette* in sub section (3) Clause 78 it was resolved to insert the words "or the *Government Gazette* of the Colony."

In clause 85 the Hon. P. Coomaraswamy moved for the insertion of the words "registrar" after the words "Notary Public."

In lieu of this the Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS suggested it would be sufficient to put in the words "or by any lawful authority."

The Hon. the ATTORNEY-GENERAL asked the Hon. the Tamil Member to allow the matter to stand over as he was not quite prepared to say whether registrars were representatives of the Government or not. Agreed.

Clause 91, beginning chapter IV, having been reached,

The Hon. the ATTORNEY-GENERAL said:—I would suggest that the clauses of this chapter which are not in the Indian Act be numbered 90 (a) 90 (b) 90 (c) &c., we would thus keep in our statute the same numbers as in the Indian Statute which would be very convenient for reference to text books &c.

The Hon. P. COOMARASWAMY asked if the Act included an individual person carrying on the business of a banker.

The Hon. the ATTORNEY-GENERAL replied that it was the same as the English Law. Such power was given under Clause 92 "the Governor with the advice of Executive Council may from time to time...extend the provisions of this Chapter to the books of any partnership or individual" &c.

The Hon. the ATTORNEY-GENERAL:—I move the omission of clause 106, and the insertion of a new clause which will be numbered 100, to read as follows:—

"As regards rules of evidence for which no provision may have been made by this Ordinance or by any other law for the time being in force in the Colony, the law relating to evidence for the time being in force in England shall be applied so far as the same shall not conflict or be inconsistent with this Ordinance and can be made auxiliary thereto."

Agreed.

The Hon. ATTORNEY-GENERAL:—I move, sir, that Council do resume. That is the end of part 2 which leaves us part 3 to finish.

Council resumed.

The Hon. the Acting COLONIAL SECRETARY;—I move, sir, that Council do adjourn till Wednesday 27th inst., at 2·30 p.m.

Council rose at 5 p.m.

WEDNESDAY, NOVEMBER 27th, 1895.

Council met at 2-30 p.m. in the Council Chamber. Present:—H.E. Sir E. Noel Walker, Acting Governor, presiding, Lieut.-Colonel Corse-Scott, Acting Officer Commanding the Forces; Hons. W. T. Taylor, (Acting Colonial Secretary); C. Layard, (Attorney-General); T. E. B. Skinner, (Acting Auditor-General); L.F. Lee, (Acting Princi-

pal Collector of Customs); F. R. Saunders, (Treasurer); A. R. Dawson, (G.A. W.P.); R. K. MacBride, (Director of Public Works); Allanson Bailey, (G.A., C.P.); P. Coomaraswamy, (Tamil member); W. W. Mitchell, (Mercantile member); Sir J. J. Grinlinton, (European member); Hons. M. C. Abdul Rahiman, (Muhammadan member); and W. Ellawala, (Kandyan member).

PAPERS LAID ON THE TABLE.

Mr. TAYLOR laid the following paper on the table:—Quarterly Return of Expenditure on the Matara Railway.

THE SUPPLEMENTARY CHARGES FOR 1895.

The Hon. the Acting COLONIAL SECRETARY:—Sir I rise to ask the Council to take the first reading of "An Ordinance for making provision for the Supplementary Contingent charges for 1895." It will be seen that the amount asked for in the Bill is the large amount of R1,198,954·38 cents, but even this is not the whole amount that will be required to make satisfactory provision for the completion of services for the year amounting to R1,358,503·67. It is hardly necessary for me to say anything to the Council on the subject of the manner in which the estimates are framed or the causes which led to the framing of the estimates. Hon. Members know that the officials of the Government, in preparing estimates, have to be guided by certain principles. It is necessary for them to make provision for every possible service and contingency, but at the same time it is the object of the Government and its servants to cut those estimates down as far as possible, with due regard to economy and efficiency, and it frequently happens that the sums provided in the original estimates for the year are insufficient to meet the services and further provision has to be made by means of a supplementary Supply Bill. Of course, it also happens that a number of additions are sometimes made, and it happens in the course of a year that services have to be met, for which no provision whatever had been made. All these are included in the Supplementary Supply Bill. To cover this large expenditure—the large expenditure made up by the original estimates and by the changes in the Supplementary Supply Bill the Government has to look to the revenue of the current year and at first sight it would appear as if this revenue would be in sufficient to meet these large charges; but I hope before going further to be able to reassure the Council on that point and to show that the prospect now before us is such as will enable us to meet all the charges for the various services and leave a small but safe margin. In the first instance I would point out that for the ten months ending 31st of Oct. last the revenue showed actual receipts of R17,291,160. This is a considerable increase on the amount we hoped to receive and if the revenue goes on in the same way to the end of the year and we have a corresponding increase it may be taken that the entire amount would be R650,000 in excess of what was shewn in the estimates. Well, we have got this R650,000 from the increase in the revenue to go against the supplementary charges we have now before Council and for the balance we have to look to what are called "savings" on the votes and to certain re-arrangements. In the first instance I would call the attention of members to the fact that in this Supplementary Supply Bill or in the estimates for the year) provision is made for the vote of 10 per cent. increase to the salaries of the clerical and subordinate staff, which amounts to the very large sum of R197,000. This R197,000 which is now placed in the supplementary estimates must be taken from the original estimates which provided a sum of R420,000 which figure in the original estimates for compensation for loss on exchange, so that you have this item of R197,000 to be taken from the original estimate. Then there are the unexpended balances of the Public Works Department, which for the present year amounted to R230,000—or it is estimated that they will—and then, having regard to the way the expenditure has gone for the ten months ending the 31st of Oct. last, and the experience of previous years we are justified in taking as the savings on the ordinary votes no less than R500,000, and in this way they would shew what was called a "saving" of R927,000 on the original estimate, and to this must be added the 650,000 rupees we hope to get from the increase to the revenue, making R1,577,400 to be set off against the amount of the supplementary estimates—R1,358,503·67. The margin is a small one, but the estimates have been—I may say—prudently made, and I think may be relied on. Hon. Members I think, will no doubt, observe the very large amount, or the comparatively large amount of the estimates before them. I myself was very much struck with the largeness of the amount, but when I began to go into the figures I saw that it was large in appearance only, for I found that the re-votes amounted to R363,000; the 10 per cent. increase to the salaries of the clerical and subordinate staff which I have already mentioned, absorbing R197,000; the Military Contribution, over which Government had no control, took some R154,000; and to these were to be added the refund to Municipalities of a sum of R40,000—this money the Government collects and hands over to the Municipality and then we have a payment of R46,000 to the Widows and Orphans' Fund, this sum representing interest on monies in the hands of the Government, from April 1894 to the end of the current year and in paying that amount the Government is only paying the amount it has received. In addition to these items there has been a very large exceptional expenditure on the collection and on the purchase of salt and that may be regarded as remunerative to the Government and not one of the ordinary charges against the service. If we take all these items we find that they came in the aggregate to R795,000 which I think should be deducted from the total, and if that were deducted from the total it would leave only a very moderate sum of something over half-a-million rupees. I crave the indulgence of Hon. Members for a few minutes longer while I offer some few remarks on, or while I try to give some explanation, of the Ordinance before Council. The first thing that calls for attention or comment is the amount provided for pensions—R23,000. Well, that is a matter that the Government, like many others has practically no control over. Officers become entitled to pensions by length of service or age and it becomes necessary to provide pensions for them. This year we require another R23,000 for this purpose. The next item that calls for remark is Provincial Administration which amounts to the large sum of R106,070·44. Well, the sum is in appearance very much larger than is really the case. It includes various sums over which the Government Agents, who were responsible for provisional administration, have no control.

It includes, for instance the provision of 10 per cent increase to the salaries of their subordinates, amounting to R28,675; it includes provision for the extra collection and purchase of salt amounting to R55,000; it includes a provision of R5,,200, which was needed to meet the epidemic of cholera that occurred in certain parts of the island, and it includes a sum of R6,932 being the fees payable for the registration of Kandyan Marriages thus shewing a total of R95,807, shewing that the sum for which the Government Agents were really responsible and which they require to complete the Service of their administration is only a matter of some R10,000. Then we come to the Marine Department of Colombo for which we ask the sum of R19,995·98. This amount includes R6,000 required to provide for the cost of additional cooly trains, owing to what the Master Attendant describes as the unprecedented number of coolies arriving during the year. The balance of the vote is made up almost entirely of the expenditure of R6,900 for converting the steamship "Ceylon" into a police hulk and the increase of the Harbour Police. Under the heading of "police" we ask provision for R24,103. This provision includes the sum of R2,000 for the estatablishment of a telephone between the Police Headquarters and Cinnamon Gardens. Hon. Members, on referring to the estimates would find that there were a considerable number of items debited to the Central Province. These items are revotes for the year 1894. Then, sir, we have to ask the Council for a very large provision for the Medical Department. We have to ask for an additional provision of R46,695. Hon. Members will see in this case too, that the amount is almost wholly made up by an increase in the cost of hospitals, and that expenditure has arisen, I am informed by the Principal Medical Officer, in almost every case by the increased admissions during the year. That amount we have to provide, or of course he would be driven to the very unfortunate course of refusing admission. That, I am sure neither the Council nor the public will desire. One item in this provision is for R23,000 to meet the Supplementary estimate of the cost of instruments and drugs. It is a large item, but it was found absolutely necessary to provide this amount in order to place the supply of stores in the Medical Department on a satisfactory footing. Then, sir, we come to education; we have to ask another large sum R57,125. Hon. Members will see in this case, taking out this 10 per cent increase to the Subordinate Staff, that the rest is made up of grants to schools, provision for school books, and school furniture. For miscellaneous services a considerable sum has to be provided. That includes what I have already alluded to—the Military Contribution—which is provided for in the Ordinance and which this Council is not asked to vote. It is of course included in the estimates. For miscellaneous service the sum of R126,288·21 is asked. There are several items but only two of importance making up this amount. These have already been alluded to—R40,000 to the Municipality and R46,620 being the payment in respect of the Widows and Orphans' fund. The R40,000 is practically a payment of revenue collected by Government and the R46,000 is the payment of a debt due, I may say, by Government. Then we come to the Post Office for which we ask the sum of R79,970·15. This is a large sum but it is inevitable. With a large and steadily growing business like that of the Post Office it is hardly possible for Government in the original estimate to make satisfactory provision to meet all the demands that may arise in the course of the year. Of this R76,970, R52,000 are required for the safe conveyance of mails. That is a matter over which neither the Government nor the Postmaster-General can have any control. It is a debt incurred by several countries and by the international Post Office. Already I believe the Postmaster-General has paid R22,000 of this amount and he had to meet claims to the extent of R30,000. For railways we have to ask for over ¼ of a million. I would refer Hon. Members to the details of this amount given in the estimates and they will see it is mostly for the provision of rolling-stock. For Public Works in the current year the Council is asked to vote the sum of R145,091·90, but it would be misleading were Council to believe that this sum was required by the P. W. D. for the completion of its service. A very small proportion of this amount is required by the Public Works Department. The amount required by the Public Works Department itself as a matter of factwas only R12,195. How this balance of R132,896 come about is this. In the year 1893, provisino was made in the Public Works estimates for the year of over R15,000 for Surveys, and R120,000 for maintenance of Irrigation Works. Through some misunderstanding, either on the part of the Public Works Department, or a joint misunderstanding on the part of the Director of Public Works and the Treasury, this sum was not drawn at the end of the year. It lapsed, and on being discovered in audit it was suggested to Government that the only way out of the difficulty, was to place this money to the credit of the Public Works Department by voting the money. Practically in asking Council to vote this amount we are only asking Council to revote what they agreed to vote in 1893. Then for Public Works Extraordinary we ask for R201,749. Here again the amount is far in excess of the actual requirements of the Public Works Department. The Public Works Department has asked Government for the sum of R81,749 and the balance of R120,000 is again a revote on account of irrigation in the year 1893 and this revote becomes necessary owing to the causes I have mentioned. The Council is asked to add R198,954·48 to the Military Contribution which the Government is bound to provide under the Ordinance amounting to R153,833. I should mention perhaps that that sum is the amount that is provided in these estimates by the Hon. the Treasurer and it is possible in fact it is certain, that when the returns for the year, are completed this will be subject to revision. And then for fixed establishments there is a sum of 5,715 making a total of R318,503. I move the first reading of "An Ordinance for making Provision for the Supplementary Contingent Charges for the year 1895."

The Hon. the Acting AUDITOR-GENERAL seconded and the Bill was read a first time.

The Hon. the Acting COLONIAL SECRETARY:—With the view of advancing this measure a stage, I would ask permission to move the suspension of the standing orders, and if that is done I will move the second reading of the Bill, that Council go into Committee upon it, and that it be referred to the same Sub-Committee that has now under consideration the Supply Bill for the year. I move the suspension of the standing orders. Agreed.

The Hon. the Acting COLONIAL SECRETARY:—I move, sir, the second reading of "An Ordinance

for making provision for the Supplementary Contingent Charges for the year 1895."

The Hon. the TREASURER :—Sir, I beg to second.

Bill read a second time.

Council on the motion of the Hon. the Acting Colonial Secretary having gone into Committee.

The Hon. the Acting COLONIAL SECRETARY :—Sir, I move that further consideration of this Bill be referred to a Sub-Committee consisting of the same members as the Sub-Committee now considering the Supply Bill for 1896. Agreed.

Council resumed,

THE COURTS OF REQUESTS ORDINANCE.

The Hon. the ATTORNEY-GENERAL :—Sir, I beg to submit the report of the Law Officers of the Crown on "An Ordinance to extend the jurisdiction of Courts of Requests and to amend the procedure therein." Report read.

The Hon. the ATTORNEY-GENERAL :—I move, sir, the third reading of "An Ordinance, to extend the jurisdiction in Courts of Requests and to amend the procedure therein" and that it do pass.

The Hon. L. F. LEE :—I second.

The Hon. P. COOMARASWAMY :—I ask, sir, that Council be divided on this motion in order that I may hand in my protest against the passing of this Bill.

Council then divided with the following result:—

Ayes 13 :—Lt.-Col. Corse-Scott, Hons. the Acting Colonial Secretary, the Acting Auditor-General, the Acting Principal Collector of Customs, the Attorney-General, the Treasurer, the Government Agent, W.P.; the Director of Public Works, the Government Agent, C.P.; W. W. Mitchell, Sir John Grinlinton, Abdul Rahiman, W. Ellawella.

Noes 1 : Hon. P. Coomaraswamy.

Bill read a third time and passed.

The Hon. P. COOMARASWAMY :—I beg, sir, to hand in a protest, signed by myself and the Hon. the Sinhalese Member, against the passing of this Ordinance. It may be taken as read. Protest received and held as read.

The protest was in the following terms:—

We beg to protest against the passing of "An Ordinance to extend the jurisdiction of Courts of Requests and to amend the procedure therein" for the following reasons:—

1. We object to the increase of jurisdiction from R100 to R300; because (*a*) there has been no demand for the change and all the native populations of the Island and the legal profession have strongly expressed their objection to it in public meetings and in memorials to this Council. (*b*). The change will have the effect of transfering nearly 50 per cent of the cases in District Courts from comparatively efficient and trained judges to the youngest and most inexperienced officers. In Colombo, Kandy, Galle and Jaffna those cases are dealt with by an officer in the first class of the public service and will now be distributed among officers in the 4th class excepting Colombo where the Court of Requests is in the 3rd class. (*c*) Lands and properties of the value of from R100 to R300 often constitute the entirety of a peasant's patrimony and a trader's capital and the legal questions involved in these suits are frequently of the greatest difficulty and importance in view of the complicated and diverse systems of law in force in the Colony. The check afforded by appeal being by this Ordinance practically removed, the deprivation of competent judicial officers in Courts of first instance will be more acutely felt. (*d*). The concentration of legal business in large centres has resulted in the creation of a bar of high professional status and efficiency at each important centre, thus enabling the suitors to procure competent professional aid at small cost; a disposal of business, over a large number of small and unimportant centres will have the effect of lowering the status, weakening the efficiency of the members of the legal profession, and, with a judiciary composed of persons without legal training, the efficiency of the bar is of capital importance, as was recently indicated by Sir J. W. Bonser, the present Chief Justice of Ceylon. (*e*) His Excellency the Governor Sir Arthur Havelock in his speech in opening the present Session of Council stated as follows:—"In all cases over the value of R100, suitors will, should this Bill become law, be enabled to have their cases decided on the spot, expeditiously and cheaply by officers of the same standing in the Public Service as District Judges, for it is contemplated after the passing of this Ordinance to appoint to any Court in which the Commissioner of Requests is not an officer of the same standing as a D. J., the D. J of the Province or of an adjoining district as Commissioner of such Court of Requests. It will be the duty of D. Js. to hold circuits within their provinces or districts, to look into the records of the minor courts and to supervise generally the work of the Magistrates. Some such supervision has been a long-felt want." In passing this Ordinance without giving effect to this promise, the Government has also *stifled* much opposition which would have otherwise been directed against the measure So far from providing the supervision, which it is admitted has been a long-felt want, it is proposed by this Ordinance not only to give additional powers and jurisdiction to the minor judiciary but also to limit the control which the Supreme Court now exercises. (*f*) If it were thought desirable to increase the jurisdiction of Courts of Requests, we consider that a slight increase would have met the exigencies of the case; and none of the evidence recorded by the Retrenchment Committee would justify an increase beyond R200 though-even such an increase is open to the objections above indicated.

(2). We object to the restriction of the right of appeal on the following grounds:—(*a*) that it is revolutionary, for the new rules as to appeal will not only affect cases at present tried by Commissioners of Requests but will apply to 50 per cent of all the appeals at present dealt with as coming from D. C.'s now heard and determined by not a single Judge but by two Judges of the Supreme Court. All appeals from interlocutory orders at present available in D. C. cases will be entirely excluded. (*b*) The constitution of our judiciary makes it an absolute necessity, if it is sought to administer justice in all cases in accordance with law that the right to appeal to the highest tribunal in the land and the only tribunal that by law must necessarily consist of trained lawyers should be available without any restriction whatever.

(*c*). No grounds have been shewn justifying this restriction. On the contrary the figures quoted by the Attorney-General in Council shew that the Supreme Court has varied or reversed the findings of Courts of Requests in nearly 50 per cent of the cases in which appeals were taken. This negatives any suggestion that appeals are frivolously made or that the right of appeal is unduly availed of and proves that even in cases under R100 it would be dangerous to give finality to the judgments of the Courts of Requests.

(*d*). An appeal has hitherto been a safety-valve for the expression of dissatisfaction on the part of native litigants, without hardship to respondent parties their interests being fully safeguarded by the provisions of the law as to costs and security and execution of judgments pending appeal. We consider that the state of feeling brought about by discontent at judgments of courts of first instance upon restriction of the right of appeal will result in an increase of crime.

(*e*) The provisions of this Ordinance permitting of appeal by leave of the Commissioner or in the event of his refusal, allowing written applications to the Supreme Court for leave to appeal are circuitous and unsatisfactory and will cause great expense to suitors and needless waste of time on the part of the Supreme Court and are further open to the objection that where leave to appeal has been given by the Supreme Court, the Supreme Court will necessarily have expressed an opinion prejudicial to the respondent, without his having had an opportunity of being heard.

(3). As against the principle of this Ordinance we would urge that any good object intended to be attained by it in respect of the cheapening of litiga-

tion and the simplification of procedure can be bet. ter obtained by revising the procedure applicable to District Courts by a reduction of the scale of costs without any change in the constitution of the Courts of the Island.

THE EXPLOSIVES ORDINANCE.

The Hon. the TREASURER :—I beg to bring up the report of the Law Officers of the Crown and "An Ordinance to amend 'the Explosives Ordinance 1894'" and to move that it be read.

Report of Law Officers read.

The Hon. the TREASURER :—I move, sir, that "An Ordinance to amend 'the Explosives Ordinance 1894'" be read a third time and do pass. Bill read a third time and passed.

THE LAW OF EVIDENCE ORDINANCE.

The Hon. the ATTORNEY-GENERAL :—I move that Council go into Committee on "An Ordinance to consolidate define and amend the law of evidence". Agreed.

The Hon. the ATTORNEY-GENERAL :—With reference to the suggestion of the Hon. the Tamil Member made at last meeting of Council I hope that the insertion of the following words will meet with his views in regard to clause 85. In that clause I move the insertion after the words "Notary Public" and before the words "any Court" of the words "any person duly authorised by law on that behalf." With reference to the new clause 100 I have to suggest that a clause running as follows be inserted and be numbered 100.

Whenever in a judicial proceeding a question of evidence arises, not provided for by this Ordinance or by any other law in force in this Island, such question shall be determined in accordance with the English Law of Evidence for the time being.

My Hon. friend the Acting Principal Collector of Customs has seen this clause and it meets his views.

Clause 118 having been reached,

The Hon. the ATTORNEY-GENERAL :—I move here the insertion of a clause which has been suggested by Indian Commentators and is in consonance with the English law. It is in respect of age—the age of a boy who can be charged with committing rape. The age I have fixed at twelve, but the question is one on which I would like to consult Hon. Members as to whether it should be 12 years or lower. Twelve years is the age which has been suggested by Mr. Stokes for India and it is 14 in England. I am not wedded to any particular age, but I think 12 should be fixed. The insertion of a clause here I may mention will make the numbering the same as in the Indian Act.

The Clause is as follows :—

It shall be an irrebutable presumption of law that a boy under the age of 12 years is incapable of committing rape.

The Hon. P. COOMARASWAMY :—I should like with Your Excellency's permission, to refer to Clause 118. It is stated here "unless it can be shown that that man had no access to the mother at any time when such person could have been begotten." I should like to be informed if this will admit of proof of impotency. I believe, under the English Law, it is competent to prove that a man is impotent. As the Clause stands mere "access" means that a man living in the same house with his wife, but unable to beget a child at all, would be held to be the father all the same if his wife gave birth to a child. I would like to know if "access" includes co-habitation.

The Hon. the ATTORNEY-GENERAL :—That is a question of opinion. If my Hon. friend wishes I will insert the words "if he is impotent."

The Hon. P. COOMARASWAMY :—That I believe is the English law.

The Hon. the ATTORNEY-GENERAL suggested and it was agreed to add to the clause the words "or that he was impotent."

The Hon. the ATTORNEY-GENERAL dealing with clause 122 of the draft moved the substitution of the following clause :—

117. (1) No acceptor of a bill of exchange shall be permitted to deny that the drawer had authority to draw such bill or to endorse it. (2) No bailee, agent or licensee shall be permitted to deny that the bailor, principal or licensor, by whom any goods were entrusted to any of them respectively was entitled to these goods at the time when they were so entrusted, provided any such bailee, agent or licensee, may show that he was compelled to deliver up any such goods by some person who had a right to them as against his bailor, principal or licensor or that his bailor, principal or licensor wrongfully and without notice to the bailee, agent, or licensee obtained the goods from a third person who has claimed them from such bailee, agent or licensee.

Explanation.—The acceptor of a Bill of Exchange may deny that the bill was rightly drawn by the person by whom it purports to have been drawn.

That will make the clause in accordance with the English law. Clause adopted.

The Hon. the ATTORNEY-GENERAL, *re* clause 125 said :—I think Members of Council, particularly the legal members, will desire that English law should operate in this matter. Under it husband and wife are always competent witnesses in respect of any universal wrong done by them to each other. I propose therefore to make the clause read as follows :—

(1) In all civil proceedings the parties to a 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 priviliged.

(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.

(4) In criminal trials the accused shall be a competent witness in his own behalf and may give evidence in the same manner and with the like effect and consequences as any other witness, provided that so far as the cross-examination relates to the credit of the accused the Court may limit the cross examination to such an extent as it thinks proper, although the proposed cross-examination may be permissable in the case of any other witness.

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS :—Sir, I do not wish to enter on the much controverted point as to whether an accused should be called as a witness in his own behalf but I wish to ask the Attorney-General whether he will permit an accused to be called as a competent witness in behalf of another accused. The words of this section are "in his own behalf." If he is called as a witness in his own behalf surely he may be called on behalf of a co-accused.

The Hon. the ATTORNEY-GENERAL :—The clause it appears does not extend so far.

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS :—By implication the accused is prohibited from being called as a witness on behalf of another accused.

The Hon. the ATTORNEY-GENERAL :—I am not quite sure how far the new English bill goes. I understood it to provide say that the accused could give evidence on behalf of himself. Perhaps the Hon. Member will suggest some words for insertion. It could hardly be admitted in every case because the cross-examination would be limited.

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS :—Of course there is a case in which

it has been held under the present law that a co-accused may be called. Would it not be possible to omit the words "in his own behalf."

The Hon. P. COOMARASWAMY:—I think the point which has been raised by my Hon. friend the Acting Principal Collector of Customs requires very careful consideration and it is therefore a point that should be reserved.

The Hon. the ATTORNEY-GENERAL:—I think too it should be reserved, and I thank the Hon. the Tamil Member for the suggestion Consideration deferred.

The Hon. the ATTORNEY-GENERAL moved that Clause 128 of the draft be made to read:—

123.—No one shall be permitted to produce any unpublished official records relating to any affair of State, or to give any evidence derived therefrom except with the permission of the officer at the head of the department concerned who shall give or withhold such permission as he thinks fit, subject however to the control of the Governor.

Clause amended as above.

In section 131 of the draft the word "barrister" was deleted on the motion of the Attorney-General as suggested by the Hon. P. Coomaraswamy. In sub-section (1) the word "illegal" was substituted for the word "criminal" making the section read "illegal purpose."

On the motion of the Attorney-General the figures "131" in clause 132 of the draft were altered to "126."

The Hon. the ATTORNEY-GENERAL speaking of clause 135 of the draft (No. 130 as re-numbered), said:—It has been pointed out that this clause should extend not only to witnesses who are not parties in a suit but to a witness who is a party to a suit. I would therefore suggest the insertion of a sub-section as follows:—

130.—(2) No witness who is a party to a suit shall be bound to produce any document in his possession which is not relevant or material to the case of the party requiring its production.

and also another sub-section relating to Banks:—

(3) No Bank shall be compelled to produce the books of such Bank in any legal proceeding to which such Bank is not a party except as provided by section 90 (d).

Sub sections-adopted.

The Hon. the ATTORNEY-GENERAL moved and it was resolved that clause 136 of the draft be made to read:—

131. No one shall be compelled to produce documents in his possession which any other person would be entitled to refuse to produce if they were in his possession (except for the purpose of identification) unless such last mentioned person consents to their production. Nor shall any one who is entitled to refuse to produce a document be compelled to give oral evidence of its contents.

The Hon. P. COOMARASWAMY directed attention to the proviso in connection with section 137 of the draft which reads as follows:—

Provided that no such answer which a witness shall be compelled to give shall subject him to any arrest or prosecution, or be proved against him in any criminal proceeding, except a prosecution for giving false evidence by such answer.

He said:—The proviso here states "criminal proceeding." I do not see why "civil proceeding" should not be included.

The Hon. the ATTORNEY-GENERAL:—I have turned the provision into a substantive section making the clause to read:—

132. (1) A witness shall not be excused from answering any question as to any matter relevant to the matter in issue in any such or in any civil or criminal proceeding, upon the ground that the answer to such question will criminate or may tend directly or indirectly to criminate such witness or that it will expose or tend directly or indirectly to expose such witness to a penalty or forfeiture of any kind or that it will establish or tend to establish that he owes a debt or is otherwise subject to a civil suit at the instance of Her Majesty or any other person (2) No answer which a witness, shall be compelled by the Court to give shall subject him to any arrest or prosecution or be proved against him in any criminal proceeding except a prosecution for giving false evidence by such answer.

(3) Before compelling a witness to answer a question the answer to which will criminate or may tend directly or indirectly to criminate such witness, the Court shall explain to the witness the purport of the last preceding sub-section.

Mr. Stokes, of whom the Hon. Member is so fond of quoting recommends this otherwise you will not get the witness to give evidence. If it is explained to him that he will not incriminate himself he may give it.

The Hon. P. COOMARASWAMY:—I can think of a case where a witness might subject himself to an action of damages in respect of admissions made in evidence. Would it not be well to insert the words "Civil or." Supposing a witness has admitted that he committed the theft of a book from the Library he is liable for the value of that book in a civil action. If you want a witness to speak the truth you must protect him from a civil action.

The Hon. the ATTORNEY-GENERAL:—I am afraid that is too large a deviation from the English law.

The Hon. P. COOMARASWAMY:—Under the English law he is not bound to answer. He is altogether protected, both from civil and criminal proceedings because all that he has got to say is "I decline to answer the question."

The Hon. the ATTORNEY-GENERAL:—If he said "I decline to answer the question because I will be liable in a civil action" the court would make him answer the question. The word "criminate" here means rendering himself liable to a "criminal" prosecution. If we protect him from a criminal charge I think we do as much as we can for him.

The clause as amended by the Hon. the Attorney-General was adopted.

The Hon. P. COOMARASWAMY, referring to Clause 138:—Does this clause include perjury cases? It says "a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice."

The Hon. the ATTORNEY-GENERAL:—If the Hon. Member will refer to Clause 119 of the draft illustration (b) he will find it there stated that the "Court may presume (b) that an accomplice is unworthy of credit unless he is corroborated in material particulars."

The Hon. P. COOMARASWAMY:—Clause 119 illustration (b) does not touch on the question I have put. It is only an illustration and it is not binding on anybody. What I wish put to the Council is that under English law a man cannot be convicted for perjury or high treason by the testimony of one witness. Under Clauses 138 and 139 an accomplice is a competent witness and no particular number of witnesses is in any case required.

The Hon the ATTORNEY-GENERAL:—That is directly in accordance with the English law.

The Hon. P. COOMARASWMY:—Provided you put in cases of high treason and perjury. Then it would be strictly in accordance with English law.

The Hon the ATTORNEY-GENERAL:—Which Clause do you refer to?

The Hon. P. COOMARASWAMY:—To Clause 139.

The Hon. the ATTORNEY-GENERAL:—We have not got that length yet.

Clause 139 having been taken up,

The Hon. the ATTORNEY-GENERAL :—There is a difference from the English law here. In the case of high treason as regards the person of Her Majesty one witness is sufficient and the judge is left unfettered to determine in each case whether the evidence is sufficient or not.

The Hon. P. COOMARASWAMY :— I do not believe there is any likelihood of there being a case of high treason in Ceylon but in the case of perjury we ought to have this correction. As a matter of fact we know a very large number of our witnesses are not to be trusted, they would swear away a man's liberty I may say the Indian text-books point out it was a mistake that that section was introduced because of the very reason I stated, that it was not at all right to convict on the testimony of an uncorroborated witness in a case of perjury. We know Ceylon is no better than India so far as that is concerned. The Attorney-General must have seen absolute liars coming one after the other and swearing away as if every word they said was the truth. If in England two witness are necessary it is much more necessary in this Country.

The Hon. the ATTORNEY-GENERAL :—It does not say here the testimony of one witness shall convict a man of perjury : it merely says "no particular number of witnesses shall in any case be required for any proof of any fact." The judge is left entirely unfettered as to what evidence he will accept. I should point out in regard to the English law, and it has been stated in many English text books, that is really no reason for it.

The Hon. P. COOMARASWAMY :—I do not agree with the Hon. the Attorney-General, but I shall not press my point further.

The Hon. the ATTORNEY-GENERAL stated that if perjury cases were exempted in the clause the uncorroborated evidence of one person would be excluded though there might be documents and other things which would help the judge to come to the conclusion that a man had perjured himself.

H.E. the LIEUT.-GOVERNOR :—The Hon. the Tamil Member does not propose a correction.

The Hon. P. COOMARASWAMY :—No sir.

The Hon. P. COOMARASWAMY asked regarding clause 141 of the draft—would the Hon. the Attorney-General allow the minor Courts to refuse evidence without recording that such evidence was offered and it was refused. Officers in the minor Courts may not write a single word as to whether such a witness was called or not, and there will be no proof when the matter comes up in appeal that the party had tendered certain evidence and that it was refused. I know of a certain District Judge of Colombo—I think my Hon. friend will admit it—who very frequently for his own purposes would omit to record evidence. This cannot be denied ; it is a matter that is well known over the island. I practised before that Judge myself.

The Hon. the ATTORNEY-GENERAL :—I am not prepared to admit that any Judge refused to record evidence for his own purposes. There may have been Judges before whom I practised who refused to record 12 relevant questions and I have no doubt I felt very much aggrieved at the time. If a judge refuses to record evidence you have an opportunity in the Court of Appeal of stating so on affidavit and the Supreme Court would decide the question as to whether the judge was justified in refusing to accept it. As a rule the statement of Counsel would be accepted.

The Hon. P. COOMARASWAMY :—It is very painful to me to bring up these matters but I may mention that not long ago a judicial Officer, after having done certain things in the course of a trial when the matter went up in appeal, simply said that all the matters in the affidavit were untrue and he had not done so and so. You must admit that out of a large number of Officers there may be one or two who would attempt that and it is quite right we should safeguard justice as much as possible. The addition of a few words here will not spoil this Bill. I would move the addition of the words "in which case the Court will record its reason for refusing evidence." We are legislating as if we lived in a celestial place where truth and justice prevail always. I can assure my Hon. and learned friend we are very far from that.

The Hon. the ATTORNEY-GENERAL :—When a new Procedure Code is introduced the Hon. Member will be perfectly justified in bringing forward his motion. This is a question of procedure, not of evidence.

The Hon. the ATTORNEY-GENERAL moved the addition of the following sub-section to section 143 of the draft :—

138—(4) The Court may, in all cases, permit the witnesses to be recalled, either for further examination in chief or for further cross-examination, and if it does so, the parties have the right of further cross-examination and re-examination respectively.

Sub-Section adopted.

The Hon. the ATTORNEY-GENERAL moved that in lieu of section 148 of the draft the following section be substituted :—

148. Leading questions may be asked in cross-examination subject to the following qualifications (a) the question must not put into the month of the witness the very words he is to echo back again and (b) the question must not assume that facts have been proved which have not been proved or that particular answers have been given contraryt of act.

The Court in its discretion may prohibit leading questions from being put to a witness who shows a strong interest or bias in favour of the cross-examining party.

Clause adopted.

In clause 134 of the draft, illustration (a) the words "an advocate" were on the motion of the Attorney-General substituted for the words "a barrister."

The Hon. the ATTORNEY-GENERAL, when clause 158 of the draft had been reached, moved the insertion of the following illustrations :—

153 (a) A is tried for a rape on B. B is asked in cross-examination whether she has not had illicit intercourse with C and D. She denies it. Evidence is produced to show that she has had such intercourse with C and D. The evidence is not admissible.

(e) E is asked whether he has not said that he would be revenged on B against whom he gave evidence. He denies it. He may be contradicted on the ground that the question tends to impeach his impartiality.

Illustrations inserted.

With regard to clause 160 of the draft, impeaching the credit of witnesses, the Hon. P. COOMARASWAMY said :—I think this has been put in by mistake. I will be satisfied if the Hon. gentleman looks into that point.

The Hon. the ATTORNEY-GENERAL :—I will do so.

The remaining clauses of the Draft Ordinance having been gone over *seriatim*,

The Hon. the ATTORNEY-GENERAL :—I move, sir, that Council do resume.

Council having resumed,

The Hon. the ATTORNEY-GENERAL:—If Members will permit me I will move that it be referred to the Law Officers of the Crown and if necessary it can be recommitted. I report the Bill as amended and move that it be referred to the Law Officers of the Crown. I will take the third reading at next sitting. Agreed.

The Hon. the Acting COLONIAL SECRETARY:—Sir, I am not in a position to bring up the report of the Sub-Committe on the Supply Bill. I must, therefore, ask Council to allow the last order of the day to be postponed. Agreed.

The Hon. the Acting COLONIAL SECRETARY:—I move, sir, that Council do adjourn till Monday next, 2nd inst., at 3 o'clock in the afternoon. Agreed.

Council rose at 4 p.m.

MONDAY, DECEMBER 2nd, 1895.

Council met at 3 p.m. in the Council Chamber. *Present*:—H.E. Sir E Noel Walker, presiding; Hons. W T Taylor, Acting Colonial Secretary; C P Layard, Attorney-General; T Skinner, Acting Auditor-General; F R Saunders, Treasurer; L F Lee, Acting Principal Collector of Customs; R K MacBride, Director of Public Works; A R Dawson, Government Agent, Western Province; Allanson Bailey, Government Agent, Central Province; A de A Seneviratne, Sinhalese Representative; P Coomaraswamy, Tamil Representative; Sir J J Grinlinton, General European Representative; W Ellawala, Upcountry Sinhalese Representative; W W Mitchell, Mercantile Representative; Giles F Walker, Planting Representative; M C Abdul Rahiman, Muhammadan Representative.

PUBLIC WORKS IN UVA—A RETURN.

The Hon. the Acting COLONIAL SECRETARY:—Sir, in terms of motion, I lay on the table a return, being a Comparative Statement showing the amount voted for public works in the Province of Uva as scheduled in the Supply Bill for the last three years, and the sum actually spent on such works in these years. I also lay on the table of Council a statement showing the amount expended on the Canal between Colombo and Negombo on each of the last 12 years.

IRRIGATION IN JAFFNA DISTRICT.

The Hon. P. COOMARASWAMY:—I beg leave, sir, to present a petition from certain farmers and proprietors concerning the Punnalai Tank at Jaffna. The tank is, roughly speaking, about 250 acres in extent and the petitioners complain of the scarcity of water and hence imperfect cultivation, and further, that whenever the water in the tank goes down, the surrounding wells become brackish and even well water then becomes unsuitable for cultivation. Their prayer is that the tank be deepened and that new inlets be made so that rain water may flow into it. There is one matter in this petition which struck me, as remarkable, if it is true, that notwithstanding so many millions of rupees have been spent in irrigation, not one cent has gone to Jaffna. I cannot vouch for the accuracy of this statement, but, if it is true, it is a remarkable thing considering the populous nature of the country and the industrious habits of the people that more money should not have been spent for the purpose of irrigation in a populous district. I would suggest that this petition should be sent to the Secretary of the Irrigation Board, to the Government Agent of the Province, and to the Director of Public Works. This, I think, is a very important subject, and the Petition which was as follows was held as read:—

Jaffna, Nov. 19.

To His Excellency Sir E. Noel Walker, K.C.M.G., Lieut.-Governor the President and the Hon'ble Members of the Legislative Council, Ceylon.

The humble memorial of the undersigned farmers and proprietors of paddy fields surrounding Punnalai Tank. Walikaman West, and the inhabitants of the adjacent villages.

May it please your Excellency and the Hon'ble Members of the Council

That the humble memorialists beg to state that they are resident farmers and land-owners about the Punnalai tank in Walikaman West, who have to depend for their water supply on the said tank which is the largest in the Peninsula being about 3,000 lachams in extent, and that the tank is shallow and does not retain sufficient water for irrigating the surrounding paddy fields.

2. That during seasons of drought and partial rains so frequent in these parts, the memorialists are compelled to resort to that arduous and expensive method of irrigating their fields from wells at a distance of even ¼ of a mile and they are simply giving the results of their experience, covering a long period, when they say that the scanty crops reaped, are out of all proportion to the energy and money expended in raising them.

3. That many farmers and land-owners of the adjacent villages Punnalai and Nellian who were once well-to-do are now much reduced in circumstances by the repeated failure of their crops, consequent on the very limited and inadequate supply of water in the aforesaid tank, and it is a fact worthy of special mention that many have perished during the last twenty years through want and partial famine.

4. That when there is exceptionally heavy rain, the water in the tank generally lasts for about six months from October to April when the tank is full of water in the wells in the vicinity is good, but when the tank dries up the water in the wells also fails becoming brackish and unwholesome.

5. That the memorialists believe that if the tank were sufficiently deepened it would not dry up as springs of good water would be reached within a very small depth ranging from two to four feet which would stand the memorialists in good stead, in the event of the evaporation of the rain water during the dry season.

6. That as the original inlets to the tank have become altered, blocked or silted up, by earth being thrown from fields which were lowered by new plantations being formed, and by roads opened for rain water, now running to waste, to find its way into the tank.

7. That the Memorialists beg to invite the attention of your Excellency and of your Hon'ble Council to the singular fact that the Jaffna Peninsula has never had any participation whatever in the irrigation vote by which all the other districts of the Island have been so largely benefitted; and for this reason memorialists approach your Excellency in Council with all the more confidence, and lay before you the humble and modest request that the Punnalai tank may be deepened and otherwise repaired with a view to the health and painstaking industry of the inhabitants in its neighbourhood being promoted.

8. The memorialists therefore pray that as the necessary preliminary to granting their earnest request, your Excellency in Council will be pleased to call for a Report and an Estimate of the cost of deepening and repairing the tank, together with a flying survey of the neighbouring villages, with a a view to ascertaining the whole catchment area from which the tank might be fed.

For which act of goodness the memorialists shall ever pray. [Here followed 211 signatures.]

AN AMENDED MOTION.

The Hon. P. COOMARASWAMY:—With Your Excellency's permission and the leave of Council, I should like to amend my motion by striking out the words "and nationality" and, after the

words, "grantee" putting in the words "and whether the sale was private or by public auction," making the motion read :—

"For a return showing the lots of Crown land sold or alienated within the Municipality of Colombo from 1875, giving in each case the extent, locality, price paid, and the name of the grantee, and whether the sale was private or by public auction."

I make this motion because I think it will be interesting to know how lands have been alienated, by sale or otherwise, by the Government, and, in view of what was discussed a few days ago with reference to land which was to be alienated to a Syndicate, I think this information will be valuable if the Government are pleased to give it.

H.E. the LIEUT.-GOVERNOR put the question to Council and permission to amend the notice of motion, as desired, was given.

The Hon. the Acting COLONIAL SECRETARY :—On behalf of Government I have no objection to furnish the information asked for.

H.E. the LIEUT.-GOVERNOR :—I take it the motion is carried. Agreed.

THE LAW OF EVIDENCE ORDINANCE.

The Hon. the ATTORNEY-GENERAL :—Sir, before moving the third reading of "An Ordinance to consolidate, define and amend the Law of Evidence," I desire to refer to two points which I undertook to consider in the Bill for the purpose of seeing whether it would be necessary for me to move that it be recommitted. It was suggested by the Hon. the Tamil Member supported by the Acting Principal Collector of Customs, with reference to clause 160 of the Bill, that the evidence of persons who testify that they, by their knowledge of a witness, believe him to be unworthy of credit, was not strictly in accordance with the English Law. I thought at the time that it was, but I considered it desirable to look more carefully into the matter. I find it is laid down in the English law books that there is a regular mode of examining into the character of a person and that is by asking the witness if he knew the regular reputation the individual held amongst his neighbours, what that reputation was, and whether, from such knowledge, he would believe him on oath. The propriety of this last question has been upheld in England and by a considerable weight of authority in the United States, but it has been questioned by some American Judges and it seems that in some of the American Courts a witness will not be permitted to state his own opinion of another witness as not being worthy of being believed. But as we are consolidating the Law of Evidence, I propose to follow the English Law and to approve of the clause as it now stands. A point which was raised by the Acting Principal Collector of Customs was that clause 125—a clause which deals with criminal trials and which permits an accused to be a competent witness on his own behalf. I have looked over all the English statutes which enable an accused to be a competent witness on his own behalf and I find the law is at present restricted to that. I also find that the Clause is in accordance with English law and in accordance with the principle that an accused is not obliged to give evidence against himself. The present Clause only makes the accused a competent witness, not a compellable witness. If we make provision here that a co-accused can give evidence at the request of his co-accused, he would then become a compellable witness and he would be obliged to give evidence, which would do away with the principle of English law that an accused is not obliged to give evidence against himself. In these circumstances it is not my intention to move that the Bill be recommitted, and I now beg to bring up the report of the Law Officers of the Crown on the measure.

The Hon. P. COOMARASWAMY :—May I remind the Hon. the Attorney-General about one point which was raised with regard to the definition of the word "signature."

The Hon. the ATTORNEY-GENERAL :—That was raised, not at last meeting of Council, but at the previous sitting of Council. On looking into English dictionaries and consulting other authorities I found that the Clause worked all right, so that I did not mention it at last meeting. I found that the definition of "signature" suited the clause and that a man's mark could be proved.

Report of Law Officers read on the Bill.

The Hon. the ATTORNEY-GENERAL :—I move, sir, the third reading of "An Ordinance to Consolidate, amend and define the Law of Evidence.

The Hon. the Acting COLONIAL SECRETARY seconded.

Bill read a third time.

THE SUPPLY BILL.

The Hon. the Acting COLONIAL SECRETARY :—I move, sir, that Council resolve itself into Committee to consider "An Ordinance for making provision for the Contingent Services of the year 1896."

Resolved accordingly.

The Hon. the Acting COLONIAL SECRETARY :—I move, sir, for permission to bring up the report of the Sub-Committee appointed to consider and report upon the provisions of this Bill. I move, sir, that the Report be taken as read.

Agreed.

MISCELLANEOUS.

The Hon. the Acting COLONIAL SECRETARY :—I believe, sir, it is the practice to take the schedule first. The first item is "Charges on account of Public Debt" for which R1,571 is provided. Under the heading "pensions," I have to move an addition of R250 to the sum shown in the schedule. This addition becomes necessary for the following reason : that the Secretary of State has authorised an addition to the allowance to be granted to Mr. Northmore of R250. The Sub-Committee also expressed the opinion that the compassionate allowance to Mr. Eaton was insufficient and on reconsidering the matter the Secretary of State has instructed Government to make a provision for R1,250 in the case of Mr. Northmore. Under the head of "His Excellency the Governor" it is necessary to ask for an addition of R100 making a total sum of R37,681. This becomes necessary to provide compensation to three subordinate officers of His Excellency's staff owing to the accidental omission of 10 per cent increase on their salaries. Under the heading of "Police" I have to ask Council to make some alterations, viz. that the vote to the Inspector-General of Police for "Uniform" be reduced by R3,570 and a provision of R968 inadvertently included under this head for the Western Province be omitted, as the entire amount required for this service is now voted to the Inspector-General of Police and not distributed among the several Government Agents. An addition of R336 has also to be made on account of rent of quarters for the Police to be stationed at Chilaw from 1st January, 1896, and a further sum of R400 added to meet the rent of station house and barracks and other contingent charges connected with the new Police station at Tan-

galla. In connection with this, sir, I have to ask the Committee to make the alterations to which I have alluded, also (under the heading of "Prisons.") that the amount voted to the Galle jail for "Transfer Expenses" be reduced by R1,500, and a corresponding increase made in the vote allowed to the Fiscal, Galle under, the head "Expenses attending execution of criminal process." and under the head of "Medical" that an addition of R375 be made to the amount provided for the salary of the Physician of the General Hospital and Superintendent of the Civil Medical Stores, so as to admit of the triennial increment to the present incumbent being paid from the 1st January instead of the 1st October. 1896.

Resolved accordingly.

Regarding the para of the Sub-Committee's report headed "Widows and Orphans' Fund."

THE WIDOWS AND ORPHANS FUND.

The Hon. the Acting COLONIAL SECRETARY said :—I have to ask, sir, that this amount be increased by R23,000. This sum is required to meet the interest on Widows and Orphans' Fund deposits. The original estimate was only R40,000 but it will be necessary to increase this by the sum of R23,000 so that I ask it may be increased to R63,000.

Resolved accordingly.

CADETSHIPS.

The Hon. A. DE A. SENEVIRATNE directed attention to an increase of R6,000 in the vote for Cadets, such increase being due to 4 Cadets being expected from England, and to the intention of Government to offer Cadetships in the Lower Division for competition in March next. He said :—The Governor has power subject to the approval of the Secretary of State occasionally to appoint to the Lower Division, without examination, older men, possessing an aptitude for public business, due regard being had to their social position, high reputation and long experience. It appears to me if an examination be held for the admission of three persons to the cadetships in the lower division it would look as if we had not in the Servicem en of experience, men who have shown aptitude for public business. I would submit that in the various departments there must be men of standing of good social position, and men who have shown an aptitude for public business. I would like to ask whether Government have failed to find fit men to appoint to these cadetships, and why they want to admit by examination three new men. I understand, sir, that admission is by examination and that candidates are those between 17 and 21 years of age. It appears to me that a man who has shown aptitude for business and has done work for the Government would be fitter to discharge his duties than a boy of 17, though the latter may pass a better examination.

The Hon. the Acting COLONIAL SECRETARY :—I am afraid I hardly follow the Hon. Member in the object he has in view. In the first instance, I would point out that the paragraph, as it appears in the Report of the Sub-Committee, is somewhat misleading. At the last meeting of the Sub-Committee I called attention to this fact but it was not considered necessary by the Sub-Committee to alter it. The Hon. Member was not there so that he had not the advantage of hearing what I had to say on this provision for R6,000 for cadets. The reference to it in the Report of the Sub-Committee that it was intended to bring four Cadets from England is misleading, if it is taken to mean there is to be an increase in the number of Cadets. As a matter of fact what happened was, that owing to the vacancies in the permanent posts, during the current year the Cadets of the Secretariat had been employed in the permanent posts, and for that reason a saving has been effected ; and it has been found necessary to make a certain amount of provision for 1896. I rather understand the Hon. Member's contention is that persons of experience out here should be employed in preference to Cadets in permanent posts in the Public Service. If that is the Hon. Member's meaning or contention I venture to say, sir, that the Committee will not think it would be possible, that all appointments could be filled up in that manner. At the same time, the Hon Member may rest assured that Government will not depart from its expressed intention, and that it will follow up its decision by the appointment, not alone of Cadet's brought from England but of Cadets who may pass the examination in the Island ; and also to appoint a certain number of men, specially qualified by service and by experience in the Island. That policy has been followed in certain instances in the past and will be so followed in the future.

LAVATORY ACCOMMODATION ON THE RAILWAY.

The Hon. Sir JOHN GRINLINTON :—I invite attention to the Railway Department which has just been passed, and I would ask in reference to it, what has been done in respect of the recommendation of the Committee that sat on the estimates for the year 1895, as regards the urinals and water-closets that are recommended for second and third class passengers. The absence of any such accommodation, more especially for third class passengers, has attracted much attention and I should be very glad to know what steps have been taken to rectify this evil.

H.E. the LIEUT.-GOVERNOR :—As Colonial Secretary I gave a good deal of attention to the subject and had several conferences with the General Manager in regard to it. The precise extent of the accommodation which was contemplated, in consequence of that suggestion, I do not at this moment remember, not having been prepared for the question of the Hon. Member, but with regard to the proposed accommodation for third class carriages, the General Manager was very emphatic in saying that it was not practicable to have it attached to the train. He was very strongly opposed to it and, after the arguments he put before me, I felt bound to defer to his opinion. I think the Hon. Member would have to do so too if he had heard them.

The Hon. Sir JOHN GRINLINTON :—I am obliged to Your Excellency for your reply, but, at the same time, it has come to my knowledge that such accommodation has been extended to third class carriages in India. If done there, I see no reason why it should not be done in Ceylon if they only set their minds to do it. It is the absence of attention to the subject that has allowed it to go on and on without doing anything until now it has become settled that the thing cannot be done.

H.E. the LIEUT.-GOVERNOR :—I would remind the Hon. Member that the circumstances with regard to third class passengers are very different in England.

The Hon. Sir JOHN GRINLINTON :—I am speaking of India, where they have such accommodation in connection with third class carriages—a convenience we have not here.

THE RAILWAY EXPERT.

The Hon. the PLANTING MEMBER :—I should like to ask whether the Expert who has been instructed to consult and to report on the Ceylon Railways has been

take the opinions of certain public bodies with reference to railway management. The Expert was sent for, to a certain extent, in answer to the opinion of the Planters' Association, the Chamber of Commerce and other bodies, that some such course should be adopted. I think it would be very desirable before sending in his report that he should have the opinions of public men, other than the railway officials of the Colony. There are several points which have been brought before my notice. Many complaints are made by a section of the public that whenever they suffer loss by goods being despatched and delivered short in quantity, they find it to be very difficult to get redress and compensation. That, I think, is a point, upon which the opinion of the Expert, who was sent for specially to report on Ceylon Railways, might well be asked. In connection with the visit of the Expert I think it is very desirable that we should have a report from that gentleman on a question that has come to the front so much lately as to the desirability of, I will not say of a break of gauge, but of constructing any of our future railway extensions on a gauge other than the present gauge. Again I have to express the opinion that the Expert should, before his final report is sent in, obtain the views of others interested in railway management, besides those of officers of the Railway Department themselves.

The Hon. W. W. MITCHELL :—I should like to support the contention of my Hon. friend the Planting Member. I am not aware that any of the bodies alluded to have been consulted by the Expert who has been brought to report on the railways, but at the same time, I should like to express the hope that Government will avail itself of his presence here to obtain his opinion upon the expression of opinion which has been given by the Members of the Sub-Committee on the Supply Bill which will be found in the report in the following terms :—"In the opinion of the Unofficial Members the cost of the new works, which are for the most part of the nature of construction, ought not to be debited to working expenses, but should be treated as capital expenditure." That is a matter which has been urged again and again by the General Manager of the Railway and in his last report he stated in clause 7 :—

"As stated in my last report, it is very desirable that on the Ceylon Government Railways, as on other railways, the cost of purely new works, which are really constructive, and not the result of working the traffic and maintaining the line, should be charged to a separate vote, and not included in the vote for the maintenance of the permanent way, buildings, and rolling stock, which, however heavy, should rightly be debited to working expenses."

As has been pointed out these railway returns are practically worthless, unless the accounts are kept somehow in that form of Mercantile men would keep their accounts that way, but, as His Excellency the Governor pointed out that was not the way Government kept their accounts. It is a question whether Government should not mend their ways and adopt a methodical method of keeping their accounts.

H.E. the LIEUT.-GOVERNOR :—Before answering the question of the Hon. the Mercantile Member I would like to know how he would propose to charge it. How was he to get the money to meet the expenses of capital account?

The Hon. W. W. MITCHELL :—By the Ordinance which provides for loans by loan.

H.E. the LIEUT.-GOVERNOR :—I would certainly deprecate very much this Colony going borrowing money in very small sums. There is no doubt our abstention from any such practice has largely contributed to the very satisfactory position of this Colony. So excellent is it that our 4 per cent debentures are now selling at 20 premium (120). I have said so more than once in Council—that one of the reasons that has contributed to this excellent credit of ours is that we have been very careful, perhaps, I will say extremely careful from a commercial point of view, in not charging things to capital account; and adopting rather the extreme course in the direction which the Hon. Member deprecates. I think it would be unfortunate if we abandoned that course. This question is not one that has been submitted to the Expert; and I should think, from a casual remark of his, that it is not one on which he would feel himself specially competent to offer an opinion. With regard to the suggestions of the Planting Member I think they are very excellent; and it is perhaps, matter for regret that they were not made sooner. It is a long time since the Government intimated that the services of this Expert had been applied for, and his non-appearance has from time to time been commented on. His services are only for a month. He arrived here on the 25th or 26th of October. He was lent to us by the Indian Government only for a month, and he is very desirous of returning to his duties and is most anxious to leave the island on a very early day—one day this week. In these circumstances I regret the suggestion comes too late.

The Hon. Sir JOHN GRINLINTON :—With reference to the remarks made by my hon. friend on the right (the Hon. the Mercantile Representative) in respect of charging these works to capital account, it is our opinion that in consequence of not doing so and charging these constructive matters to current account, the Railway is in many instances starved and things that ought to be done are left over until we have funds. It is with the view of preventing this and also, because it is a thoroughly sound mercantile principle, that we have urged this system of charging all new works to capital account. It is done in connection with all the companies I am interested in and no departure from it would be allowed. I think Government business would be equally successfully conducted by this means.

H.E. the LIEUT.-GOVERNOR :—It is a very strong objection to the Government doing it that it affords opportunities for more liberal expenditure. It is endorsed, and it must be admitted by all officials of any service, Civil or Military, that where expenditure is charged on public loan, authority to expend is very much more easily obtained and very much more largely and liberally indulged in, than when you have got to get an annual vote for it and that is one of the objections which is made to the course suggested.

The Hon. the PLANTING MEMBER :—With reference to the remarks that have fallen from Your Excellency as to the limited time the Railway expert is to remain in the island, I should like to say that I do not think it was so understood by any of the public bodies I have alluded to. It should have been publicly notified and the Planters' Association and the Chamber of Commerce might have been requested to send one or two of their members to meet him. Had it been known his time was so limited, a deputation would have been sent to meet him and it is to me, sir,

a matter of regret that the opinion of public men should not be taken before he leaves the island. During the whole time he has been in the island he has been, so to speak, nursed by the Railway authorities. When he has travelled up and down the different lines he has always been accompanied by railway officers and there must be many points which have not been brought to his notice, and, therefore, he will not be able to give so clear and impartial a report as he would otherwise have been able to do.

The subject then dropped.

THE TOLLS ORDINANCE.

On the section of "Toll Grants on minor roads" being reached,

The Hon. GILES WALKER made an inquiry regarding the report of the Select Committee *re* the proposed Tolls Ordinance, asking when the measure would be brought before Council.

The Hon. the Acting COLONIAL SECRETARY:—The Draft Ordinance has been prepared and it was the intention to publish it in last *Gazette*. Had that been done it would have been on the Orders of the Day today. I hope the Draft Ordinance will be in the next issue of the *Gazette*. I may assure the Hon. Member that it will be brought forward as soon as possible.

H.E. the LIEUT.-GOVERNOR:—I may state in confirmation of what the Hon. the Acting Colonial Secretary has said that the delay is due to the necessity which exists of correcting the table of tolls. This necessitated reference back two or three times to the Government Agents. There is no hesitation or doubt on the part of Government as to carrying out the recommendations of the Committee, but we found that the tolls have been sold on the old terms so that the Ordinance could not have been brought forward on 1st January.

The Hon. GILES WALKER:—I thank you, sir, for the assurance you have given. My object in asking the question was that delay in future might be avoided and to prevent further sales on the old basis.

THE GIANT'S TANK.

Under the heading "Irrigation" are two items, "For surveys: R15,000" and "for salaries, allowances and maintenance: R108,200" making a total under this head of R123,200. In this connection,

The Hon. W. W. MITCHELL said:—In connection with this vote, I should like to be informed in what position is the work at the Giant's Tank. It will be remembered an estimate was framed and it was supposed to cost R288,000. Subsequently additional surveys, likely to cost a considerable sum of money were deemed to be absolutely necessary. I wish to know if these surveys are being prosecuted, and, if so, from what fund the money is being paid for the carrying out of that part of the work. In accordance with a vote passed in this Council it was agreed that all works costing over R300,000 should be constructed out of money raised by loan. I am inclined to think, strongly inclined to think, that this work will cost over R300,000, and, if it is likely to do so, I think it would be better to see about raising the money by means of a loan, or I may ask is it intended that Government will apply to this Council for a vote to cover these surveys? The whole matter is shrouded, I won't say in mystery, but the Council has no information as to what is being done and I think this is a fitting opportunity to call for information if the Government will afford it.

The Hon. the PLANTING MEMBER:—Sir, I support what has fallen from the Hon. the Mercantile Representative. I may say a feeling exists that the sum which is annually set aside by this Council for tanks is not spent entirely and therefore a balance has accumulated. This balance is being spent on large works which ought to come before this Council and for which a loan should be asked. I think it is very desirable that it should be stated here what balance is in the hands of the Irrigation Board and to what this sum is being devoted. When this matter came up for discussion on the Supply Bill last year we were told by the then Acting Attorney-General that the money that was annually voted under the Ordinance 23 of 1889 could be spent upon repairs of tanks, and I think, if I remember aright, the Acting Attorney-General held that repairs meant what I should call restoration; he stated it was necessary to have put in the Supply Bill the money which was required for ordinary repairs and that the money set aside annually under the Ordinance 23 of 1889 could not be devoted to the restoration of the larger tanks. I would like to know if that is the opinion of the present Attorney-General. I have no desire to impeach in any way the Irrigation policy of the Government, but it seems to me desirable that by no possibility should money, voted annually under this Ordinance, be set aside for taking in hand, either in whole or in part, the restoration under the name of repair of large tanks which ought to come up for the consideration of Council before they are sanctioned and undertaken.

The Hon. Sir JOHN GRINLINTON:—Sir, as a member of the Irrigation Board, I would answer the two hon. members to the best of my ability. First with respect to the work that is going on. Preliminary work is progressing, and progressing satisfactorily. Monthly reports are received which give details of the works that are being done and those details, according to my mind, show that care has been taken to carry out the work in a proper manner, more especially with regard to the surveys. These surveys are undertaken at the cost of the Irrigation Fund, but the surveys are being made by the Surveyor-Generals officers in any circumstances they would have to be done by that Department. The Surveyors are engaged in ascertaining what channels are to be constructed, how the water is to be distributed to the lands under the tank, and what private lands and what Government lands there are under the tank to be irrigated. The cost of the labour for that work will be defrayed out of the Irrigation Fund and no application will be made to this Council for any special funds for the purpose. In respect of the question raised by my Hon. friend opposite (the Hon. the Planting Member) I think the voting of money for this work rests with the other votes before Council—that is for allowances and maintenance of irrigation works amounting to R108,200. No portion of that money is expended upon the re-construction of irrigation works. That money is entirely expended on the upkeep of existing irrigation works but for the re-construction of old works, the money is supplied out of the R200,000 which Council votes annually. This sum voted here has nothing whatever to do with that vote of R200,000. The irrigation vote I believe is limited to R300,000 as for any one work. During my absence from the Colony I read that the subject of the Giant's Tank was brought before this Council and discussed, and I gathered that the vote has entirely been defrayed or

is being entirely defrayed out of the Irrigation Fund. The amount, I believe, is a sum, somewhat in excess of R280,000.

H. E. the LIEUT.-GOVERNOR :—I should like to remark in addition to what has been explained by the Hon. the General European Representative who, as an active Member of the Irrigation Board, is more competent to deal with the question than I am, that Government quite recognise the principle for which, I understand, the Hon. the Planting Member holds out, that the Government will consult the Legislature before embarking in large works. That, I think, was assured at the time of the discussion to which the Hon. Member has referred, and we gave the assurance that no work costing, I think, the limit was R300,000, should be undertaken without coming to Council, and that was sanctioned as a sort of guiding principle to Government. As to the want of information about the Irrigation Fund I would refer the Hon. Member and Members of Council to the return and statement of unexpended balances which was laid before Council, on the motion of, I think, if the Hon. member who represents the Commercial Interest and that showed exactly how the balances were up to the time the books were closed. In addition to that there is an annual apportionment which is laid before Council where the Hon. Member will find all the information he may wish for.

The Hon. GILES WALKER :—Am I right in assuming that the money for the Giant's Tank is being taken out of the unexpended balances?

H. E. the LIEUT.-GOVERNOR was understood to reply in the affirmative.

The Hon. GILES WALKER :—It seems to me that this is really the question. There is a certain limit beyond which any tank work cannot be taken without reference to the Council. Tanks which cannot be completed within this limit should not be undertaken, and paid for out of the moneys that have been voted to the Irrigation Board. It seems to me, that to undertake large works in that piecemeal fashion while it may be strictly within the letter of the law, is violating the spirit, of it and I think any work which will ultimately, before it is completed, involve the expenditure of a very considerable sum of money over the limit, ought to be brought up, here and Council asked to sanction that work. It is not right that moneys set aside for smaller works should be devoted to the piecemeal construction of any large work. That is the view I take, and, I may say, it is shared by others.

The Hon. Sir JOHN GRINLINTON.—Sir, I think it is probable that a misconception may exsit with regard to the Giant's Tank. The Giant's Tank originally proposed, by Mr. Parker was a very large work. Mr. Paker was called upon to send in estimates and a report for a smaller work which would not take in the large extent of land originally contemplated his first estimate was over R400,000. He then sent in estimates far a smaller work, which is not, I should venture to say, a piecemeal work. I don't know whether the estimate will be exceeded or not. It is supposed, or was supposed by Government, to be a completed scheme when it was brought before Council, and the R288,000 was not voted for a piecemeal scheme but for one that had been considered as sufficient by the officer who had originally proposed a larger scheme. The money may be exceeded, but unfortunately that that appears to be the rule in all works.

The Hon. GILES WALKER.—Is it not the case that by an addition to the bund or in some similar way the tank can be increased to the size originally contemplated, so that the original scheme can be completed ultimately? If you partly construct a tank and subsequently add another half that is really piecemeal work.

The Hon. Sir JOHN GRINLINTON :—I am prepared to answer the average question. So far as my knowledge goes it is not contemplated to extend the scheme beyond the average for which the present designs are in. If it were so it would cost quite R200,000 more than the present estimate sanctions.

The Hon. GILES WALKER :—The Hon. Member misunderstands my question. I ask whether it is possible to extend that scheme further. Although the intention does not exist now, it may exist in the future and then one half of the money is spent now and the other half subsequently so that you are doing a major work in two minor halves.

The Hon. the DIRECTOR OF PUBLIC WORKS :—Sir, I may observe, the scheme of the restoration of the Giant's Tank as now being carried out is a complete scheme in itself. It is called generally, I think, the "minor scheme." If, at some future time, it is considered desirable to extend its utility and to utilise the works which are now progressing, it speaks very well for the Engineers connected with the designing of the scheme ; they are constructing such works as will admit of future extensions and that the present works should form a part. If there is any reason for extending the work it will be a distinct proof of its success. If the utility of the scheme is not to be extended, that is if it is not found necessary, the work may b pronounced a failure; but if there is any demand for its extension it will be a sure proof that the scheme has been fully justified. I may mention that the estimated cost of the completed scheme of restoration is R280,000, odd, but it is not improbable that this may be exceeded, because, you must bear in mind, that the place is very unhealthy and, at the present time, there is very great difficulty in obtaining the required labour. If the estimate has to be exceeded there is no one who can say it should have been otherwise, for, effort is being made to work as *economically as possible. An estimate* is an estimate and not a contract; and, therefore, it must be distinctly understood that when an estimate is put before Council there is no guarantee the work will be completed for the particular sum that is in it ; otherwise it would be practically turning the various departments of Government—the Railway Department, the Public Works Department, the Irrigation work Department—into Contractors. It would be more unfair than that because they would be worse off than contractors ; for while they would have to suffer loss, they would gain nothing by saving. I do not think the Giant's Tank question would have been discussed at all were it not for the fact that it has got the name of "the Giant's Tank" Everybody thinks because it has that name it must be a large tank and a great work. It is one of the simplest irrigation works that has been undertaken in the island. A great deal of the work has been done in ancient times and very little more has to be done to make it available. With regard to the water in the Giant's Tank—the head is only 10 feet which is classed as an ordinary village tank. It is not the expanse of water, it is the head that determines the extent of works of construction and if

you are dealing only with a small head of 10 feet you are dealing with as simple a work as may be in the way of irrigation. I do not think there is any likelihood of an increase in the estimate of cost but it is possible there may at some future time be a request for channels and, if that request is made and the money is voted by the Irrigation Board, they will only be doing what is right and proper to develope the scheme.

The Hon. the TREASURER:—The question that was originally asked by the Hon. the Planting Member which I think, was most satisfactorily answered by the Hon. Member who represents the European community, has now been lost sight of. The question is this:—Under an Ordinance Government is bound to come to this Council if it is going to undertake a work which requires large sum of money. That sum of money having been voted by Council and found to be insufficient the question is whether a supplementary vote can be made from the fund of R200,000 voted for the repairs and maintenance of irrigation works, or whether Government should come to this Council and ask for a supplementary vote. I agree with the Hon. the Director of Public Works who says you cannot always ensure that a work will be done for the amount of the estimate. But the question is:—if that estimate is to be exceeded, where are the funds to come from? Are they to be got from a direct vote by this Council or from a vote of the Irrigation Board?

The Hon. W. W. MITCHELL:—It seems to me that the question is—what will be the probable cost of these additional surveys? Two hundred and eighty-eight thousand rupees is very close on R300,000 and it is very probable, I think, these additional surveys will cost more than the difference between R288,000 and R300,000. If the Irrigation Board, with the knowledge of that fact before them, go on spending the fund upon the works it would look very much like as if they were going round the post, in order to get this constructed while keeping within the limit fixed by this Council. If they are aware that the cost of these additional channels—I understand the channels are to convey water to the tank as well as from the tank to the fields to be irrigated—is to bring the amount over the R300,000 it is their bounden duty to have the work carried out under a loan and not expend the money of the Irrigation Board upon it. I have been somewhat astonished to hear the remark of the Hon. the Director of Public Works with reference to estimates being exceeded. We have seen a good deal of that sort of thing in Ceylon and it was very much like railway matters and the method of keeping Government accounts. If in the mercantile community a Superintendent of our estate did not work within his estimates properly he would be dismissed, and I think it is a pity that something of that kind does not apply to the Government service as well.

The Hon. GILES WALKER:—The Hon. the Director of Public Works practically admits my contention that this work will exceed R300,000 which has been fixed as the limit which shall not be exceeded. I think it is very desirable in works of this kind that the estimate should be framed rather liberally, so that it should be absolutely certain that when the work is finished the total amount, including the necessary channels shall not exceed R300,000. If that is done the money that is unspent and set aside will accumulate, and enable a good deal of repairs on ordinary works being undertaken without fresh votes being asked for from year to year. The Council made a very great mistake originally when they tied their hands and passed the Ordinance No. 23 of 1889. I cannot understand how Council could sit down on that occasion and have their hands tied in perpetuity, and I am sure these questions of irrigation will not be satisfactorily agreed upon until this Ordinance is repealed.

IMPLEMENTS.

Under the head of "Miscellaneous" appeared "Implements R61,500" and "Road Rollers R6,000."

The Hon. the Acting COLONIAL SECRETARY moved that the first sum be reduced by R500 and the latter increased by the sum of R4,000 as he had been informed by the Director of Public Works that it was impossible to carry out the work with that small sum. Agreed.

THE FRANKING MINUTE.

The Hon. the Acting COLONIAL SECRETARY:—Sir, I would ask the Committee to insert under the heading "Postage" the sum of R6,000 which is stated to be the amount that will be required in consequence of the Franking Minute.

The Hon. LOWCOUNTRY SINHALESE MEMBER:—In regard to the motion to increase this vote by R6,000 I should like to ask whether it is not possible to modify the Franking Minute in order that those Departments which have a good many parcels to send, may be allowed to send them without paying postage, because, after all, this is simply a fictitious revenue and there is no good and there can be no good in increasing the expenditure in every Department by purchasing postage stamps and affixing them to parcels which are forwarded from one department to the other. I can quite understand a certain class of people who have been allowed to send letters free not being allowed to send them free; but, as I have said, a good number of parcels have to be forwarded between officers in the different Departments. I should like to know, therefore, whether the Government has any intention of modifying, to some extent, the Franking Minute.

The Hon. the Acting COLONIAL SECRETARY:—I would say, sir, till the Government has some experience of the working of the Minute it is not proposed to make any modification. When the Government has had reasonable experience we will consider the matter again.

The Hon. SIR JOHN GRINLINTON:—Sir, I can quite understand the reply of the Hon. the Colonial Secretary, but at the present time some of the Members are suffering a considerable amount of inconvenience on account of the Franking Minute. I can state with reference to myself I have to send large parcels of letters 4, 5 and 6 lb. in weight back to Colombo when I am absent from the town and I have to provide myself with scales and weights, and to keep stamps and all the different paraphernalia. A case in point occurred last week. I had occasion to send public documents to the Secretary of the Northern Railway Commission. I sent the letter by post franking it instead of sending it by messenger. The letter was returned to me this morning and I was asked to pay 25 cents. I paid the postage so as to get the letter to its destination as quickly as possible. These papers have been delayed from the 25th or 26th of last month until this morning, because they were refused at their destination on account of a claim for postage. I do think a little consideration ought to be allowed in the circumstances. I did not know whether this Secretary was entitled to benefit or not by this

Minute. There was no private correspondence whatever in the letter and I do think such entry works should be required of us, more particularly men of who do not keep an office establishment for doing Public Work and who do that Public Work at their own expense. I have had an interview with the Postmaster-General on the subject and have received a very courteous reply from him; but I am not convinced that some remedy cannot be applied to allow of Public Documents passing free from the hands of men who are responsible for their acts. At the present time this Franking Minute is positively a nuisance.

The Hon. the MERCANTILE MEMBER:—I think departmental messages should be allowed to go through the Post Office free, and besides we have to pay 7½ per cent as Military Contribution on the total revenue which will be nominally increased by this Minute. Unofficial Members of Council I think should be allowed to correspond with people on public business without being required to pay postage.

The Hon. GILES WALKER:—The Minute in my opinion goes too far or it does not go far enough. I quite understand that the privilege of franking is a dangerous one, but to curtail it to the extent of the Minute and not to curtail it further is a mistake. The Franking Minute causes a very considerable amount of inconvenience and practically there appears to be little or no profit to the Post Office. The additional charge for all departments in this supply bill comes altogether to no less a sum than R51,671, that is including R10,740 for the extra cost of stamps. The profit comes in, in bringing compulsion on private persons to stamp their letters when sending them to official persons. I think it is very desirable to see what actual profit is derived from this Minute.

The Hon. the TAMIL MEMBER:—Sir, I agree with the other Unofficial Members. I think the Unofficial Members have a grievance against Government because it has put us to inconvenience in receiving and sending letters. I do not know why Government, when we give our time for public work free, should also cast on us the additional vexation of spending money in answering letters on public matters. I do hope that Government will soon revise the Franking Minute.

PUBLIC WORKS DEPT. UNEXPENDED BALANCES.

The Hon. the Acting COLONIAL SECRETARY, in connection with an item of R10,000 for accidental and unforseen casualties to Public Works, said:—When the estimates were prepared it was shown in a statement furnished by the Hon. the Director of Public Works that the amount unexpended, or would be unexpended at the close of the year, would be R26,000. From a subsequent statement sent in by the Hon. the Director of Public Works it appears that he estimates that the total amount that would remain unexpended would be only R12,353. To that it is proposed to add the sum of R20,000 in place of R10,000, making a total for this purpose of R32,353. —Resolved accordingly.

THE CUSTOMS REBATE

At this stage,

The Hon. the MERCANTILE MEMBER said:—Perhaps I may be allowed to make a remark now with reference to the Customs Rebate on articles imported for the use of the Military. The return which I called for some time ago discloses that something like R50,000 is now lost to the revenue by that rebate. I would only express the hope that this amount will be taken into account in reckoning the Military Expenditure contribution. It was never intended, I think, when the Ordinance was passed that such a very large sum should be lost to the revenue, indeed if I am not mistaken, the Major-General gave an assurance to the Council that only such articles as were required for the use of the Canteen would be imported under that Ordinance, and on which rebate would be claimed. But when we look at the list and when we see such articles as *patté dé fois gras*, perfumery, skittle pins, smoker's companion, wedding favours, not to speak of a wedding cake, I think Government are going too far in their concessions to the Military; especially when it was stated that it was to be restricted to articles used in the Canteen. I do not suppose these article can be required for the Canteen.

The Hon. the ACTING COLONIAL SECRETARY:—I may say this question of Customs rebate is a matter which is engaging the attention of Government, as the provision of the Ordinance is certainly wider than the Government contemplated.

H.E. the LIEUT.-GOVERNOR:—The elasticity that has been given to this Ordinance is due to the interpretation it has given the word "canteen." Certainly I, as a civilian, did not understand a canteen to be an institution of such wide operation as I have recently learned it is. That is the point which is at the bottom of the different result from what we expected when we passed the Ordinance. The Ordinance, when it was passed in 1891, was intended, only to give local effect to what had been the practice for many years previously, in exempting the supplies of the canteen—supplies which, I believe, are consumed by soldiers.

THE MILITARY CONTRIBUTION.

The Hon the PLANTING MEMBER:—I should like, sir, to know whether Government are in possession of any despatches as to the Military Contribution. A telegram was received from the Secretary of State some time ago fixing the rate at three-fortieths of the revenue. I should like to know the ground upon which that decision has been arrived at, and also as to how far the value of land sales has been excluded from the revenue in assessing the Contribution, and whether this is going to be a permanent or a temporary exemption. I think that Council should be in possession of such information as the Government has got to impart.

H. E. the LIEUT.-GOVERNOR:—I have to state in reply to the Hon. Member's question that all the information that Government has received has been communicated to the Council. All that was received was a telegram which was published at the time. I have no reason to suppose the exclusion of land is only temporary. I believe it is done on some principle, which will continue to be acknowledged and recognised.

The Hon. the PLANTING MEMBER:—I am much obliged for the information Your Excellency has given Council, because an impression has got abroad that despatches had been received but not yet made public.

THE CONSTRUCTION OF P.W.D. BUILDINGS.

Regarding a vote of R3,899 for a dispensary and dispensers' quarters at Dolosbage

The Hon. the PLANTING MEMBER said:—The question is whether it is absolutely necessary to expend such sums of money as are expended on some of the buildings that are put up by the Public Works Department. Speaking as a Planter, I know that on estates where they are not subjected to the attacks of white ants buildings are put up at very considerably

less cost than the very substantial buildings erected by the Public Works Department, and these buildings last from eight to ten years without any structural repair at all. I cannot help feeling that, in putting up dispensaries after the method of the P. W. D., we are paying for what posterity should pay. Buildings of daub and mortar walls if properly constructed require no repair, as I have said for eight or ten years and I think it would be well to erect such buildings and to devote the money saved to other pressing works. I have known a building in the Central Province such as I have described last for 25 years, and I think it could be put up for half of what the present building is going to cost. I am not to be understood as making these remarks apply to buildings in districts where they would be subjected to the attacks of white ants, but in the higher districts such buildings will last for a considerable number of years, and the cost would be about one-third to two-thirds, and in most cases would not exceed half of what is charged here. On the Haputale Railway Extension, I would point out, a cheaper kind of buildings has been adopted, and it is my opinion that we should have cheaper buildings put up even if greater repairs are required at a subsequent time because those who benefit by these repairs will pay for them and not we who require money very much for other public works.

The Hon. the DIRECTOR OF PUBLIC WORKS:—I am sorry to hear the Hon. Member propose that buildings should be of a less permanent character than they are at present. In the long run it is well known that it is much cheaper to construct a public building in a substantial way than to construct one of a temporary character, for this reason, the annual cost of repairs is very much less, while the general convenience and efficiency of the building is much greater. We have many instances of temporary buildings in the country and they cost as much as 20 to 25 per cent per annum to carry out the necessary repairs. A building of the class that has led to this discussion on the policy of permanent buildings constructed for public purposes—will cost from 1½ to 2 per cent per annum to maintain it in proper order, which is a low rate, when you consider that public buildings are subjected to much greater wear and tear than private buildings. It is all very well for the Hon. the Planting Member to say there are buildings in the Central Province which were erected 25 years ago, at half the cost of public buildings. The question is how were they built. In most cases they were built of timber cut in the forests close by, for which no charge was made. The Public Works Department pay a high rate for timber, indeed, I may say, it is one of its grievances. It is one of the most expensive materials connected with house-building and is increasing the cost materially in many instances. I have recently known timber increase the cost of a building from 10 to 12 per cent by the enhanced rates of today or by the fact that timber was not procurable in the locality and had to be sent from Colombo. In constructing private buildings, private persons have opportunities of purchasing and using cheaper materials. In the cases the estimates for the P.W.D. buildings are passed by Council and the moment they are passed there is a general clamour to get them finished and the Medical Department give the Public Works Department no rest. The buildings specially referred to is in a very out of the way place and the distance from the high road is considerable. Materials have to be taken there and it is intended to build a substantial dispensary and one which will last and be a saving to the Colony in the long run.

The Hon. PLANTING MEMBER:—The Hon. Member unnecessarily assumes that when talking of buildings erected 25 years ago I was calculating the present cost. I need not say I was doing nothing of the kind. I know very well that in those days buildings were erected from the timber on estates and the value of that timber was not reckoned, and, therefore, in the case of a building which cost R4,000 then, I should probably estimate the cost at R5,000 to R6,000 at the present time. With regard to these dispensaries I would point out that the Hospital Mortality Commission on the question of dispensaries on estates, considered, and its opinion was endorsed by the Principal Civil Military Officer, that from R700 to R800 was sample for providing a dispensary and dispenser's quarters on an estate. If such buildings can be put up on estates for R700 or R800, I should like to know why is it necessary to to spend R3,000 or R4,000 when they are put up by the Public Works Department. I quite admit that a substantial building is cheaper in the long run, but what I contend is, that when we have urgent Public Works, for which money cannot be found, it is better, that we should allow posterity to pay its fair share of the cost of these buildings, and put up cheaper buildings ourselves. I hope Government will keep this question in mind. Buildings which were put up on the original railway were far too costly and unnecessarily permanent and a cheaper method of construction has been carried out on the Haputale railway extension. I believe that principle might be very advantageously introduce in the case of many other public buildings. It is the only way in which we can obtain sufficient funds to carry out works which call for early consideration.

The Hon. the DIRECTOR OF PUBLIC WORKS:—In reply to a point raised by my hon. friend I may state that the hospitals which were taken over from the Planting Community and were constructed under the Medical Aids Ordinance were all of a more or less temporary character and I have no doubt they were built as cheaply as the Hon. Member has stated. At the same time I may mention there is hardly a vestige of them left. Time has done away with them or white ants have gobbled them up. There are but few of them left. They have all been either removed completely or have been supported by the erection of permanent pillars or permanent structure complete and I feel sure that it would be a mistaken policy of Government to return to anything of that sort and build temporary hospitals or temporary dispensaries. The object I have always had in view, as Director of Public Works, is to construct the most substantial building I could, compatible with a reasonable outlay, and in so doing the cost of the work has been kept as low as possible. A return of all public buildings will show that they compare favourably with buildings anywhere else in cost of maintenance. With these few remarks I would only add that I should be sorry to see any return to buildings of a temporary character.

The Hon. the PLANTING MEMBER:—I should like my hon. friend to instance any building which has disappeared in this mysterious way. Government appear to be very unfortunate in the buildings they take over. I myself have not seen buildings on estates disappear in the manner described.

Whether that disappearance is due to the system of P. W. D. upkeep or not, I am not prepared to say. There is in the Ordinance before Council an item "for repairs on Police Magistrate's house at Hatton: R1,650." I may instance that particular house as a case in point. I do not mean to say it is a very substantial building, for it is nothing of the kind. At present though it required repairs, it is quite a habitable building, and it has been erected for something like 30 years. I should like to ask the opinion of the Director of Public Works whether buildings of this kind could not be put up.

The Hon. the DIRECTOR OF PUBLIC WORKS:—At least R6,000 will have been spent on this building in propping it up and keeping it in a habitable condition. The Government paid a considerable sum for it and we have been tinkering it ever since.

The Hon. the PLANTING MEMBER:—In Sub-Committee the Hon. Member said R8,000. Does that mean exclusive of the amount paid for acquiring the building?

H. E. the LIEUT.-GOVERNOR was understood to say that R8,000 included the cost of acquiring the building.

The Hon. the PLANTING MEMBER:—I was in the building the other day, and I cannot see where the money has been spent. I could erect that building *de novo* for R6,000. I think it is very desirable Council should know how this money was spent.

The Hon. the MERCANTILE MEMBER:—When was it erected?

The Hon. the PLANTING MEMBER:—About 6 or 7 years ago I have known this building for 25 years, and it is to my mind inconceivable that such a sum could have been spent on repairs.

The Hon. the DIRECTOR OF PUBLIC WORKS:—With the permission of Government, I shall be glad to furnish particulars. I know when we took the building over it was tottering and when a building is in that condition it is almost as costly to repair it as to build a new one.

H.E. the LIEUT.-GOVERNOR:—I was taken over the building in 1890 by the Police Magistrate who appealed to my charity to have it put in order. When this application came up, I raised the question as to whether it was expedient, politic and economical to spend such a large sum on a building like that. I may add the whole cost of the building was ascertained at the time this provision was proposed.

The subject then dropped.

MAGISTRATE'S QUARTERS AT CHILAW.

The Hon. the Acting COLONIAL SECRETARY:—I move, sir, that the provision for the Magistrate's Quarters at Chilaw be omitted. I understand this provision is somewhat badly wanted, but when the Sub Committee considered the Draft Estimates they found that the case was not urgent and that it might be omitted this year.—Agreed.

A PROPOSED ADJOURNMENT.

At this stage,

The Hon. the TAMIL MEMBER said:—May I ask whether it would not be advisable to adjourn Council? It is now five o'clock and I would say nothing about the cruelty to the Clerk who has been reading since three o'clock.

H. E. the LIEUT.-GOVERNOR:—There is no objection, provided Members are willing to meet tomorrow.

The Hon. the MERCANTILE MEMBER:—Several of the unofficial members cannot do that; some of them have engagements.

The Hon. the PLANTING MEMBER:—Is it not possible to have a sitting at 11 o'clock in order to meet the wishes of those Members who have afternoon engagements?

The Hon the TAMIL MEMBER:—Is it not intended to have a meeting on Wednesday as well? I have no objection to coming here at three o'clock, but certainly not at eleven o'clock. That would hardly give a man time for his bath and breakfast.

The Hon. the GENERAL EUROPEAN MEMBER:—Would 12 o'clock not be better? We could get the business over before the hour of those engagements.

The Hon. the Acting COLONIAL SECRETARY remarked that it was well that such departments as the Public Works Department should know the amount of estimates without delay, in order to be able to make their arrangements at once.

After further conversation the Hon. the TAMIL MEMBER withdrew his suggestion.

WELIKADA JAIL.

The Hon. the Acting COLONIAL SECRETARY:—It has been found that a sum of at least R25,000 would be required for this service which is a matter of some urgency. In order in some measure to meet this rather unexpected expenditure it is proposed to strike out a provision of R11,200 which occurs under the head of North-Western Province—a provision for supplying a block of cells in Kurunegala jail.

The Hon. P. COOMARASWAMY:—Is not that a re-vote?

The Hon. the Acting COLONIAL SECRETARY:—Yes, that is a re-vote. We propose to omit it.

CELLS IN KURUNEGALA JAIL.

Other alterations having been made,

The Hon. P. COOMARASWAMY:—Before we pass over this question of new cells for Kurunegala I should like to ask if the vote for these will lapse.

The Hon. the Acting COLONIAL SECRETARY:—Yes.

The Hon. P. COOMARASWAMY:—In that case, I would like to know why was that estimate framed in 1894, if the accommodation was not necessary?

H.E. the LIEUT.-GOVERNOR:—I may explain at the time it was proposed to erect this block of cells—an upper storey block—by way of experiment in removing prisoners from malarial influence. It was a principle of prison policy not to remove Kurunegala offenders from the district of Kurunegala because it was found they suffered severely in health by being removed. But, by adopting certain measures and good treatment, it was afterwards found that they did not suffer by being removed, so that the rule of retaining all prisoners committed in the Kurunegala district has been departed from; and that is the explanation why we do not require the accommodation now. Indeed we have no long-sentence prisoners there whatever.

Alteration agreed to.

THE MADULSIMA ROAD.

The Hon. the Acting COLONIAL SECRETARY:—Sir, it would be necessary to insert a new item of R10,000 on account of the Government moiety for the extension of the Madulsima road as far as the Domoo Gap. There has been a good deal of correspondence between the Government and estate owners interested, who have expressed their willingness to contribute to the expenditure to this road under the Branch Roads Ordinance.—Agreed.

THE GLENLYON-PRESTON ROAD.

The Hon. GILES WALKER:—Sir, I should like to recommend to the Committee in Supply the

new road from Glenlyon to Preston Factory, as I think that road should be undertaken as soon as possible. I understand there has been some technical hitch over the road, owing to the fact that part of the road has been cut by the planters interested, and they have asked Government to take this over in part payment of their share of the cost of construction. I believe the original application was sent in not only before that for the road which had just been referred to by the Acting Colonial Secretary but also before that for the Namunakula-Passara Road.

The Hon. the Acting COLONIAL SECRETARY:—I would answer the Hon. Member that the Government has been in correspondence about this road. In a report from the Hon. the Director of Public Works he informs the Government that the road from Glenlyon to Preston Factory is as yet unfinished and he recommends that when finished a valuation should be made.

The Hon. the PLANTING MEMBER:—I do not know whether the Director of Public Works wishes to delay until the earth-work is completed before it is taken over or not. I should think it can be measured before it is completed.

The Hon. the DIRECTOR OF PUBLIC WORKS:—I may mention the length of the road is about five miles. Of the whole length about two miles have been advanced towards completion or what the constructors of it call completion, that is the actual formation of the road and the building of culverts. They propose that Government should take up the laying of the foundation of the road and the metalling of it. That is a very unusual request,—indeed, I do not know an instance in which the Government has been asked to take over work instead of the parties interested, paying in money, in all other cases of Grant-in-Aid Roads they pay in kind. I do not think that before the end of the year there will be more than two miles of the road ready to hand over, and I could not recommend the Government to take over the road in an unfinished state. It has been asked whether Government would take it over in sections, but, as I have said, that would appear to me to be an unusual course. The valuation I have recommended should be made as soon as the gentlemen who are constructing the road have given a report of what they are going to do. Until that is done, I do not see how Government can undertake the work.

The Hon. the PLANTING MEMBER:—Do I understand the Hon. Member to mean the whole of the earth-work—the whole of the extension—should be completed before it can be taken over? That is the point.

The Hon. the DIRECTOR OF PUBLIC WORKS:—Yes.

The Hon. the PLANTING MEMBER:—I cannot see what the there objection would be to take over say two miles. The Government will take care that the public do not pay more than their fair moiety of the cost of construction. I submit that it would be better to take over the work that is actually done under a fair valuation—I would not ask for an extreme valuation—and those who are interested in the road would be content to have the valuation made on a low basis in order to have it taken up at once. So long as Government is not asked to contribute out of the general revenue more than it would do otherwise. I cannot see what is the objection to the moiety of the planters being paid in kind as well as in cash. That is mere technical point.

H.E. the LIEUT.-GOVERNOR:—I would remind the Hon. Member that it was only in departing from the Ordinance on a technical point we got into trouble in other districts and could not enforce it. It is necessary to follow the Ordidance. When the subject was under consideration I endeavoured to express my desire to assist the movement as much as I could. We have had no application from the owners. Perhaps the Government Agent will explain why it is not forwarded

The Hon. the GOVERNMENT AGENT, CENTRAL-PROVINCE:—We dealt with it at last meeting.

The Hon. the PLANTING MEMBER:—The matter has been somewhat complicated, because the planters have undertaken this work before making application. It appears to me that the difficulty lies with the Hon. the Director of Public Works, who is unwilling to take over the work until a certain amount of earthwork is finished. It seems to me it would be equally easy to measure two or three miles as to measure five miles.

The Hon. the DIRECTOR OF PUBLIC WORKS:—I have raised no difficulty. I merely performed the duty I was instructed to do and reported to Government that the work, being incomplete, it was impossible to know what the value of the work is which the planters contemplate doing until it has been completed.

THE MADAMPITIYA-MATAKULIYA ROAD.

The Hon. A. DE A. SENEVIRATNE:—May I be permitted to ask what has been the delay in making the road from Madampitiya to Matakuliya? The importance of this work was admitted. It was a matter urged on Government for several years; last year a vote was taken and nothing has been done. Also in connection with this road, I should like to ask whether it is the intention of Government to carry out the old trace and extend the new road to meet the Matakuliya Road or to take the new Road up to Alutmawata only and level down the hill at Vays Toik.

The Hon. the DIRECTOR OF PUBLIC WORKS:—The survey of the road is in progress. There have been a great many demands upon my Department for Surveyors this year. For this particular work there has been no Surveyor available. There is, however, one at present engaged on the work and as soon as it is completed a report will be submitted to Government. The delay is principally due to the fact of the deviation from the original intention being proposed after the work had been sanctioned. Had that deviation not been proposed the road would have been proceeded with. But as I have said, the real cause of the delay in making the survey of the deviation has been that my Surveyors have been fully employed elsewhere.

H.E. the LIEUT.-GOVERNOR:—That design does not meet with the Hon. gentleman's approval?

The Hon. the DIRECTOR OF PUBLIC WORKS:—There is very little change in the line of road.

The Hon. the Government Agent, Western Province, knows all about that deviation.

The Hon. the SINHALESE MEMBER:—Before the Hon. the Government Agent says anything on that point, I should like to say, even before that vote was taken it was not intended that existing houses should be pulled down, but that the road should be made in the cheapest way possible, and the deviation has been *made to avoid* expense. My question has nothing whatever to do with the deviation.

THE KOTMALIEGANGA BRIDGE.

The Hon the PLANTING MEMBER:—I should like to bring before Council the question of the bridge over the Kotmalieganga which is to cost Rs8,000. I was not able to get it recommended

in Sub-Committee, but there was an understanding that the work would be undertaken when funds admitted of it. This is a structure that is urgently asked for by the planters of that part of the country. The river is a bad one to cross and if the bridge were made there I understand it would afford an outlet not only to a great deal of goods traffic from neighbouring estates, but to the native population in Pussellawa.

The Hon. the Acting COLONIAL SECRETARY:—I was going to say that in the original list of votes it was given full consideration, but, owing to the greater needs of other works, it had had to be struck out.

H. E. the LIEUT.-GOVERNOR:—It was struck out at a very late stage of the proceedings.

THE TUNTOTTE AND PANEWELLA BRIDGES.

The Hon. the Acting COLONIAL SECRETARY:—I move, sir, to omit the next item re-building Tuntotte Bridge R9,900. When this was under consideration by the Sub-Committee the Director of Public Works pointed out it was more urgent that provision should be made for another bridge called the Panewella Bridge for which I have to propose the insertion of a sum of R10,200.

BRIDGES ON THE WELLAWAYA-MUPANE ROAD.

The Hon. the PLANTING MEMBER:—Sir, while we are on the subject of bridges, I think it would be highly desirable, if possible, to have another bridge erected on the Wellawaya-Mupane Road, distant about one mile from the bridge over the Hulanduoya. A very large saving could be effected, inasmuch as the officer who has charge of one bridge will be able to see to the building of the two bridges. Practically nineteen-twentieths of the road are open for traffic at the present time and, if the two bridges were undertaken at once, it would throw the whole road open for traffic right throughout. In view of the fact that one bridge has been sanctioned it will be found advisable to have the other undertaken at as early a date as possible.

H. E. the LIEUT.-GOVERNOR:—I think the undertaking to those who wished for the work of constructing the road, was, that we should construct a bridge every year. The provision for the current year, R8,000 for completing the approaches to the bridge over the Kuda-aar on the Wallawaya road, has not been spent, but it has been re-voted for next year but I am informed that the hon. the Director of Public Works is doubtful if he will be able to undertake the work.

The Hon. the PLANTING MEMBER:—I should like to hear the statement of the Director of Public Works if he could undertake the work, whether he can spend money we have voted for him. I think it is a very important matter to spend the money that has been voted, within the proper time.

The Hon the DIRECTOR OF PUBLIC WORKS:—The difficulty in carrying out the work is due to the unhealthiness of the locality. It is next to impossible to get labour to remain near the rivers close to the Monaragala range. The well known unhealthiness of the locality demands the immediate erection of a hospital at Butale and the necessity of that hospital has been very strongly urged by the Hon. the Planting Member. But I doubt whether I should be able to complete two bridges next year, for the simple reason that the labour force cannot possibly be depended on. I desire to correct the Hon. Member on one point. He says that when the Mupane River is bridged it will complete the communication. Immediately at the commence-ment of the road the most formidable river of all is met with, yet the Kirindo ganga, no attempt has been made to bridge it, though the bridging of Kudaganga is now proceeding, and I would point out that though you had the Hulandaoya and the Mupane-aar bridged you would still have the most formidable river to contend with. With regard to the road it was first asked for as a simple track, the planters of Monaragalla said they would be quite satisfied with that. Then improvements were asked for, then some culverts and then a bridge; and it has since been the policy of the Government that one bridge should be given each year. I doubt if more than one bridge can be built, but later on I shall be able to report progress and Government will then decide as to whether they will go on with the other work. There is always difficulty in carrying on work in unhealthy localities, you can never depend on labour.

The Hon. the TREASURER:—If there is to be very great economy effected in buildinig two bridges at once and it is doubtful if even one can be finished this year, would it not be better to postpone the building of both until next year. For my own part, I think the amount of the economy would be so slight that it would not be worth while postponing the matter.

The subject then dropped.

The Hon. the Acting COLONIAL SECRETARY proposed to delete the item "Horse Bridge over the Delgoda Ganga R8,587." He said:—It was the opinion of the Sub-Committee, very much against that of the Government Agent, that this was not a work of such a character as to recommend to Council to proceed with it.

THE DIGAROLLA BRIDGE.

The Hon. the SINHALESE MEMBER referring to the heading "Repair of Bridges," said: It will be noted that nothing is voted for the Western Province under this head. It will be remembered that last year this Council thought the Digarolla Bridge should be widened. That is a bridge over which there is a great deal of traffic. "The Sub-Committee regret to find it has not been found possible to make provision for the Digarolla Bridge." The Sub-Committee, it will be observed, admit the necessity for widening the bridge, and if it is possible, it would be well to take up the work this year. The Committee's expression of regret is not quite satisfactory so far as the public are concerned. It is no use expressing our regret unless we give effect to it by widening the bridge as soon as possible.

The Hon. the Acting COLONIAL SECRETARY:—This is one of the works Government had in view—one of the works included in the original list of works taken into consideration by Government and which unfortunately like a great many useful works had to be postponed

H. E. the LIEUT.-GOVERNOR:—I may state that it came to be a rather costly work, coming to about R20,000. I do not know whether the Hon. Member who has just spoken has seen the bridge or not. I may say that from the correspondence I thought it was rather a grievance. Since then I have had the advantage of driving over the bridge, and, I may say, from the appearance of it the strength of the grievance is very much removed. Having seen and counted the traffic on the road, I don't think that those who advocate the widening of the road and the bridge have such a good case after all.

The Hon. the SINHALESE MEMBER:—I must admit that I have not seen the bridge since it was made.

H.E. the LIEUT.-GOVERNOR :—I was a strong supporter of widening it, but after seeing it that feeling has been removed. It has a very clear approach. I did not see any more than five carts on the approaches. It is quite straight and a vast improvement on the previous bridge which I have driven over too. It is not a work of so much emergency as I had thought and looking to the cost of R20,000 it might well stand over.

The DIRECTOR OF PUBLIC WORKS :—The bridge is narrow for its length. Its length is 600 feet and probably had it been half that length the question of increasing its width would never have been raised.

The Schedule attached to the Bill having been gone over and the various alterations suggested in the Sub-Committee's report and by the Hon. the Acting Colonial Secretary having been effected, those not specially referred to having been made without comment.

The Hon. the Acting COLONIAL SECRETARY moved the substitution of the words "fourteen million four hundred and sixteen thousand seven hundred and eighty-nine rupees" for the words "fourteen million four hundred and sixteen thousand eight hundred and fourteen rupees"—Agreed.

The Hon. the Acting COLONIAL SECRETARY :—The several provisions of the Bill having been considered in Committee I move that Council do resume.

The Hon. the Acting COLONIAL SECRETARY :—I bring up the Bill as amended in Committee and move that it be referred to the Law Officers of the Crown.—Resolved accordingly.

The Hon. the Acting COLONIAL SECRETARY :—With the permission of Council I would ask that the next item on the Order of the Day be postponed and I would move that Council do now adjourn till Wednesday next, 4th instant, at 2-30 p.m. Agreed.

Council rose at 6-10 p.m.

MONDAY, DECEMBER 4th, 1895.

Council met at 2-30 p.m. today.

Present :—H.E. Sir E. Noel Walker, K.C.M.G., Acting Governor, (presiding); H.E. Col. Corse-Scott, Officer Commanding the Forces; the Hons. W. T. Taylor, C.M.G., Acting Colonial Secretary; C. P. Layard, Attorney-General; T. E. B. Skinner, Acting Auditor-General; F. R. Saunders, C.M.G. Treasurer; A. R. Dawson, Government Agent, W. P.; Allanson Bailey, Government Agent, C. P.; Lionel F. Lee, Acting Principal Collector of Customs; R. K. MacBride, C.M.G., Director P. W. D.; P. Coomaraswamy, Tamil Representative; Giles F. Walker, Planting Representative; W. W. Mitchell, Mercantile Representative; A. de A. Seneviratne, Lowcountry Sinhalese Representative; Sir John J. Grinlinton, General European Representative; M. C. Abdul Rahiman, Mohammedan Representative; W. Ellawalla, Kandyan Representative.

THE CLERK.

Mr. R. W. IEVERS took the oath and assumed the duties of Clerk of Council in place of Mr. H. L. Crawford, absent on leave.

MINUTES.

Minutes of previous meeting were read and confirmed.

THE SUPPLEMENTARY SUPPLY BILL 1895.

The Hon. the Acting COLONIAL SECRETARY :—I move, sir, that Council go into Committee on "An Ordinance for making Provision for the Supplementary Contingent Charges for the year 1895." Agreed.

The Hon. the Acting COLONIAL SECRETARY :—I move, sir, for permission to bring up the report of the Sub-Committee on the Supplementary Supply Bill."—Agreed.

The Report which was taken as read was in the following terms :

The Sub-Committee to whom the Draft Ordinance for making provision for the Supplementary Contingent Charges for the year 1895 was referred, having examined the items in the schedule and obtained explanation from the Acting Colonial Secretary with regard to the principal votes, recommend that the expenditure specified in the Bill be sanctioned.

At the instance of the Acting Colonial Secretary, the Sub-Committee further recommend that provision be made for the additional items specified in the annexed list.

The Sub-Committee desire to note, with regard to the large irrigation votes of R132,896·55 and R120,000, under "Public Works Recurrent" and "Public Works Extraordinary," respectively, that these items are merely re-votes of the provision made in 1893, which lapsed owing to the Irrigation Fund not having been credited with the amounts at the proper time.

Council then proceeded to consider the various items in the Supply Bill.

Referring to an item "Inspector-General" under the heading of Police,

The Hon. the SINHALESE MEMBER said :—Will you permit me, sir, to ask what is the cause of the increase under this head. This is a very large sum to be voted in a supplementary estimate and I should like to know what is the reason that it is required to be inserted in this estimate

The Hon. the Acting COLONIAL SECRETARY :—I would refer the Hon. Member to the full details in the Supplementary Estimates. I think the Hon. Member is in possession of the Bill. He will see under each head there is a large addition necessary on account of the revote of 10 per cent—the addition of 10 per cent on salaries. He will find that occurring in all the different Departments. In the District of Kandy—in the Central Province,—he will see a number of items shown which are really revotes,—most of them at any rate—on account of the year 1894. The other items that go to swell the total are merely items incurred yearly.

THE FOREST DEPARTMENT.

The Hon. the Acting COLONIAL SECRETARY :—Under the head of the Forest Department, I move that the sum of R2,583. 19 be inserted in place of R2,559. The addition is recommended by the Committee so as to cover a small amount of salary undrawn in the year 1894 by one of the Foresters.—Agreed.

THE RAILWAY DEPARTMENT.

On this heading being reached

The Hon. the Acting COLONIAL SECRETARY said :—Here, sir, I would ask to have substituted the sum of R3,181·68 altering the total to R214,191·33. This R3,181·68 is expenses incurred in connection with the provision of two tank waggons for the transport of petroleum. These and other amendments were adopted without comment.

The Hon. the Acting COLONIAL SECRETARY :—I move, sir, the omission of the words "one million one hundred and ninety-eight thousand, nine hundred and fifty-four rupees and thirty-eight cents" in clause 1 of the Bill, and that the following be substituted : "one million two hundred and two thousand, five hundred and fifty-five rupees, sixteen cents."—Agreed.

The Hon. the Acting COLONIAL SECRETARY :—I move, sir, that Council do now resume.—Agreed.

The Hon. the Acting COLONIAL SECRETARY :—Sir, I would report the Bill as amended in Committee and move that it be remitted to the Law Officers of the Crown.—Agreed.

THE BUDDHIST TEMPORALITIES ORDINANCE.

The Hon. the ATTORNEY-GENERAL :—I move, sir, that Council go into Committee on "An Ordinance to amend, The Buddhist Temporalities. Ordinance 1889."—Agreed.

The Hon. the ATTORNEY-GENERAL.—I move, sir, for leave to bring up the report of the Sub-Committee on the Bill and to ask that it be taken as read.

The report which recommends the insertion of certain marginal alterations was held as read.

The Hon. the SINHALESE MEMBER, (speaking with reference to clause 2) said :—I was a member of the Sub-Committee and my recollection is that it was unanimously agreed that some inquiry should be made as to the past working of the Buddhist Temporalities Ordinance before it should be amended. I thought that was the general feeling, but I find in the report placed before Council that that opinion has not been given expression to. That is only my impression—I do not know whether a resolution to that effect was actually taken,—but I think it would be well, before we proceed any further that some inquiry should be made by Government as to the working of the Buddhist Temporalities. I think my best course would be to oppose the first clause (which states that "the Ordinance shall come into operation at such date as the Governor shall, by Proclamation in the Government *Gazette* appoint"). It is simply with the view of eliciting the opinion of Council on the point of whether it is desirable or not that Government should ascertain whether the Buddhist Temporalities Ordinance has worked well, that I would like to divide Council on this first clause.

The Hon. the ATTORNEY-GENERAL :—With regard to the report of the Sub-Committee, I may mention that the Hon. member was not present at the last meeting of the Sub-Committee. The question was then raised as to whether any mention made as to the working of the Original Act should be inserted in the report, and it was unanimously decided at that meeting that there should be no such mention made in the report but that it should be left to any Member to move that Council should order an inquiry; and to enable Council to do so it was resolved that the Ordinance should not come into operation until proclaimed by H. E. the Governor.

The Hon. the SINHALESE MEMBER :—Shall I be in order in moving that further proceedings under this Ordinance be suspended until this inquiry is made?

H. E. the LIEUT.-GOVERNOR :—The Government have really made such an enquiry. The Government have found, from reports, that the Ordinance is not working satisfactorily. Several Provincial Committees have given reasons for special amendments that have been put in the Ordinance now before Council. It is the intention of Government to remedy the very unsatisfactory state of things which is represented by these Committees.

The Hon. the SINHALESE MEMBER :—That is satisfactory from the point of view of these Committees, but there is the public point of view. The public have a right to ask what has been done with the money they may have collected under this Buddhist Temporalities Ordinance. It is on that point I think it is desirable some inquiry should be made and I would ask :—has any inquiry been made by Government on that point?

H.E. the LIEUT.-GOVERNOR :—My answer to that is that the Buddhists have their means of redress through the members of the Committees whom they elect. The Committees are elected bodies and Buddhists have their full means of redress without coming to Council or Government, or anybody else. We have given them machinery and it is for them to use it.

The Hon. the GOVERNMENT AGENT, C.P. :—They say they have no power and it is because they have asked it in order to make the Ordinance effective we have given them more power.

H.E. the LIEUT.-GOVERNOR :—That was their excuse.

The Hon. the TREASURER :—The decision at the last meeting of the Sub-Committee will probably commend itself to the Hon. Member viz. that the Sub-Committee should report on the Bill as referred to them, and make no suggestion of postponement because it is open to any Member of the Council to give notice of a resolution that, in the opinion of this Council the Governor should be asked to postpone the introduction of the Bill until such time as an inquiry had been made into the working of the Ordinance. If that resolution were to commend itself to Council and were to be carried by a majority of Council it was assumed that the Government would give effect to that resolution and the Sub-Committee thought it was not well to introduce that point into the discussion on the Bill. The Bill should now be dealt with in Council, and the question of whether it should be immediately brought into effect, or whether a previous inquiry should be made, should be subject to discussion in Council, on a regular and separate motion.

H. E. the LIEUT.-GOVERNOR :—If an inquiry were sanctioned we should be working in a circle. We would find the Commission of Inquiry would probably report that the Bill has not worked satisfactorily and that it requires amendment, and we would just come back to the point at which we are now. There may be points which have not been brought under the notice of Government but that is surely not the fault of Government as the subject has been for some time before the public.

The Hon. the SINHALESE MEMBER :—I don't want to stand single in this matter. There are gentlemen more interested than myself. My Hon. friend the Kandyan Member is a Buddhist and if he is satisfied with the amendments that have been recommended by the sub-Committee I shall not press my motion.

The Hon. the KANDYAN MEMBER :—I think it is very desirable that the past working of the Ordinance should be ascertained before giving any more power to the Committees.

The Hon. P. COOMARASWAMY :—I am not a Buddhist, but from what I have heard, sir, it appears that the old Ordinance has been an utter failure. The powers we give under this old Ordinance will not help in the proper administration of the Temple Lands. I think myself that it would be better if the Government postponed this Bill and appointed a Commission to go into the matter and to have their report before we proceed further, and I say so because I think the amendments required by the Buddhists are much more numerous and go much more against the principle of this Bill than those already inserted.

The Hon. the ATTORNEY-GENERAL :—I understand that the Hon. the Kandyan Member is satisfied with the ordinance so far as it goes and

with regard to the amendments. What I understand the Hon. Member to suggest is that after the ordinance is passed and brought into operation a report should be received from the Government Agents in respect of the working of the Ordinance as amended and of the old Ordinance.

The Hon. the KANDYAN MEMBER :—Before the Ordinance comes into operation I should like the inquiry to be made.

The Hon. the SINHALESE MEMBER :—Quite so.

The Hon. the GOVERNMENT AGENT, C P. :—Does the Hon. Member think the present Ordinance is sufficient and that the Committees ought to have been satisfied with it and ought to have been able to work with it. If not what is the good of having an enquiry before an amended Ordinance is passed if the present Ordinance is sufficient and the Committees ought to have been satisfied and worked properly under it. I think the Hon. Member will admit that the present Ordinance is not sufficient and that more powers require to be given.

The Hon. the KANDYAN MEMBER :—The present Ordinance is not sufficient and the Ordinance with the proposed amendments is not sufficient. There should be other amendments.

The Hon. the TREASURER :—I think the Hon. Member will see it would be more constitutional to postpone the motion to some future date and not press for the postponement of the Ordinance now. It is surely better to carry the Ordinance amended as now proposed and to leave it open to any member at some future date to bring forward a resolution asking for an enquiry into the working of the Temporalities Ordinance.

The Hon. the SINHALESE MEMBER :—I may only remind my Hon. friend of the Gemming Ordinance. There, a Commission was appointed, the Ordinance worked for some time and it was amended to some extent, but not fully to the extent the Commission recommended.

The Hon. the TAMIL MEMBER pointed out that though the Government Agents were sent to collect information, the Ordinance did not give the Government Agent power to ask for information.

H.E. the LIEUT.-GOVERNOR :—The question is that the Council resolve itself into Committee on the Buddhist Temporalities Ordinance.

The Hon. the EUROPEAN MEMBER :—I think, sir, the question might be put in this way :—Will the Ordinance as now before Council give any increased powers that will cause benefits to be derived from these new clauses? If so, would it not be better to pass the Ordinance and afterwards to take the inquiries that have been suggested by my Hon. friend opposite (the Hon. the Sinhalese Member). It seems to me, if any of these clauses are likely to do good it is better to pass the Ordinance and then to make inquiries. It has been said that nothing whatever has been done under the old Ordinance and no improvements whatever have taken place by these Committees. If that be the case it is a very serious matter indeed that such things should have existed so long, and I do think an inquiry should be made.

The Hon. the MUHAMMADAN MEMBER :—Sir, so far as I can understand, the Sub-Committee has given indulgence as far as possible, and certain clauses to punish Buddhist Priests—sending them to jail—have been amended. The amendments asked by the Committee are very necessary as has been proved by the Government Agents and other people concerned. Let the Ordinance be passed and in the future let the Government appoint a Commission to inquire fully into the working of the Ordinance for the last few years, and, if desirable, to change it more widely than is at present proposed.

H.E. the LIEUT.-GOVERNOR :—I do not see the necessity for any further inquiry. We are now amending the machinery for administrating temporalities. Those who have to work under the Ordinance—the Provincial Committees—have represented to Government that the existing machinery is defective. In the Bill now before Council, Government has endeavoured to meet the wishes of these Committees, and to remedy the defect.

The Hon. the MUHAMMADAN MEMBER :—This is quite a new thing This Bill must be passed first and afterwards a Commission ought to be appointed.

The Hon. the SINHALESE MEMBER :—I would move that further consideration of this Bill be taken six months hence and that in the meanwhile the Bill be published for general information.

H.E. the LIEUT.-GOVERNOR :—The Bill has already been published.

The Hon. the SINHALESE MEMBER :—The amended Bill has not, I think, been published.

The Hon. the TAMIL MEMBER :—Before we vote I humbly ask Your Excellency whether we are in order. First the Attorney-General moved we should go into Committee and we went into Committee. The first section of this Bill was read and the marginal amendment was read and afterwards when the second clause was read, my Hon. friend the Sinhalese Member took objection to it and brought on this discussion. Your Excellency then again put the question as to whether the Bill was to go into Committee. I would like to know if we are in Committee. I cannot understand the Council being doubly in Committee.

H.E. the LIEUT.-GOVERNOR :—I thought the first clause was not passed and that Hon. Members were taking exception to it. I admit, I was not clear about the position of matters.

The Hon. the ATTORNEY-GENERAL :—I formally move the insertion of the marginal amendment into the first clause.

H.E. the LIEUT.-GOVERNOR :—I think we have rather gone back to put the question as to a reference to Committee.

The Hon. the SINHALESE MEMBER again submitted his motion.

H.E. the LIEUT.-GOVERNOR :—Is that seconded?

The Hon. the TAMIL MEMBER :—I second the motion.

On a division, the motion by the Hon. the Sinhalese Member was negatived by 13 votes to 3.

Ayes : 3 :—The Hons. W. Ellawella, A. De A. Seneviratne, and P. Coomaraswamy.

Noes : 13 :—H. E. Col. Corse-Scott, the Hons. M. C. Abdul Rahiman, Sir John Grinlinton, W. W. Mitchell, Giles F. Walker, Director of Public Works, Acting Principal of Customs, Government Agent, C. P., Government Agent, W. P., Treasurer, Acting Auditor-General, Attorney-General and Acting Colonial Secretary.

The Hon. the KANDYAN MEMBER (referring to Clause 3 Sub-section 1) said :—If I understand that clause rightly, this will exclude most of the buildings having large endowments. If the words "Vihara" and "Dewala" are accepted in the same sense as the Courts did accept it in a recent case of the Dalada Maligawa, most of the temples will be excluded. For instance take the case of Adam's Peak which is neither Vihara nor yet a "Dewala" and neither is the Maligawa, so that most of the dagobas in the

Anuradhapura District will come under the category of Viharas if the same meaning is attached to Vihara and Dewala. Of course they will be excepted, but I should like to put in a few words more, so that there will be no doubt whatever hereafter about the meaning of the words.

The Hon the ATTORNEY-GENERAL :—I would suggest that the Hon. Member should move the insertion of some words. I don't know exactly what the Hon. Member wishes, and if he could state his amendment I would be in a position to say whether they might be accepted. With regard to the shrine at the top of Adam's Peak I understand the priest visits it from below and takes offerings. The amount of offerings so taken should belong to the Trustee of the Temple.

The Hon. the KANDYAN MEMBER :—There is no trustee for the temple. The trustee is appointed for Adam's Peak. It is true Adam's Peak has two Pansalas one at Palábaddala and the other at Pelmadulla. These were not temples but appurtenances to Adam's Peak and endowments which have been made are made to Adam's Peak and not to these temples which are simply the dwelling houses of the priests who have been appointed.

The Hon. the GOVERNMENT AGENT, W.P. :—If the wording of the marginal insertion of sub-section 3 section 1 the words "and such places of Buddhist public worship which H.E. the Governor with the advice of the Executive Council may from time to time define and frame," were added it would get over the difficulty.

The Hon. the KANDYAN MEMBER :—Yes that would remove the difficulty

The Hon. the TREASURER :—That, I think, would be, throwing on the Governor the right of deciding whether a place is a Buddhist shrine or not.

The Hon the GOVERNMENT AGENT, W.P. :—I did not use the word "shrine," but the expression "place of Buddhist public worship."

The Hon. the TAMIL MEMBER :—It gives power to the Governor to encroach on private rights. Suppose there is a Bo Tree in my garden and Buddhists worship there, is authority to be given to the Governor to go over my property and say this is a public place of Buddhist worship and must be placed under a trustee.

H. E. the LIEUT.-GOVERNOR :—I think we may trust the Governor not to encroach. (Laughter.)

The Hon. the ATTORNEY-GENERAL :—Will the Hon. Member (the Hon. the Government Agent, W.P.) not insert words removing the responsibility from the Governor and Executive Council to the Provincial Committee.

It was resolved to insert the words "on the statement of the Provincial Committee" after the words "Executive Council may."

The Hon. the GOVERNMENT AGENT, W.P. :—Is the word "Dewálé" defined in this Ordinance?

The Hon. the ATTORNEY-GENERAL :—It is defined in the other Ordinance. It is a legal term.

The Hon. the KANDYAN MEMBER referred to a provision of clause 6 that the Diyawadana Nilamé—the Trustee of the Dalada Máligáwa—should be elected by the Provincial Committee and District Committees of the Province and district of Kandy, the Ratemahatmayas, and by the Basnayaka Nilamés of dewálés situated therein. He said :—Ratemahatmayas may be Members of the District Committee. I would like to know if a Ratemahatmaya is entitled to two votes—one as a Member of Committee and another as a Ratemahatmaya in this matter of election.

The Hon. the ATTORNEY-GENERAL :—I take it he would have only one vote. Does the Hon. Member think it desirable he should have two votes?

The Hon. the KANDYAN MEMBER :—No.

The marginal and other verbal alterations having been made,

The Hon. the ATTORNEY-GENERAL :—I report the Bill as amended and move that Council do resume.—Agreed.

The Hon. the ATTORNEY-GENERAL.—I move that the Bill be referred to the Law Officers of the Crown.—Agreed.

THE MUNICIPAL COUNCILS ORDINANCE.

The Hon. the ATTORNEY-GENERAL :—I move, sir, the second reading of "An Ordinance to amend 'The Municipal Councils' Ordinance.'" In moving the first reading of the Bill I went fully into all the amendments, and it is only necessary for me to move the second reading.

The Hon. the TAMIL MEMBER.—In respect of this Bill I should like to ask whether it is the intention of the Attorney-General to refer it to a Sub-Committee or if it is the intention to go into Committee of the whole Council and to proceed with the Bill.

The Hon. the ATTORNEY-GENERAL.—I may state, sir, on behalf of Government that the Bill has already been before a Special Committee of this house, and this Ordinance has been prepared on the report of the members of that Committeee with respect to the original Ordinance. I believe the Hon. Member who made the suggestion was himself a Member of that Committee. I don't think it will be necessary to take the Bill in Sub-Committee. It would only be delaying the passing of the Bill and there are many points in the Ordinance, nearly every point I may say, which meet the views of the Hon. Member. If any amendments be carried the Bill could be recommitted for the insertion of such. I presume that all Members of the Municipal Council are anxious to have the Ordinance carried into operation as soon as possible and for that reason the Bill was put down today

The Hon. the TAMIL MEMBER :—I don't see the necessity for a Committee of the whole Council when the Bill could go before that same Select Committee which my Hon. friend referred to. I may mention that this Select Committee had not this Bill before them. It was appointed on 20th January last to consider and report in what respects The Municipal Council's Ordinance of 1887 required to be amended. The Committee made a certain report and I believe most of the suggestions have been adopted, but there are one or two very important matters which have to be considered. I think it would be better to consider these in Sub-Committee instead of in Committee of the whole Council; and if this session is going to last as other sessions have lasted, I don't see any necessity for hurrying this Bill through Council. Even if the matter is referred to a Sub-Committee it will not take long. We can sit in Sub-Committee one or two days running to bring up a report.

The Hon. the EUROPEAN MEMBER :—I think, sir, the work will be more satisfactorily done in Sub-Committee. A number of alterations are proposed and if we sat for one or two days running, as has been, suggested the Committee would soon get through the matter.

The Hon. the ATTORNEY GENERAL :—So far as the Government are concerned this is a matter entirely in the hands of the Unofficial Members. I cannot say on behalf of Government when a sitting of Council will be held, and I doubt whether Members wish to sit through the Christmas holidays.

The Hon. the EUROPEAN MEMBER :—Is there any reason why we should not have a sitting after the Christmas holidays?

H. E. the LIEUT.-GOVERNOR:—My view with regard to a Sub-Committee is quite irrespective of a sitting of Council. There have been so many Committees—we have had four on this Bill. Surely it has been committed enough. I think it is a waste of time to send it to a sub-Committee. At the same time, if Hon. Members of Council wish to go to Sub-Committee by all means go, I see no objection. The only question is as regards the sitting of Council. My intention had been to adopt what has been the usage, certainly for the last eight years I have been here and that is to adjourn the Council *sine die* after the Wednesday's meeting in the middle of December. I think I am correct in stating that has been the practice.

The Hon. the ATTORNEY-GENERAL:—I move that Council go into Committee.

The Hon. the GOVERNMENT AGENT, W. P.—I second the motion, sir.

The Hon. the TAMIL MEMBER:—In moving for a Sub-Committee, I would like to say, a few words with reference to a remark that fell from the Lieutenant Governor's lips regarding what has been the practice. I know, in the year before last the Council met in February to consider the question of exchange so I would ask Council for an adjournment, if Hon. Members have no objections to meet again about the end of February. This will be strictly in accordance with former practice and besides it must be remembered that Council this year was late in meeting—in former years it opened in August. I move that this Bill be referred to a Sub-Committee and I only hope that Government will be pleased to give effect to my motion. This Bill must be passed early next year, for this reason, that the Municipal Council elects its members for three years and the third year of the last election expires in December next, so this Bill must be passed early next year in order to give the new Council a proper constitution. I move, sir, that the Bill be sent to a Sub-Committee consisting of the Attorney-General, the Hon. the Treasurer, the Hon. the Government Agent, W. P., the Hon. the Government Agent, C. P., the Hon. the General European Member, the Hon. the Sinhalese Member, the Hon. the Burgher Member, and the mover. I give these names because these were the gentlemen who formed the Select Committee on the Municipal Council's Ordinance of 1887 with the exception of the Hon. the Burgher Member, in whose place the old Burgher Member acted.

The motion was carried by eleven votes to five :—

Ayes : 11.—The Hons. W. Ellawella, Sir John Grinlinton, A. De A. Seneviratne, W. W. Mitchell, Giles F. Walker, P. Coomaraswamy, Acting Principal Collector of Customs, Government Agent, C. P., Government Agent, W. P., Treasurer, Acting Auditor-General.

Noes : 5.—H.E. Colonel Corse-Scott, Acting Colonial Secretary, Attorney-General, Director of Public Works, and M. C. Abdul Rahiman.

H. E. the LIEUT.-GOVERNOR :—The Bill is referred to Sub-Committee.

The Hon. the ATTORNEY-GENERAL :—I move, sir, that Council do resume.

Agreed.

MINES AND MACHINERY ORDINANCE.

The Hon. the ATTORNEY-GENERAL :—Sir, I move the second reading of "An Ordinance to provide for the regulation and inspection of mines and machinery."

The Hon. the MERCANTILE MEMBER :—Sir, would remind Council when the first reading was brought up that I asked for a postponement for one month. It was quite clear that time was necessary A concession was made of three weeks. But the Chamber of Commerce and the Planters' Association require to conform to certain rules which necessitate the giving of certain notice before general meetings are convened. The Chamber of Commerce general meeting to consider this Ordinance is convened for Friday first, the day after to morrow, and as regards the Planters' Association I do not know exactly what action they are going to take; but in a letter I have from the Chairman (Mr. Melville White) he strongly deprecates the introduction of the Ordinance. Plumbago miners do not appear to have had an opportunity yet of stating what they think of it and there does not appear to me to be occasion for such haste for proceeding with the Bill. I have reason to believe in India tea factories are specially exempted from the operation of the Factory Act. I am not absolutely certain of this. I am only told so and I wish time to ascertain if this is the fact. No evidence it seems to me has been adduced that legislation of this kind is neceessary. We are told that certain correspondence has been sent in by Government Agents to the Government, and in consequence the Bill was introduced. What the nature of that correspondence may be we had not had any information. I do not think we are in a positon to discuss the merits of the Bill, and I would ask, in view of what I have stated that this motion should be allowed to stand over.

The Hon. the PLANTING MEMBER : Sir, I know nothing about the question of mines in Ceylon and I shall address myself simply to the question of tea factories. I do not know of what information the Government may be in possession, but I do not think the number of accidents that have occurred are sufficient to establish any great necessity for the introduction of this measure at the present time. At the same time, I should certainly not be inclined to oppose the principle of the Bill, because that principle is that "prevention is better than cure." I think it is desirable, so far as it can be done, to have such legislation introduced into the Colony as it has been introduced into England and other countries. But I hope some consideration will be given to the fact that this question requires a good deal of consideration at the hands of those interested. In the case of the Planters' Association the procedure that is necessary is generally that the Parent Body should meet and consider the question; and an important measure such as this is would be referred to the District Associations who then report to the Parent Association. All this takes some time to effect. The fact is I believe that this measure has been in contemplation for several years, although it was only within the last few months that a distinct form has been given to it. This makes me think it quite unnecessary that the matter should be in any way rushed through Council. I think some time might be given to consider the matter. The Ordinance, as it was drafted, confers very great power upon the Governor in Executive Council—power so great that in a matter like this I do not think it should be given. In regard to the question of the factories up-country, one of the most important points that arises is who will be the inspectors of factories? You have

no class of men in the country upon whom you can draw for inspectors, seeing the number of inspectors that will be required. Any person who is appointed should have more or less scientific or professional training, and also be one who would not be liable to be biassed in any particular direction. If men who have no experience or men who have no particular standing or position, are sent upcountry to inspect the tea factories, I feel certain a great deal of discontent will be caused; and, in view of the facts that no very great number of accidents have occurred, and that these accidents are not serious, and because there is no need for pressing this Ordinance, I hope it will be held back for some time in order that the Planters' Association and other public bodies may have an opportunity of discussing it more at their leisure.

The Hon. the EUROPEAN MEMBER:—I beg, sir, to support what has been said by the Hon. the Planting Member. I think it would be very desirable that this Bill should be postponed until such time as the commercial and mercantile community are in a position to receive reports from those interested in the matter. I trust Government will have no objection to postponing the Bill.

The Hon. the TAMIL MEMBER:—I think, sir, the Ordinance deals with such a vast number of industries in this island that it is quite right opportunities should be given for fair discussion by the planting and mercantile communities, as well as by the native communities who have to do with matters mentioned in this Ordinance. Considering also there does not seem to be any necessity shown for rushing this Ordinance through, I think it is but right Government should allow people interested to have plenty of time to discuss the questions involved before Government may be allowed to invade, as it were, private rights and restrict the plumbago industry and other manufactures in Ceylon.

The Hon. the SINHALESE MEMBER:—I would support this Ordinance but, at the same time, I must support the request made by Hon. Members for further time for consideration of this Bill. I regard it as a very important Bill, but at the same time, it is not such a perfect one in its present state that it cannot be improved. If time be given it is capable of large improvement. I am very glad that my Hon. friend on the left (the Hon. Giles F. Walker) referred to the great power given to the Governor in this bill. That is one of the matters I regard as very objectionable, and the rest of the Ordinance seems to be drafted on the lines of the Gemming Ordinance. That was not a very successful Ordinance, everyone will allow, and what was said against the Gemming Ordinance may be said against the Ordinance before Council. I am in support of it because, as far as I can see, the principle is to regulate mines and machinery for the safety of the persons employed.

The Hon. the Acting PRINCIPAL COLLECTOR OF CUSTOMS:—Sir, the private right which the Ordinance proposes to invade, is the private right of killing people. I dont think that is a private right it is necessary to conserve. On the papers which have been before the Government in connection with this matter, it will be found that for several years the accidents that have occured in plumbago mines in the North West Province are attributable, as appeared in the report of a competent officer, to the want of sufficient safeguards against accident. Pits are driven down a depth of 600 feet. The winches which are used for lowering the men into these pits are of the rudest description, calculated rather to provoke than to prevent accident. The chains that are used are worn to such thinness that they may break with the smallest provocation, and in a variety of instances it was found there were not even those safeguards against accident but the lives of men lowered to these depths were dependent on the strength of a coir-rope. The platforms upon which those winches were found to be rusting, were falling in pieces and the ladders were all rotten and badly made and there was no ventilation in several of the pits inspected. I may say the officer who made the inspection was unable to descend because he did not venture to risk his life on the ladders in use. The air was so foul that no lamp could live. The Officer found many men round the pits whose eyesight had been damaged by accidents which occurred in these pits. Whatever may be said about factories, a very good case has been made out for making rules to prevent such accidents as have occurred in the plumbago pits of the N.-W. Province. I may refer to the fact that in the reports we have notifications of death not of accidents. The number of people who have their arms and legs broken have not been included in these reports but the number of people who had actually died has been certified to be 70 in two or three years in these plumbago pits. I would refer to my Hon. friend opposite (the G. A., C. P.) who had personal knowledge of these matters as Government Agent of the N.-W. Province. Apart altogether from the tea estates question there is therefore every reason for an Ordinance as regards plumbago pits.

The Hon. the MUHAMMADAN MEMBER:—Sir, it is very desirable to bring in an Ordinance like this to guard the lives of poor people who work in the plumbago pits. I have heard of several cases of very careless working, and very many lives have been lost by that, in tea factories I believe the machinery is under the charge of capable men who understand the work. Therefore, in my opinion there should be two Ordinances one for mines and the other for the regulation and inspection of machinery in factories. In the supervision of mines you do not require any able engineer or experienced person. Any ordinary person could test an old rope or an old chain. Therefore I do not think you should mix up both Ordinances, but have a separate Ordinance for protecting miners in plumbago pits and another to safeguard persons employed not only in tea factories but in all other mills where machinery is used.

The Hon. the GOVERNMENT AGENT, C.P.:—I can support the Hon. the Principal Collector of Customs in his statement that plumbago mines want inspection badly, I have seen several of them myself. I have never been down. It is only a person without clothes who could stretch from one step of the ladder to the other and the steps are so slippery with plumbago it is a wonder any one can climb them. I have also seen a cage let down, and owing to the shaft not being quite straight the cage would strike and bump against the projections on the side I hope this Bill will not be postponed so far as it relates to mines.

The Hon. the ATTORNEY-GENERAL:—I would only say on behalf of Government that if hon. members are allowed a postponement it will only be to make the regulations more stringent. The object of the provision to which objection has been taken, as giving undue power to the Governor, is that in

the event of any arrangement not being workable and suitable to the planting community the Governor in Executive Council could amend it and bring in regulations which would not injuriously affect planters or people who worked in factories or mines. I may warn Hon. Members that a much more stringent measure may result from postponement. A Bill with stricter provisions was drafted when I was out of the colony and if members desire a postponement more perfect and more stringent rules, will probably be laid down.

The Hon. the PLANTING MEMBER :—The remarks which have been made by my hon. and learned friend point very strongly to the desirability of carrying out the suggestion that mines and factories should be disassociated, and as it has been clearly proved by the Hon. the Collector of Customs that urgency exists in the case of mines, I would suggest that the Ordinance, so far as mines are concerned, should be proceeded with, because members feel a more stringent measure is required for mines and it is apparently admitted that less stringent legislation is necessary in the case of tea factories.

The Hon. the ATTORNEY-GENERAL :—I cannot disassociate the two. It is most important that they should both be on the same lines as far as possible. I would point out to the Hon. the Planting Member that I did not suggest that less stringent measures were required for tea factories. What I said was that more stringent measures would have to be brought in if you attempt to deal with factories in any other way than by allowing the Governor in Executive to make rules. Only the other day my attention was drawn to a case—a fatal case which occurred in a factory in Ceylon which is under European management, and, when the officer spoke to the Engineer in charge, he stated "I know no other country in the world where machinery would be allowed to work without proper safeguards," as it was in that factory. I hope that when the time comes the Council will be able to give the Governor very large powers so as not to invade private rights, but to protect the lives of working people.

The Hon. the TAMIL MEMBER :—It will be observed that none of the Unofficial Members oppose the Bill. We only ask that the discussion should be postponed. On the official side a large number of members have risen to point out the good points of the Bill. The Unofficial Members so far as I remember never said whether they were good or bad.

The Hon. the ATTORNEY-GENERAL :—My answer to that is that the Hon. the Sinhalese Member spoke of the Bill as an imperfect one.

The Hon. the SINHALESE MEMBER :—Now that I have been referred to I would point out that I did not say it was an imperfect Bill. I said it was not perfect. I do not think my hon. friend claims infallibility with regard to this Bill. There are imperfections which can be pointed out in Committee, and when we go into the principle of the Bill I am perfectly prepared to discuss them.

The Hon. the ATTORNEY-GENERAL :—I understand hon. gentlemen do not wish the second reading to be taken?

The Hon. the MERCANTILE MEMBER :—I would ask that the second reading be taken at the first meeting in 1896.

The Hon. the ATTORNEY-GENERAL :—The first sitting next year is August or December. Do you mean that?

The Hon. the MERCANTILE MEMBER :—I expected a meeting in January.

The Hon. the ATTORNEY-GENERAL :—I cannot say there will be a meeting in January.

After a pause

The Hon. the ATTORNEY-GENERAL :—I withdraw my motion for the second reading of the Bill.

The Hon. the Acting COLONIAL SECRETARY. —I move that Council do now adjourn till Wednesday, 11th inst. at 2·30 o'clock afternoon.

The Hon. the PLANTING MEMBER :—I should like to know if the next meeting of Council could not be postponed till this day fortnight. I would point out there is no more urgent business and I had to postpone some very important business of my own in order to attend the meeting which was held on Monday. If a meeting is held next week I, for one, shall not be able to attend.

The Hon. the Acting COLONIAL SECRETARY. —It is highly desirable in the interests of Government Officials that we should dispose of the Supply Bill.

H.E. the LIEUT. GOVERNOR.—It will only be a formal meeting as all the business has been postponed except the third readings of the two Supply Bills.

Council adjourned at 4·15 p.m., in terms of the Hon. the Acting Colonial Secretary's motion.

WEDNESDAY, DECEMBER 11th, 1895.

Council met at 2·30 p.m. in the Council Chamber. *Present* :—H.E. Sir E. Noel Walker, K.C.M.G., Acting Governor, (presiding); H.E. Col. Corse-Scott, Officer Commanding the Forces; the Hons. W. T. Taylor, C.M.G., Acting Colonial Secretary. C. P. Layard, Attorney-General; T. E. B. Skinner, Acting Auditor-General; F. R. Saunders, C.M.G., Treasurer; A. R. Dawson, Government Agent, W.P.; Allanson Bailey, Government Agent, C.P.; Lionel F. Lee, Acting Principal Collector of Customs; R. K. MacBride, C.M.G., Director P.W.D.; P. Coomaraswamy, Tamil Representative; W. W. Mitchell, Mercantile Representative; A. de A. Seneviratne, Lowcountry Sinhalese Representative; Sir John J. Grinlinton, General European Representative; and H. L. Wendt, Burger Representative.

MINUTES.

The Clerk read the minutes of previous meeting of Council.—Minutes approved.

ASSENT TO ORDINANCES.

The Hon. the Acting COLONIAL SECRETARY:—I have to intimate that His Excellency has given his assent to the following Ordinances:—No. 12 of 1895, intituled "An Ordinance to extend the jurisdiction of Courts of Requests and to amend the procedure therein"; No. 13 of 1895, intituled "An Ordinance to amend the Explosives Ordinance of 1894"; and Ordinance No. 14 of 1895, intituled "An Ordinance to consolidate, define, and amend the Law of Evidence."

PAPERS.

The Hon. the Acting COLONIAL SECRETARY :—Sir, I lay on the table of Council, "Final Report upon the construction of the Galle Railway," by Mr. F. J. Waring; "Report on the working of the Municipality of Colombo during the year 1894;" and a "Statement showing the amount of schedule fees received in 1893

by the Fiscals of the several provinces and their deputies."

I also lay on the table Volume of Ceylon Administrative Reports for 1894 and a return in terms of motion showing the payments to contractors on our railway system during the last seven years.

A PETITION.

The Hon. the SINHALESE MEMBER :—Sir, I beg to present, a petition from the residents of Chilaw regarding the establishment of a Police Force in that town. I move it be read.

The Hon. the BURGHER MEMBER :—I beg to the second motion.

The Petition which was in the following terms was read :—

Chilaw, 7th December, 1895.

To the President and Members of the Honble the Legislative Council of Ceylon, Colombo.

The humble petition of the undersigned inhabitants and residents of Chilaw,

Respectfully Sheweth,—1. That they have heard with much concern, that it is the intention of Government shortly to establish a Police force in Chilaw. Your Petitioners beg to submit that they do not see the necessity for such a step under the present circumstances and condition of their District. The existence of a Local Board with its record of satisfactory work during the past eight years, constituted as it is not at present, and vested with powers large enough to carry out practically the duties of Police, combined with the fact that there is a rural Sergeant for securing the public peace, is in their opinion all that is necessary to satisfy the requirements of the town. Such being the case the establishment of a Police force on a large scale is quite unnecessary, and would be a real hardship on the residents of the place, involving as it would an additional taxation.

Your Petitioners submit, that in 1887, when residents of the town were under the apprehension that Government had in contemplation the establishment of a Police force and Local Board, they forwarded a petition to His Excellency the then Governor protesting against the same, and were favoured with a reply stating that Government considered that the establishment of a Local Board was essential, but that it had had no intention whatever of burdening the residents with a Police force too—thus holding out, as it were, that if a Local Board were established the residents would not be subjected to further taxation by the addition of a Police force. Accordingly, the Local Board was established in 1887, and is working under circumstances and conditions not dissimilar to those which obtain at present in the District. It convinces your petitioners that this is all that is required for all purposes, and that the establishment of a Police force is not expedient or necessary, and would not be to the advantage of the people as Government intends it, no doubt, to be. On the contrary, your petitioners make bold to say that it would be a real burden on the tax-payers, the majority of whom are poor and who could therefore ill-afford to pay for this luxury, which under the circumstances of their case they could well afford to dispense with, as far as any possible advantage which they are likely to derive from the establishment of the force is concerned.

3. That your Petitioners have reason to believe that the present Assistant Government Agent of the District, Mr. J. J. Thorburn, is himself opposed to the step, except that he considers it necessary for the assessment tax on the inhabitants, which according to his view of the law, cannot be legally done in a town where no Police force had ever been established. This, however, your Petitioners submit is not a good reason—the only one for the proposed step.

Wherefore your petitioners beg to submit that there is no justification whatever for the proposed step and pray that the Government would be pleased to relinquish the idea of establishing a Police force in their town, which neither the circumstances of their case nor the probability that any benefit commensurate with the disadvantage would arise thereby, could justify.

And for this act of goodness your Petitioners as in duty bound will ever pray, &c.

NOTICE OF MOTION.

The Hon. the MERCANTILE MEMBER :—Sir, I give notice that at next meeting of Council I will move—

For a return of all lots of land or abandoned plantations resumed by Government under Ordinance No. 4 of 1887, showing date of resumption, extent, situation, name of lands (if any), and previous owners (where known); also of lands taken up for public purposes under Ordinances Nos. 3 of 1876 and 6 of 1877.

THE HARVEY CASE.

Sir, I beg to give notice that it is my intention at next meeting of Council to ask Government to state :—What proceedings are being taken in connection with the alleged defalcations of Mr. H. B. Harvey, late of the Public Works Department, and to move that all papers relating to the same be laid on the table.

If the Council is not likely to sit again after today for sometime, possibly the Government may see fit to answer the question now.

STATEMENT BY THE ATTORNEY-GENERAL.

The Hon. the ATTORNEY-GENERAL :—With reference to the question of adjournment I am authorised by His Excellency to state that that will depend on the question of when the Sub-Committee on the Municipal Bill will be able to report to this Council on the amendments they would suggest inserting in it. That depends entirely on Unofficial Members. With reference to the question asked regarding Mr. Harvey, on behalf of Government, I would desire to answer it at once and to state that matters are as follows :—

On the 29th January 1895 the Police Magistrate, Badulla, on the complaint lodged on the instructions of the Acting Attorney-General, issued a warrant of arrest against Mr. Harvey, and on the 30th January 1895 His Excellency the Governor telegraphed to the Secretary of State that Mr. Harvey was charged with criminal breach of trust of moneys belonging to the Crown, of forgery and of fraudulent use of forged documents and requested Mr. Harvey's arrest under a Provisional warrant to be issued under the Fugitive Offenders' Act. A reply was received from the Secretary of State on the 6th February that Mr. Harvey had already sailed in the "Bayern" and would arrive in Colombo on the 2nd March. Mr. Harvey, however, appears to have abandoned his intention of returning to Ceylon, for a telegram was received from the Secretary of State on the 2nd March that Mr. Harvey had been arrested in London. On that date Mr. Harvey was brought up under arrest before the Bow Street Magistrate and remanded for a week, an authenticated copy of the proceedings taken against Mr. Harvey in Ceylon was handed to the Magistrate at Bow Street. In due course an order was made for Mr. Harvey's return to Ceylon, but application having been made on the 15th March, on behalf of Mr. Harvey, that he be released on bail, such application was granted by a Judge of the Queen's Bench Division, although opposed on behalf of the Government of Ceylon, and Mr. Harvey was released on bail, and his bail extended from time to time Mr. Justice Wright being of opinion that, having regard to the condition of Mr. Harvey's health, he should not be surrendered to take his trial in Ceylon. Mr. Harvey is still out on bail, and the final decision as to whether he is to be surrendered to take his criminal trial in Ceylon will be arrived at probably some time next month.

In April last a Despatch was received from the Secretary of State asking whether proceedings in the civil case, which had already been instituted, would be carried on in Mr. Harvey's absence. A reply was immediately sent that, provided service of summons could be effected

on Mr. Harvey in England, the civil case could be carried on in Ceylon. A telegram having been received from the Secretary of State that summons could be served, summons was duly despatched to the Secretary of State on the 23rd June last for service on Mr. Harvey. Subsequently on the 27th July last the Secretary of State informed the Government that it would be necessary to defer taking action on the summons until Mr. Harvey had been further medically examined.

I hope I have made it sufficiently clear by the above statement that the delay in the proceedings criminal and civil is in no way due to Government who are only too anxious to have the issues between the Government and Mr. Harvey, both criminal and civil speedily disposed of.

I hope the Hon. Member will not press his motion for papers because, naturally, in a case of this sort there is a good deal which it is undesirable should be divulged at the present time.

The Hon. the MERCANTILE MEMBER :—I am much obliged for the information and I withdraw the motion for papers at present.

THE POLICE FORCE FOR CHILAW.

The Hon the SINHALESE MEMBER :—I rise, sir, to ask—

If the Government has received complaints of the want of effectual protection of person and property within the town of Chilaw, and if not, why the Government contemplates establishing a Police Force in that town; and to move for papers connected with the subject.

In the Committee on the Supply Bill it was pointed out that a larger vote was required for the Police for 1896 than was voted for 1895. Under the head of North Western Province the sum of R2,780 was allotted for a certain number of Sergeants for 1895. This sum was raised to 4,114 and for ordinary constables a sum of R7,560 was voted for 1895. This sum was increased to R10,890 for 1896. A note was appended to the detailed estimates showing that the additional sergeants and constables are for Puttalam and Chilaw. In Sub-Committee I asked the question what necessity there was for establishing a Police Force at Chilaw. With every desire on the part of the Chairman of Committee to give us the information the papers referring to the subject could not be got at, but we were assured the Government had reason for establishing this force. With that statement I was satisfied. Since then I have had a letter addressed to me by the Unofficial Members of the Local Board of Chilaw, and they say that there is no necessity at all for a Police Force at Chilaw. They (the Local Board) have not asked for it, the inhabitants do not require it and, so far as they know, the Assistant Government Agent never recommended it ; and further, they say when the Local Board was established the Government almost gave a promise there would be no Police Force established. They sent me a copy of a letter written by the Goovernment to the inhabitants of Chilaw who had petitioned on the subject at that time. This is the copy :—

Colonial Secretary's Office,
Colombo, 19th Dec. 1887.

His Excellency the Governor having taken into consideration the petition of S. G. Fernando of Chilaw and others, protesting against the establishment of a Police force or a Local Board in the town of Chilaw has directed that the petitioners be informed that there has never been any intention of establishing a Police force in Chilaw and that the establishment of a Local Board is considered absolutely necessary.

By His Excellency's command,
D. M. SIEBEL,
for Colonial Secretary.

The Local Board was established in 1888, and on 18th October 1888 appears the proclamation bringing the town of Chilaw within the operation of the Local Board Ordinance. The Local Board have not asked for a Police Force and the inhabitants say they do not want it, in the petition presented today, and in other ways, and although a larger vote for the Police has been taken for next year it is to be hoped that the Government will not establish a police force at Chilaw. Of course if there are special reasons it would be different and if there are special reasons I would ask Government to give them. I submit my motion and move for papers on the subject.

The Hon. the TAMIL MEMBER :—I beg to second the motion.

The Hon. the Acting COLONIAL SECRETARY :—Sir, the Government, in establishing a Police Force at Chilaw, does so for the better preservation of law and order in that locality. In determining on the adoption of this measure the Government was influenced by the advice and representations of its responsible officers in the district in question. That is my reply to the question of the Hon. gentleman. With regard to the few observations that have fallen from him I would say sir, that what was the case in 1887 may not be the case now. Government did not then consider that it was necessary or desirable to establish a police force in Chilaw. Government holds a different opinion in 1895, and it is not only not impossible but perfectly reasonable that such a change of opinion might take place in the course of these eight years. I do not think the letter my Hon. friend has quoted can be regarded as a promise on the part of Government in any way not to establish at any future time a police force if the establishment of such force would be necessary. With respect to what the Hon. Member has said about the discussion on the estimates, in Sub-Committee it may be, sir, that what the Hon. Member stated is perfectly correct, but I think he did not say all that was told in Sub-Committee. He has probably overlooked the fact that in Sub-Committee I explained to him that the matter had been discussed between the Governor and the Government Agent and that the Governor, on the direct representation of the Government Agent of the Province, had determined, so far as he was able so to determine, on the establishment of a police force in Chilaw. He was convinced of the necessity of its establishment and with the advice of his Executive Council, as required by the provisions of the Ordinance, His Excellency issued a proclamation directing the establishment of that force on 1st January. Shortly, these are the facts of the case. With regard to the Hon. Member's motion for papers I presume that the motion was an informal one and that the Hon. gentleman did not require Government to produce the papers.

The Hon. the SINHALESE MEMBER :—My question was whether the Government has received complaints of the want of effectual protection of person and property within the town of Chilaw, and if not, why Government contemplate establishing a police force in the town of Chilaw. To that question there has been no answer so far as I have made out. I would ask again has Government received such complaints or has it not? If Government has not received such complaints why has it resolved to establish a police force in that town ? Of course it is clear the Executive Council has decided to do so, but that is not the point. The point is what were

the grounds on which the Government acted. I think we are entitled to know especially as responsible members of the Local Board say there is no need for it, the representative of the Government in that district—the Assistant Government Agent—does not see any necessity for it and as the inhabitants do not wish it. In the letter from the unofficial members of the Local Board of Chilaw I have referred to, there is this sentence:—"We have reason to believe that the present Assistant Government Agent of Chilaw (Mr. Thorburn) is also opposed to the proposal, and can bear testimony to the fact that it is altogether unnecessary in the present circumstances of the District except to admit of the levy of an assessment tax under the Local Board Ordinance which in his view of the law, cannot legally be done without the establishment of a police force. We know very well so far as assessment under the Local Board Ordinance goes it can be done without a Police Force being established. The law authorises it, in fact there is an assessment now,—otherwise how is the Local Board carried on? My question is, have there been any complaints?—and until that question is answered I am bound to press this motion.

The Hon the Acting COLONIAL SECRETARY:—May I be allowed to say, sir, that the gentleman to whom the Hon. Member has referred is no longer Assistant Government Agent of that district; he is now serving in another district. I think Mr Thorburn, who is alluded to in the letter quoted by the Hon. Member, is not in possession of any such view as has been represented. I had an opportunity of seeing Mr. Thorburn only a few days since and I discussed with him matters referring to Chilaw. He certainly did not then express any opinion in that direction.

The Hon. the SINHALESE MEMBER:—Am I to infer that there have been no complaints, sir?

The Hon. the Acting COLONIAL SECRETARY:—There have been representations of the nature of complaints made to Government by the Government Agent who is a responsible officer in the District.

H.E. the LIEUT.-GOVERNOR:—I think it has been shown that this step was determined on representations which were already made to the Governor and on which the Governor satisfied himself.

The Hon. the SINHALESE MEMBER:—That is to say practically that you have no papers—written complaints—on the part of Government Officials or anybody else regarding disorder in the place calling for the establishment of a Police force.

H.E. the LIEUT.-GOVERNOR:—There are the representations of the Government Agent supported by facts the Governor collected on the spot.

The Hon. the SINHALESE MEMBER:—Is there any objection to place these papers before Council?

H.E. the LIEUT.-GOVERNOR:—I cannot say until I have seen the papers.

The Hon. the SINHALESE MEMBER:—I sent in my notice of motion early, in order that Government might make up its mind whether to place the papers before Council or not.

H.E. the LIEUT.-GOVERNOR:—That is scarcely a fair remark. It was only regarded as a formal motion on this occasion as on others, to give the Hon. Member an opportunity of speaking. I may say that I have not perused the papers myself, regarding as I did that part of the notice merely in a formal way to enable the mover to speak. I ask the Hon. Member whether he presses his motion for papers.

The Hon. the SINHALESE MEMBER: I cannot help it. I think you ought either to produce the papers or say you will not do it.

H.E. the LIEUT.-GOVERNOR:—The Government will be obliged to oppose the motion.

The Hon. the SINHALESE MEMBER:—I press the motion to a division.

H.E. the LIEUT.-GOVERNOR:—If the matter is postponed, the Government will look into the papers and see if there is any reason against their production.

The Hon. the SINHALESE MEMBER:—I have no objection to that course.

SUPPLEMENTARY CONTINGENT CHARGES FOR 1894.

The Hon. the Acting AUDITOR-GENERAL:—I rise, sir, to move the first reading of "An Ordinance for making final provision for the Supplementary Contingent Charges for the year 1894." The only item in this statement which calls for remark on my part is an item of R225,517, which is for the Railway Department. This charge is due to loss on exchange in the purchase of material.

The Hon. the GOVERNMENT AGENT, WESTERN PROVINCE:—I second the motion, sir.

Bill read a first time.

The Hon. the Acting AUDITOR-GENERAL:—Sir, I give notice that I will move the second reading at next meeting of Council.

THE TOLLS ORDINANCE.

The Hon. the ATTORNEY-GENERAL:—I rise, to move the first reading of a Bill entitled "An Ordinance to consolidate and amend the law in respect of the collection of Tolls." It will be in the recollection of members of this Council that a select Committee of this Council was appointed in November 1894 to report on what amendments would be required on the Tolls Ordinance 1867. That Select Committee recommended that there should be a Consolidating Ordinance and that there should be certain alterations in the law. They recommended that the schedule should be adjusted so as to suit the present minor currency of the Island. They suggested further that there should be an increased toll on boats driven by steam, or electrical means. If Hon. members will look at the draft Bill they will find that the recommendations of the Select Committee have been carried out.

The Hon. the TAMIL MEMBER:—May I ask when that report referred to by the Hon. the Attorney-General was circulated?

The Hon. the ATTORNEY-GENERAL:—I understand from the copy I hold that it was laid before Council on 9th April 1895. Probably it was sent to the Hon. Member by post and he did not read it.—(Laughter.)

Bill read a first time.

The Hon. the ATTORNEY-GENERAL:—I give notice that I will take the second reading at next meeting of Council.

SUPPLEMENTARY CONTINGENT CHARGES FOR 1895.

The Hon. the Acting COLONIAL SECRETARY:—I bring up the report of the Law Officers of the Crown on "An Ordinance for making provision to the Supplementary Contingent Charges for the year 1895" and move that it be read. Report read.

The Hon. the Acting COLONIAL SECRETARY:—I move, sir, that the Bill be read a third time and do pass.

The Hon. the Acting AUDITOR-GENERAL:—I second the motion.

Bill read a third time and passed.

THE SUPPLY BILL 1896.

The Hon. the Acting COLONIAL SECRETARY:—Sir, I bring up the report of the Law Officers

of the Crown on "An Ordinance for making provision for the Contingent Services of the year 1896."—Report Read.

The Hon. the Acting COLONIAL SECRETARY:—I move, sir, that the Bill be read a third time and do pass.

The Hon. the Acting AUDITOR-GENERAL:—I second the motion, sir.

Bill read a third time and passed.

THE BUDDHIST TEMPORALITIES ORDINANCE.

The Hon. the ATTORNEY-GENERAL:—I bring up the report of the Law Officers of the Crown on a Bill entitled "An Ordinance to amend 'the Buddhist Temporalities Ordinance 1889.'"—Report read.

The Hon. the ATTORNEY-GENERAL:—I move, sir, that "An Ordinance to amend 'the Buddhist Temporalities Ordinance 1889'" be read a third time and do pass.

The Hon. the Acting COLONIAL SECRETARY:—I second the motion.

Bill read a third time and passed.

ADJOURNMENT.

The Hon. the Acting COLONIAL SECRETARY:—I move, sir, that Council do now adjourn till Wednesday, 22nd January at half-past two o'clock.

Resolved accordingly.

Council rose at 4-5 p.m.

WEDNESDAY, JANUARY 22nd, 1896.

Council met at 2-30 in the Council Chamber. H.E. the Lieut.-Governor presided, and others present were:—Lieut.-Col. Corse-Scott, Acting Officer Commanding the Forces; Hon. Messrs. W. T. Taylor, Acting Colonial Secretary; C. P. Layard, Attorney-General; T. E. B. Skinner, Acting Auditor-General; F. R. Saunders, Treasurer; A. R. Dawson, Government Agent, Western Province; Allanson Bailey, Acting Government Agent, Central Province; L. F. Lee, Principal Collector of Customs; R. K. MacBride, Director of Public Works; P. Coomaraswamy, Tamil Member; A. De A. Seneviratne, Sinhalese Member; Sir J. J. Grinlinton, European Member; W. W. Mitchell, Mercantile Member; H. L. Wendt, Burgher Member; Giles F. Walker, Planting Member; W. Ellawella, Kandyan Member; and M. C. Abdul Rahiman, Muhammadan Member.

THE NEW CLERK.

Mr Thorburn was sworn in as Clerk of the Council in succession to Mr. H. L. Crawford promoted.

MINUTES.

The Clerk read minutes of previous meeting.

H.E. the LIEUT.-GOVERNOR put the question and the minutes were confirmed.

A PETITION FROM JAFFNA.

The Hon. the TAMIL MEMBER:—I have to present a petition to Council signed by about 500 farmers in the Jaffna district. I claim for it the sympathy of Government as it comes, not from the rich, but for the most part from the poor, pursuing agriculture under great difficulties. The manure they use for their fields is mainly leaves, and these they have to cart a great distance. Their complaint is that they are made to pay toll on this manure. Your Excellency, with the advice of the Executive Council, has power to declare the exemption from toll of any substance, and I have every confidence you will exercise that power in this case.

The petition is in the following terms:—

Jaffna, 8th January 1896.

To His Excellency the President and the Hon. Members of the Legislative Council of Ceylon.

The humble petition of the undersigned inhabitants of the district of Jaffna

MOST RESPECTFULLY SHOWETH,—That Jaffna is essentially an agricultural district, more than ninety per cent of its inhabitants being engaged in agricultural persuits. The industry and perseverance of the people of Jaffna are proverbial. It is by the sweat of their brow, they earn their living, forcing a reluctant soil to yield a return not commensurate to their labour.

2. That the soil of Jaffna being poor, the people are obliged to resort to high cultivation by the application of a large quantity of manures of different kinds. The petitioners most humbly venture to believe that in no other part of the Island is cultivation of gardens and fields carried on with such toil and expense as in Jaffna, yet the returns are poor and agriculture is not a paying concern here.

3. That besides dung manure, green leaves of trees and shrubs collected from Government jungles and from private compounds, and old palmyrah olas which had been used in thatching houses are largely used here as manures, the green leaves in the cultivation of tobacco gardens, and old palmyrah olas in the cultivation of both gardens and fields. The quantity of these two kinds of manures removed to gardens and fields as manures and for no other purpose in carts, crossing tolls, is enormous and they are subject to a toll duty here although dung manure is free from it.

4. The petitioners beg most humbly to submit that the principle of allowing manures to be carried free of duty being admitted by Government, as is done in the case of dung manure, it is unreasonable to impose the duty on the other kinds of manures, which are under the peculiar circumstances of Jaffna essential to the success of cultivation and the well-being of the people.

5. The petitioners beg further to bring to the notice of your Hon. Council that young paddy plants that are carried for transplanting in their fields are also subject to a toll duty entailing thereby great hardships on the petitioners.

The petitioners, therefore, most humbly pray that your Hon. Council may be graciously pleased to make such amendments in the proposed Tolls Ordinance now before your honourable house as to exempt green leaves and old palmyrah olas used for manuring purposes and young paddy plants required for transplanting from toll.—For which act of goodness the petitioners, as in duty bound, shall ever pray.

PASSED ORDINANCES.

The Hon. the Acting COLONIAL SECRETARY:—I have to intimate that H.E. the Lieut.-Governor has given his assent to the following Ordinances, viz.:—Ordinance No. 15 of 1895 intituled "An Ordinance to make provision for the Supplementary Contingent Charges of 1895," Ordinance No. 16 of 1895 intituled "An Ordinance for making provision for the Contingent Services of 1896," and No. 17 of 1895 intituled "An Ordinance to amend 'The Buddhist Temporalities Ordinance, 1889.'"

PAPERS.

The Hon. the Acting COLONIAL SECRETARY:—Sir, I also lay on the table Report on the Fever Epidemic at Galle for the month of September 1895; Report on the Ceylon Railway System by Major G. F. Wilson, R.E., and "Papers relating to the Registration of Titles to Land."

THE BUTTALA HOSPITAL.

The Hon. the PLANTING MEMBER:—I rise, sir, to ask:—

What is the total cost estimated for building the Buttala Hospital, and whether the work has yet been commenced; and what was the rate of mortality in the old hospital there?

My object in asking this question is teat the Passara Association and the planters in that neighbourhood think a far better site, so far as the interests of the labourers are concerned, would be found in Monaragala Hill, somewhere in the neighbourhood of Mupane. That site is said to be

central near the Sinhalese villages and fairly healthy with a good water supply, and, inasmuch as it is a well-known fact that the old hospital at Buttala was notoriously unhealthy, I would suggest it would be advisable to see whether it would be possible to erect a hospital on a site on the Monaragala Hill.

The Hon. the Acting COLONIAL SECRETARY:—Sir, it might have been well if the Hon. Member, in giving notice, had given his reasons for asking the question, and in that event, I might have been able to have obtained such information as would have enabled Government to give a satisfactory answer to the question. To the question, as it stands in the agenda paper, I would say that the cost of building a permanent hospital at Buttala has been estimated at R41,395, but that is not what the Government has in contemplation to do. The intention of the Government at the present time is to re-erect buildings connected with the old hospital—that is to say, four wards and out-offices connected with them. This would be done at an estimated cost of R4,505, and, in respect of this proposed erection, credit has been taken in the estimates of expenditure for the current year of R5,000.

The Hon. the PLANTING MEMBER:—I have to thank the Hon. the Colonial Secretary for his answer to my question, but I would suggest, if it is still possible to do so, an inquiry as to whether it would not be advisable to transfer the site to Monaragala Hill.

The Hon the COLONIAL SECRETARY:—I have no hesitation in saying that the Government will make the inquiry the Hon. Member suggests.

THE LUNUGALA HOSPITAL.

The Hon. the PLANTING MEMBER, in terms of notice, asked:—

What is the estimated cost of the scheme for supplying water to the Lunugala Hospital?

He said:—Sir, it is not necessary I should say much with regard to this question. There are rumours in the district placing the cost of the scheme at a very high figure and it is to obtain information on the subject that I ask my question.

The Hon. the Acting COLONIAL SECRETARY:—An estimate has been submitted for securing a pure water supply to the public buildings and the town of Lunugala at a cost of R16,500, but, as I understand from the papers before Government, the cost of this proposed scheme being regarded as prohibitory a further estimate of R3,124 was submitted for improving the supply of the hospital, that is, the hospital only. Owing to to the late date at which the estimate was received, provision could not be made in connection with the estimates for the current year so that no steps have as yet been taken.

ROADS.

The Hon. the PLANTING MEMBER:—Sir, I would ask:—

When Government intended to amend ordinance No. 28 of 1892 in accordance with the promise made in the letter of the Colonial Secretary to the Planters' Association of November 16, 1894?

This has been the subject of some previous correspondence between Government and the Planters' Association. It has been found impossible, when it is necessary to appoint Local Boards for the different districts, to get the acreage required, that is ⅔rds of the acreage in the districts properly represented. Meetings have been several times held and have fallen through because there was not sufficient representation and the wish of the Association is that instead of the ⅔rds which is now required not less than ½rd should be held to be sufficient for the purpose of the Ordinance. In the letter referred to in my question, a promise was made that the alteration would be made by Government, if, on further consideration, the Association still held the same views. The Association still holds these views and hopes a change will be made. The matter has apparently dropped since the last disscussion and I hope an alteration of the Ordinance will be made at an early date.

The Hon. the Acting COLONIAL SECRETARY:—It was the intention of Government to amend the Ordinance as promised, but other amendments in the direction of giving more accommodation to the proprietors of estates desiring to have roads constructed on this system having been proposed, the subject was not finally considered and a Bill has not been prepared for this Session, but it will probably be dealt with when Council re-assembles for business.

THE DISMISSAL OF MR. LE MESURIER.

The Hon. the MUHAMMADAN MEMBER:—With your Excellency's permission, I will ask the question which stands in my name in order to clear up a misunderstanding prevailing among a considerable section of Muhammadans—

Whether the dismissal of Mr. Le Mesurier, an officer of the Civil Service, was the outcome of his conversion to the faith of Islam, or of any other illegal acts of his own?

The Hon. the Acting COLONIAL SECRETARY:—Sir, in reply to the Hon. Member's question, I have to state that the cause of Mr. Le Mesurier's dismissal from the Public Service of Ceylon was not that he professed the Muhammadan faith, but that, in purporting to marry a lady by Muhammadan rites, while his legal wife is alive, and not divorced, he has acted in a manner which renders it impossible to retain him in the Public Service.

The Hon. the MUHAMMADAN MEMBER:—Sir, I am perfectly satisfied with the answer to my question; and it is gratifying to know the attitude of Her Majesty the Queen's Government in tolerating religious differences.

A QUESTION WITHDRAWN.

The Hon. the PLANTING MEMBER:—Sir, I ask for permission to withdraw the next question in my name. I understand that the Hon. the Attorney-General is perfectly willing to give me the information required when the whole of the papers and the facts are laid before him and also because, in some respects, the facts have not been quite correctly reported to me.

H. E. the LIEUT.-GOVERNOR:—I take it that permission is granted.

PERMISSION GRANTED AND QUESTION WITHDRAWN.

The question standing in the hon. the Planting Member's name was as follows:—

Whether in the criminal case No. 11,282 in the Police Court of Rakwana, Rakapen, Head Kangany, vs. Annavi, of August 20th last, the Police Magistrate of the Court should not have heard the evidence for the defence before submitting the case to the Solicitor-General for instructions; whether if, as is stated, the case was erroneously tried under section 388 of the Ceylon Penal Code, the petition of the complainant for a new trial under section 22 of Ordinance No. 11 of 1865 should not have been allowed; and if the case cannot now be sent for trial under that Ordinance.

THE JAFFNA RAILWAY.

The Hon. the PLANTING MEMBER:—Sir, I beg to ask the next question that stands in my name, viz.:

Whether the Governor will lay on the table the report of Messrs. Ormsby and Waddell on a narrow gauge railway to Jaffna.

I think, sir, hon. members will be of opinion that it is very desirable in view of the present position of the railway question in Ceylon, and

with reference to the question as to whether it is or not desirable to make further railway extensions on a different gauge than the present gauge, that all information that is in the hands of Government should be laid before Council and before the public. I am not sure whether from the strict point of order I should be justified in asking Government to lay on the table a report which I understand is not directly to the Government, but to the Commission which is sitting on the Jaffna Railway; but if it is possible I hope the information will be given. Information of this kind is all necessary at the present time in order that people may form upright and correct opinion on this very important question.

The Hon. the Acting COLONIAL SECRETARY:—Sir, the report of Messrs. Ormsby and Waddell on the railway to Jaffna is a report made at the request of, and for the information of, the Northern Railway Commission, and is at present under consideration by that body. It would, in the opinion of Government, be premature to lay that report or a copy of it on the table of Council at present, but in due time the report will be printed as a sessional paper and dealt with in the usual form: that is really the position. Government has asked for a report and had it printed for the use of the Northern Railway Commission, and until Government receives a communication from the Railway Commission on the subject, Government considers it would be premature to lay the report on the table.

WELCOME TO THE NEW GOVERNOR.

The Hon. the TAMIL MEMBER:—Sir, before the other business of the day commences, I would ask your leave to make a motion. Following precedent on similar occasions, I think it is right that this Council should be the first to tender to the Representative of Her Majesty the Queen a cordial and respectful welcome. It is therefore my duty to move that a Select Committee be appointed to prepare an address of welcome to the new Governor, Sir Joseph West Ridgeway, on his arrival in the Colony.

H.E. the Acting OFFICER COMMANDING THE FORCES seconded, and the motion was unanimously agreed to.

The Hon. the TAMIL MEMBER:—Sir, I would move that the Select Committee should consist of the Hon. the Colonial Secretary, the Hon. the Treasurer, the Hon. the Attorney-General, the Hon. the Principal Collector of Customs, the Hon. W. W. Mitchell, the Hon. A. de A. Seneviratne, the Hon. Sir John Grinlinton and the mover. —Motion unanimously agreed to.

THE RETIREMENT OF DR TRIMEN.

The Hon. the Acting COLONIAL SECRETARY:—Sir, I move—

That there be granted to Dr. Trimen, on his retiring on pension from the office of Director of the Royal Botanic Gardens on July 1st next, a sum equal to the difference between his present full pay and his pension for the last six months of 1896, in order that he may be able to devote that period to the completion of the Handbook of the Ceylon Flora, on which he has been so long and successfully engaged.

The notice of motion puts so fully before Council the desire of Government in this respect, that very few remarks from me will be necessary. Dr. Trimen, as is known to members of Council, is present on leave. Dr. Trimen has been unfortunately in a bad state of health for some time; and the Secretary of State has directed, owing to the absence of improvement in his state of health, that he should retire from the Public Service on the 1st of July next. Were Dr. Trimen to retire without having completed the work which he has on hand, it would be a very great loss, Ceylon and indeed to science in general; I should mention it is absolutely necessary from the way in which this work has been carried on up to the present, that it should be completed locally—that the person completing the work should be resident in Ceylon—and for this reason it is necessary that Dr. Trimen should return to Ceylon. It is further proposed—and it has received provisional sanction of the Secretary of State—that Dr. Trimen should return to Ceylon, that he should retire from the Service on 1st July, and while a successor should be appointed from that date he (Dr. Trimen) should, for the period of six months from 1st July, be allowed to draw the same pay that he is drawing at present, or at least the full pay of the office he holds, in order to give him reasonable time for the completion of the 4th volume of the work he has on hand. The motion would be more complete were I able to say the exact amount the Council would require to vote. I am not able to give the precise amount for the reason that Dr. Trimen, in common with other non-domiciled unofficers, draws what is known as exchange compensation. As the amount of exchange compensation varies from month to month, it is impossible to say precisely what amount the Council will be asked to vote. Of course, the precise amount will be put before the Council subsequently in connection with the supplementary estimates. I can tell the Council approximately what the amount will be. Dr. Trimen's salary for six months—his full pay for six months—would be R4,000, which, with the exchange compensation on the assumption that the average rate would be 1s 2d for the six months, of R571·43, makes a total sum of R4,571·43. The pension that Dr. Trimen would be entitled to for the same period would be somewhere about R1,333·33, so that really the sum I am asking Council to give Dr. Trimen is a matter of R3,238·10.

The Hon. the Acting AUDITOR-GENERAL seconded.

The Hon. the TAMIL MEMBER:—I think the work is of such great usefulness that the Council should have no hesitation in voting the sum of money asked for. I have great pleasure in supporting this resolution.

The Hon. the EUROPEAN MEMBER:—I also have great pleasure in supporting what has fallen from my hon. friend on the right (the Hon. the Tamil Member). I do not think any gentleman who has been in Ceylon has shown himself more capable, and has been more desirous of doing good to the Island, than Dr. Trimen. I would propose that the resolution be carried unanimously.

H.E. the LIEUT.-GOVERNOR:—The question is that the resolution moved by the Hon. the Acting Colonial Secretary be carried. From the observations made both by Official and Unofficial Members I gather that the motion will be carried unanimously.—Motion carried.

THE TELEPHONE IN COLOMBO.

The Hon. the Acting COLONIAL SECRETARY:—Sir, the next motion standing in my name is also to ask Council to vote a sum of money. It is—

That a sum, being the equivalent of £2,500 sterling, be paid to the Oriental Telephone and Electric Company in full settlement of claims on the non-renewal of their licenses under Ordinance No. 16 of 1882, after December 31st, 1895, and on the transfer to the Government of Ceylon of the plant of the Company's Telephone Exchange in Colombo.

It is probably within the knowledge of hon. members that the Government has had for some

time in contemplation the desirability of adding to the telegraph system a telephone exchange, and that the Government has also had negotiations going on with the Company that has up to the present carried on the work of telephone exchange in Colombo. Well, sir, the operations of this Company appear to have commenced as far back as the year 1882 or 1883. In the first instance they held a license for a period of seven years, and then the license was renewed over a period of five years and finally for a period of one year—the last terminating on 31st December. Government determined, owing to the contemplated action on their part of having a telephone exchange in connection with their telegraph business, and, I must say, owing also to the unsatisfactory manner in which the telephone exchange was managed by the Company, not to renew their license after 31st December and gave notice to that effect. The Company contended that they were being badly treated in respect of the fact that they had invested a considerable amount of capital in the Colony in connection with this telephone exchange, and that Government, when determining not to renew the license, ought to take over their plant giving them its value which they put at £4,000 and that Government should pay to them £2,000 in respect of what they called their goodwill. They wanted Government to make them a total payment of £6,000 On the matter being submitted to the Secretary of State he, having consulted the Postmaster-General in England, advised the Government to have a valuation of the plant and of the telephone exchange made and that the company should be offered the value of the plant in full satisfaction of any claims they might have. This was done; an officer of the Government (the Superintendent of Telegraphs) made a valuation of the plant which he put down at R20,649. That sum was offered to the Company and was rejected by the Company, which stated that the amount was inadequate. Subsequently the Company made a proposal to the Government that they would hand over their plant and would accept payment of the sum of £2,500 in satisfaction of the value of the plant and of all claims they might have against Government for taking over the business. On this being submitted to him, the Secretary of State has sanctioned the proposal, and, in anticipation of the sanction, of this Council the Postmaster-General has been directed to take over on behalf of Government the telephone exchange, and in future its business will, we hope, be conducted in a satisfactory manner. I should mention to Council that the Telephone Company held that they had originally invested capital to the extent of £5,000 in the Island, and they valued the share of the investors' rights and other matters of that kind at another £5,000, so that their contention was that they had invested a matter of £10,000 in Ceylon in connection with the exchange. They also represented the local business of the Company to be as follows:—Gross revenue R14,500; working expenses R4,200—thus leaving on hand an annual revenue of R10,300. I now move the resolution as given above.

The Hon. the Acting AUDITOR-GENERAL seconded.

The Hon. the MERCANTILE MEMBER:—The telephone has now become esteemed essential to the carrying on of business in every civilized centre. Communication which must, in these days, be rapid cannot very well be carried on by any other means. I have listened to what has been said by the Hon. the Colonial Secretary; and the only remark I would make is, that, when Government resolved not to renew the license, I think they ought to have been prepared to carry on the service themselves from that date. I am glad an agreement has been come to. The amount proposed to be paid is reasonable, and I hope in the interests of the Mercantile Community that facilities for telephoning will be largely increased.

The Hon. the TAMIL MEMBER:—Sir, I do not wish to divide Council on this matter, but I must say, that you are proposing to pay for what is absolutely worthless machinery which the Postmaster-General will very soon put away into one of the lumbers rooms in the Post Office. The telephone was established here in 1882, and, under the agreement, when the valuation of the Postmaster-General was rejected, the proper course was to have referred the matter to arbitration in terms of Ordinance 16 of 1882. It is perfectly incomprehensible that a sum of very nearly R60,000 should be paid for a thing like this. It is not like buying the goodwill of the company. It was stated that the Company made a clear profit of R10,000. The ymight have made a profit of R100,000, but that did not improve the fact of Government having purchased a worthless article. While making these remarks I am at one with my hon. friend (the Mercantile Representative) as to the necessity of the telephone in this Colony, but that is on reason why money should be thrown away in this fashion.

The Hon. the EUROPEAN REPRESENTATIVE:—Sir, we should not lose sight of the fact that on the introduction of any new system into a country; more especially into an oriental country, there were losses which had to be borne by the persons who introduced it. The Company had an establishment to keep up and they had to pay monthly salaries. They brought out a considerable quantity of plant and all those things had to be paid for. They had introduced what is admitted to be a necessity; and in these circumstances Government are saved these losses which they would have had originally to have borne if they had introduced the telephone, and it is only reasonable and proper that some compensation should be paid for that. I don't think the sum of R2,000 that is named here is anything extravagant taking into consideration the large sum of money the Company must have spent in the Island.

H. E. the LIEUT.-GOVERNOR:—Before putting the question to the Council I wish to reply to a few remarks which have been made. The hon. member who represents the mercantile community said something about Government not having been prepared with its own scheme. Government was quite prepared to go on, but those who were endeavouring to secure more liberal treatment from the Government were successful in getting the requisition for supplies stopped. I was strongly opposed to Government attempting to carry on a telephone exchange with the plant of which there had been so much complaint. It is not the fault of the Government that they were not ready with their own exchange when the license expired at the end of last year. With regard to what the hon. the Tamil member said, that the proper course would have been to have adopted the valuation, I think that provision can come into force only under certain circumstances, where we give notice to determine the license during its term of renewal. In this case we had determined the license, and it was only when the Company had received our notice of determination that any

question of valuation arose. It was then too late to put in force the powers of the Ordinance to which the hon. member has referred and for my own part I should not have been altogether satisfied that Government would have been very tenderly dealt with if Government had resorted to arbitration. Its experience is not in that direction.

The Hon. the TAMIL MEMBER, in whose name stood the following motion—

Referring to the by-laws of the District Committee of Jaffna, published in page 670 of the *Ceylon Government Gazette* of December 6th, 1895, to ask under what Ordinance the Provincial Road Committee, Northern Province, is said to have "approved" them, and to move for papers—

said :—Under section 3 of Ordinance No. 19 of 1891 all public markets in the Northern Province are vested in the District Committees and section 6 of that Ordinance gives that Committee and no other Committee power to make by-laws. In no part of this Ordinance is there any power given to the Provincial Road Committee to approve or disapprove of any by-laws passed by the District Committee. Why, then, should the *Government Gazette* contain a notice and why should the Colonial Secretary sign a notice in which it is said the Provincial Road Committee approves of the by-laws prepared by the District Road Committee? I was obliged to bring this matter to the notice of Your Excellency and this Council in view of the fact that for some time past not only have members of the Provincial Road Committee been allowed to approve and disapprove of the proceedings, but they had actually been allowed to take part in the proceeding of the District Road Committee. Happily these times are passed, and I think the present Government Agent for the Northern Province will not allow such irregularities in the future. I thought it was necessary to bring this matter before Council, my notice of motion having been made before I knew anything about the change in the Government Agency; because not only in this District Road Committee but in other District Road Committees no such slur may be allowed of having their bye-laws revised by a Provincial Road Committee which has nothing whatever to do with a District Road Committee.

The Hon. the SINHALESE MEMBER seconded.

The Hon. the Acting COLONIAL SECRETARY:—My answer is to the effect that before the notice of motion was received, the subject had been brought to the notice of Government by the Government Agent of the Northern Province, and the Government having taken the opinion of the Attorney-General, informed the Government Agent that the approval of the Provincial Road Committee is not required. I think the hon. member will admit it was quite unnecessary to have imported into the discussion the remarks he had made regarding the gentleman who acted as Government Agent for the Northern Province.

The Hon. the TAMIL MEMBER replied that in view of the the fact that the Hon. the Government Agent for the Northern Province had been a party to introducing members of the Provincial Road Committee into a discussion of the proceedings of the District Road Committee he was quite justified in his line of action. He would not now press for papers.—Subject dropped.

THE POLICE FORCE AT CHILAW.

The Hon. A. DE A. SENEVIRATNE in terms of notice moved—

For papers connected with the Police Force proposed to be established at Chilaw.

He said :—Since I made this motion, I have received a petition on the subject: I have not thought it proper to present that petition today because the points that are dealt with in the petition are such as I think would be unnecessary to lay before Council. One of the points, I may mention, is that it was stated in the local papers that the reason for the establishment of a police force was that it was necessary to legalize the levying of an assessment tax under the Local Board. I feel sure that Government have no such idea and I take it rather that the Government were impressed that Chilaw was unruly and that police protection was necessary. I think that impression was wrongly formed. I believe the refusal in the part of some people who were selling on the market, which was lately built, to pay rent for the use of the market had something to do with the idea that there was resistance to the Local Government. However, I do not think that discloses a troublesome spirit on the part of the inhabitants of Chilaw. When the prosecution instituted for non-payment of rent such default being a breach of a by-law (3) was considered by the Supreme Court in appeal, it was held that the by-law under which the prosecution was laid was *ultra vires* and that the people who were charged could not be punished for resisting the levying of this rent. I do not think they ought to be considered unruly people because they went to the courts of law to settle this point. I have been furnished with a copy of the judgment of the Supreme Court. It is in the case 8,736 of the Police Court of Chilaw and the judgment appears to have been pronounced in the Supreme Court on 27th August, 1893 and it was held that the by-law was *ultra vires* of the powers given by the Ordinance either for the Local Board to make, or the Executive Council to sanction. (Proceeding) he said: I trust that this matter will be considered anew by the Government and that it will not be found necessary to establish a police force at Chilaw. I learn from the petition that the Local Board has met since the last discussion and that they have agreed on behalf of the people to pay the assessment tax so that there can be no difficulty about it.

The Hon. the TAMIL MEMBER seconded.

The Hon. the COLONIAL SECRETARY replied that the decision to have a police force was the result of a personal interview between the Governor and the Government Agent of the Province.

H.E. the LIEUT.-GOVERNOR assured the Hon. the mover that the subject would receive favourable consideration, and the subject dropped.

ABANDONED LANDS RESERVED BY GOVERNMENT.

The Hon. the MERCANTILE MEMBER:—Sir, I beg to submit the motion which stands in my name, to move:—

For a return of allotments of land, or abandoned plantations, resumed by Government under Ordinance No. 4 of 1887, showing date of resumption, extent, situation, name of land (if any), and previous owners (where known); also of lands taken up for public purposes under Ordinances No. 3 of 1876 and No 6 of 1877.

I understand that the preparation of such a return would involve a great deal of trouble if the latter clause—"Also of lands taken up for public purposes under Ordinances No. 3 of 1876 and No 6 of 1877"—were complied with That being the case I am content to omit the clause from my motion. The return I ask for, in my opinion, would be very useful and very interesting.

The Hon. the EUROPEAN MEMBER seconded.

The Hon. the Acting COLONIAL SECRETARY:—Sir, as the motion now stands, there is no objection on the part of Government to meet the wishes of the hon. member. As the motion originally stood it would have taken months to prepare the return.

RAILWAY EXTENSIONS BEYOND NANUOYA.

The Hon. the EUROPEAN MEMBER:—Sir, I now take the liberty of moving the motion that stands in my name:—

That the following information be furnished, in addition to that supplied in Sessional Paper XXXVI. of 1895, in so far as the extensions beyond Nanuoya are concerned, viz:—The amount of the original estimate on the two sections (Haputale and Bandarawela), each distinct, of rock-cutting in cubic yards, cost per yard, and total, and the results in cubic yards, cost per yard, and total as actually paid for, with similar information for the earthwork in each of the two sections.

Sir, it will be in the recollection of members of Council that, in October 1889, I moved for quarterly returns of the progress and expenditure on the Haputale-Bandarawela extension. The returns were obligingly furnished in so far as it was considered advisable to furnish them, but they lacked some information I would gladly have had supplied. However, I thought it prudent not to ask for more information but to wait until such time as the work was completed and then to ask for any information that might be needed. My absence from the island on public duty for a considerable period—during two successive years—caused the matter to lie over until such time as my attention was directed to certain matters which were considered not to be what they should have been, and which were reported in the public press in connection with steep cuttings, faulty masonry work, and, more recently, with regard to bonuses paid to the staff; and I considered if these statements were inaccurate the sooner they were put right the better. If the bonuses have been earned and well deserved I have nothing to say; but I do think these things are far better to be discussed in a responsible assembly like this than to have them smoulting out of doors. The information has been obligingly supplied in furtherance of my motion of October last and is now supplied in sessional paper 36 of 1895. The information in that return is exactly what I asked for, but as I wished for further information in the motion of today, it has courteously been given by the Government in anticipation of my remarks on this motion. I am also able to say that the information asked for today has also been supplied in each particular. I am therefore in a position to speak on the subject from official documents placed at my disposal and which, I believe to be correct: I would here remark that I think it desirable I should read a portion of the report of the Commission of 1886, presided over by Sir Clementi Smith. In that report there is a paragraph which has a particular bearing on the estimate on which the line has been worked. The paragraph is

No. 10—Mr. Waring's estimate for making the line on the Departmental system was R5,987,649. He has himself examined the whole trace and he now considers that that amount can be properly reduced by the following sums for the purposes of this report, viz.: maintenance for one year R76,191 R200,000 (see para 31 of his report) and R25,358 (see para 46 of his report); the total for construction therefore being R5,685,100. This reduction on the original estimate is further increased by a sum of R46,124 which Mr. Pearce informs us, from experience that he has gained, will be saved on the estimate for rolling stock (see appendix C of Mr. Waring's report). Thus the total cost of making the line and opening it for traffic will be R5,640,000.

When I take up this report and contrast it with the estimates given in the sessional papers No. 36 of 1895 laid on the table of this Council, I find that the last estimate made for the line from Nanuoya to Haputale is R6,500,000, being in excess of the estimate which Mr. Waring approved of in 1886 by R860,000. It is not within my knowledge, but it may be within he tknowledge of hon. members when the estimate for R6,500,000 was laid on this table; I have no recollection of it myself. I may have been absent from the Island and may not have heard of it, but certainly I have no recollection of it having been laid on the table. I think I may make this remark, as bearing on the subject, and also that it is very commendable of the officer who made the first estimate approved of by Mr. Waring that the estimate should be within R19,692 (a simple nothing) of the actual cost of the railway presented here the actual cost being R5,659,692 and the first estimate is as I said R5,640,000. How the estimate ran up afterwards to R6,500,000 remains to be explained; and I think if an explanation has not already been given to this Council on this subject an explanation is due to it. I now, sir, come to analyse the returns; and first of all I shall deal with the return which has been presented to Council in reference to the details of rock-cutting and earthwork excavation. On the Haputale-Bandarawela Railway, rock-cutting was estimated at a total of 1,107,273 cubic yards on the two extensions—the Haputale and Bandarawela extensions—and the total cost of that work (rock-cutting) was estimated at R1,714,035. The actual results over the two sections being only 666,006 cubic yards of rock-cutting at an expenditure of R956,335 the difference in rock-cutting being 441,267 cubic yards which is an enormous difference, nearly amounting to half the original estimate and the difference in cost is R757,700. With reference to the earth-work I find that the total number of cubic yards estimated for was 1,140,546 at a cost R623,151, whereas the actual result was 2,333,487 cubic yards and the cost R963,809. Now, to a person uninitiated in these things, and not up in figures, one of these groups of figures might seem to counterbalance the other. The difference in the cost of earthwork and rock-cutting is as 1 is to 3 or more nearly as 1 to 3½, that is, the cost of rock-cutting is about 3½ times more than the cost of earthwork. In this connection I would say that in consequence of a mistake in estimating too largely it is an easy matter to be within the original estimate, and to save upon it. With regard to the bonus question I have not a word to say against the Resident Engineer or against any person in the Department. I am not speaking against individuals. I am speaking entirely of the principle: more especially do I say that the principle should always be discouraged of the senior officer himself receiving a bonus. If the Department were under my orders I would no more think of receiving a bonus for my own individual work than I would of flying. (Laughter.) A man is paid for his work: let him do it well and allow his own conscience to say "you have done well" even though Government may not pat him on the back. I am obliged to remark on one name, that of a gentleman who has received a bonus, and that is the Accountant's. I do not know the Accountant personally. Perhaps I may have spoken to him once in my life. I have always heard him spoken of as a very excellent officer and very capable, but I really cannot see under what

circumstances the Accountant could have been of value in keeping down the estimates of work done under contract in the several districts. It may be shown to me that he did excellent work and effected savings in his way, but I must confess I cannot understand it. So much has been said about the recent slips over this line the expenditure that had to be incurred, and the inconvenience occasioned to the public, that I think it would have been well had payment of these bonuses been delayed for a period, and, most unquestionably, the work ought to have been inspected by an independent person. I do not care who the man is in charge of a work, where you have a large work, it should always be inspected by an independent person. I have here a copy of Major Wilson's report on the Ceylon Railway system. Major Wilson was brought here at the request of this Government to report on the Railway; therefore we may receive his remarks with authority; and with your Excellency's permission and the permission of Council I shall read what he says on the subject of independent inspection:—

"The mistake seems to have been in the method of constructing railways adopted in Ceylon. In India there is a Railway branch of the Public Works Department, the officers of which (all trained Railway Engineers) first survey the line and then construct it. The line when ready for opening is carefully inspected by an independent Government Inspector, and until this officer passes the line. Government does not grant permission to open it. In Ceylon, on the other hand, the line is surveyed by the Surveyor General's Department and is constructed by another department which works under the orders of the Railway's Consulting Engineers in England, who, it is understood, have never once visited the country. This construction Department is practically independent of the Government itself. Finally when the line is reported complete there is no independent inspection but it is handed over to the General Manager to incorporate in his existing system complete or incomplete. Moreover, if the line is incomplete the defects have to be made good for the most part at the expense of revenue."

Hon. members on the side of the House on which I sit have repeatedly in Committee and out of Committee urged upon Government that all expenditure on these lines, more particularly initial expenditure, should be met out of capital account, and not charged to working account. It is not a system that would be followed by mercantile men or by any men who had to account to a shareholders' meeting for their acts. Government has adopted a system which I do not think is a good one, inasmuch as it would lead people to suppose that the railway was not paying, whereas the railway is paying, but if you charge such works to revenue you can show it as if it paid nothing at all. Here is what Major Wilson says with regard to capital account:—

"Care should be taken that before closing the capital account the line is fully equipped; in other words, the capital account should be kept open until the completion reports are all submitted. It is understood that in the case of the Ceylon Railway about a million rupees has had to be spent on additional rolling-stock to meet the requirements of the extensions which should undoubtedly have been provided for in the original estimates. Similarly between R50,000 and R60,000 have been spent and more has to be spent on additional machinery required in the workshops to meet the additional work caused by the extension of the line and large some have been spent in enlarging the workshops to enable them to hold this machinery. All these works are fairly chargeable to capital. On Indian State Railways the capital account is never closed. Every year a capital budget for each railway is submitted to and sanctioned by Government according as the funds are available. The principal followed in India is to charge all absolutely new additional works to capital, also works, which, although not strictly additional, are improvements of existing works. . . On Indian Railways new works chargeable to revenue are termed "new minor works." They are sanctioned by managers up to a maximum of R25,000 for each work provided that the expenditure in any one year is kept within the limits of R150 per mile open. All new works costing less than R1,000 each must be charged to new minor works.

I now come to the Galle portion of the line. I have said all I need say on the subject of the Haputale line and the expenditure on rock cutting, the allowance for which is the cause of the large excess on which bonuses have been paid. I maintain that not a single cent of these bonuses should have been paid on any part of that excess, more especially as the estimate was R800,000 above the estimate at first authorized and on which that line was authorized to be constructed. With regard to the Galle Line on looking at Sessional Paper No. 36 of 1895 I find that the estimated cost of the Alutgama to Galle line is R3,847,550, but there is a sum of R473,638 chargeable to it within the two first years of its being handed over. I recollect in this Council having made remarks on this very subject before I had the authority I now have in my hands and, with the approval of my hon. friend on the right, urged strongly that it ought to have formed part of the original cost of construction. I do not wish it to be understood that I take exception to the opening of the line at the time it was opened, nor to take away from Sir Arthur Havelock the undoubted credit of opening that line for the public convenience—it also enabled earnings to be made to meet the interest of the capital, but what I do object to is that any portion of the money spent within these two years should be charged to Current Account. It should be charged to Construction Account and should form part and parcel of the amount the railway cost. Had such been the case the amount of the estimate would have been exceeded approximately by the sum of R200,000. Owing to the very expensive nature of the line no bonuses were paid on this part. These remarks have been made after due consideration and I trust I have not said more than the circumstances required.—I will read again from Major Wilson's remarks one or two matters which may be of interest. Speaking of the line to Bandarawela he says:—

Again if the Badulla District and not Bandarawela is the ultimate goal to be reached by the railway it seems to a mistake to have carried the line over a height of 6,200 feet to reach an elevation of some 2,000 ft. if another line could have been taken from Kandy to Badulla practically on the same level.

Taking the line however, as constructed it may be stated that the trace is distinctly bad.

With regard to the Coast Line, Major Wilson says:—

The coast line which might have been run almost straight from one end to the other abounds in nasty short 10-chain curves

I think that fairly reveals what the line is. This is how Major Wilson speaks of the permanent way on the Ambalangoda Galle extension:—

The figures given in the table (appendix E) show that there has been a steady expenditure during the last few years on renewals of rails and sleepers and in 1894 the cost of providing additional ballast went up some 25 per cent owing to the necessity of providing a sufficiency of ballast for the Ambalangoda-Galle extension, a work which should have been charged to the original capital account of the extension.

I maintain that a line like that should have been well ballasted before ever a train ran on it, and the ballast should be charged against the Capital Account. These are the remarks of an officer who inspected the lines himself, who went over the lines at the desire of the Ceylon Government. They are not my remarks. I use them because I think it is right I should do so, and I do trust Government may see fit to make inquiries regarding these matters I have pointed out today, and obtain information at any early date, so that the Council may have that information before it. I leave it with confidence in the hands of the Government and I hope that it will be ready in good time so that I may read it and comment on it before I leave the island in February. I am very much obliged to Your Excellency and hon. members for having listened to me.

The Hon. W. W. MITCHELL:—Sir, I beg to second the motion made by the hon. gentleman who has just spoken.

The Hon. the Acting COLONIAL SECRETARY:—Sir, I preface my remarks by laying on the table the return for which the hon. member asks. I would also, at the same time, take the liberty of laying before the Council the information given in the sessional paper No. 36 of 1895, which has been so frequently quoted, in the form in which it has been furnished by the Chief Resident Engineer. Now, sir, after all that has fallen from the hon. member, I must occupy the time of Council for a few minutes by trying to set him right in details in a few particulars. The hon member, sir, commenced by calling our attention to the report of the Railway Commission of the year 1886 presided over by Sir Cecil Clementi Smith and he called our attention to paragraph 10 of that report in which Mr Waring is stated to have given his assent to the construction of the Nanuoya-Haputale Line for R5,640,000; and the hon. member calls attention to the fact that the estimate, as it appeared in the sessional paper No. 36 of 1895, was for a very much larger amount—R6,500,000. The hon. member, I understood to say, that no communication had been made to this Council with regard to that revised estimate, and that no revised estimate of that character, or any information in regard to it, had been laid before this Council. I would call the hon member's attention to sessional paper No. 3 of 1886 which he quoted from in the very first instance. I would call the hon. member's attention to sessional paper 40 of 1886, which contains a despatch dated 7th Jan. from the Secretary of State to the Governor, Sir Arthur Gordon, and a communication from the Consulting Engineer, Sir C. Hutton Gregory, of date Nov. 23rd 1886 to the Crown Agents. In that letter Sir Charles Hutton Gregory says:—

"Gentlemen,—In anticipation of a more full report which I hope to send you very shortly, I have the honour to state that adopting as a basis Mr. Waring's final estimate in his report of May 25, 1885, and modifying it in certain particulars, to which I shall hereafter more fully allude, my estimate for the construction and equipment of the line from Nanuoya to Haputale amounts to R6,843,827. This is on the assumption that the works of construction shall be carried out by contract as on the extension to Nanuoya."

(I am reading from a paper which is ordered by His Excellency to be printed as a sessional paper.) He (Sir Charles Gregory) goes on in the next paragraph of the same letter to say if the works of construction were carried out departmentally he should expect to see a saving of between R300,000 and R400,000 and in the third and remaining paragraphs he comments on the figures that were given by Mr. Waring—which were quoted by the Commission as having been given by Mr. Waring. I am not going to delay the Council by further quoting from that letter, as I propose to give much the same information from a fuller report from the same gentleman that is in Sessional Paper No. 41 of 1887 which contains despatches relating to the proposed extension of the Haputale line, in continuation of Sessional Paper No. 40 of 1886. This report from Sir Charles Hutton Gregory deals at some length with the savings contemplated by Mr. Waring in reducing the estimate. I understand the facts of the case to be that Mr. Waring's estimate was originally for a very much larger sum than R5,640,000, but, on being asked to reduce his estimate to the lowest possible figure, he reduced it to R5,640,000 which he hoped would give sufficient provision. Sir Charles Hutton Gregory, commenting on this, says:—

"The most important saving contemplated by Mr. Waring is to be found in the reduction of the formation width for cuttings and embankments, and consequent decrease in the length of the culverts, and in the diminution of the quantity of ballast. In support of this important economy he quotes several cases on other railways, in which a less formation width may be seen, and emphatically points to the much less annual amount of rainfall in the district to be traversed by this extension, than in the district leading up to it. On the other hand, the dimensions adopted on the Indian State Railways, the Madras Railway, the Great Indian Peninsula Railway, and others that might be named, would not support any diminution in the formation width, but rather the reverse, and the large proportion of curves, some of them a very short radius, and on steep gradients, would, I think, render any diminution of ballast a measure attended with some risk, as diminishing the stability of the line of railway. It must be remembered that, although the total rainfall is less along the district in question than on the Nanuoya line, there are frequent rainstorms of great severity, which might not only disturb the ballast, but bring down heavy slips, either of which, in a country of such a rough and precipitous character might lead to danger of a more serious nature. After long and careful consideration, I have come to the conclusion that it would not be prudent to depart from the dimensions adopted on the Nanuoya line."

Sir Charles Gregory's remarks are almost prophetic and, in insisting on the adoption of a larger estimate, he did not err on the side of over-caution. He writes:—

"The additions contemplated in the last three paragraphs amount to R570,128, but from this must be deducted, in order to show the total cost of construction and equipment, the sum of R76,200, which appears in Mr. Waring's estimate, Schedule No. 1 M, for maintenance, which would reduce the total amount of additions to R493,928; and this sum added to Mr. Waring's estimate for the line, if made by contract, of R6,349,899, produces my estimate of R6,843,829 for the total cost of construction."

In the next paragraph of his letter he again repeats the opinion he gave in the previous letter that if the railway were taken up departmentally a saving of three hundred or four hundred thousand rupees would be effected. If hon. members will take that estimate of R6,840,300 into consideration and take from that amount R300,000 they will find precisely the amount of the estimate as published in the sessional paper No. 36 of 1895 that has R6,500,000 estimated for; and yet the hon. member remarked that no revised estimate, and no information on the subject had been before this Council. The

hon. member then proceeded to deal with the information given in the report which I have just laid on the table. He proceeded to discuss the various sums that were estimated and the various sums paid in respect of rock-work and earth-work. The hon. member took these figures in the form in which, I suppose, he considered they were best calculated to give effect to the view he desired to express and the opinion he would have Council to adopt. He took the two sections together. I, however, propose to take them separately. In the first instance, I take the question of the cuttings on the Nanuoya-Haputale section. It will be found there that the first information that is given is with regard to the estimated cost of the rock-cutting and then Mr. Waring gives details as to the actual cost. I should mention that, in framing his estimates, Mr. Waring took as his basis the contract prices on the Nanuoya section, and the contract prices of Messrs. Nowell & Co. were 1·70 for rock-cutting and for earth-cutting 0·60. From these prices Mr. Waring deducted 7½ per cent and having deducted 7½ per cent you get as his estimate of the cost R1·58 for rock-cutting and R0·56 for earth-cutting. Well it turned out exactly as the hon. member says. The quantity of rock excavation was found to be much less than was estimated, while, on the other hand, the quantity of earth excavation was found to be very much greater than was anticipated and I will inform the hon. member a little further in showing how the excess in earth excavation *more than counterbalanced the decrease in rock-cutting.* If hon. members will compare the figures I have given—R1·58 for rock and R0·56 for earth excavation they will see that they are as 2·82 to 1. And it follows then, without in any way affecting the estimates, 2·82 cubic yards of additional earth excavation can be done for each yard of rock excavation remitted. There would thus be, taking the figure of the rock-cutting at 2,979,899 cubic yards, an equivalent quantity of 789,315 cubic yards of additional earth excavation capable of being carried out. But, as a matter of fact, Hon. members can see for themselves, the quantity of additional earth excavation was very much in excess of that; it was 881,731 cubic yards, and the estimates show that there was a saving and the saving was due, not to what the hon. member says, the difference between the rock and earth excavation, but to the fact that the engineers were able to get the work done at a lower rate than was anticipated. They were able to get the rock-cutting carried out for R1·43 in place of the 1·58 estimated and able to carry out the earth excavations at 42 cents in place of the 56 cents estimated. In the cost of the Haputale-Bandarawela section the same circumstances prevailed though not in the same degree. There was there a quantity of rock excavation and it was found very much less than what was estimated. But the price of the rock excavation was more than in the estimate, the Engineer having reduced his estimate in consequence of the experience he had gained on the Nanuoya-Haputale line. In the matter of earth excavation there was a very great increase and also a decrease in the price at which it was carried out, still, the quantity excavated in excess did not come up to the quantity of rock excavation which was found to be unnecessary. I can give the figures: there was a saving of 161,366 cubic yards of rock-cutting, but there were 174,401 cubic yards of earth excavation, in excess, executed. The equivalent quantity of earth excavation to the quantity of rock excavation had it been carried out would have been 248,254 cubic yards so that there was a considerable saving in the direction the hon. member pointed out. The Hon. the European Member went on to discuss the subject of bonuses and I understood him to say that a man's conscience should be his paymaster in that respect. I am afraid conscience is a very poor paymaster either in respect to railways or anything else. Bonuses were given in respect of the work done on the Nanuoya-Haputale Line and these bonuses were given with the sanction of the Secretary of State on the strong recommendation of the Consulting Engineers. The hon. Member took special exception to the bonus that was paid to the Accountant of the Department. Well, sir, I do not think that the hon. member's observations in that respect will meet with the approval of members generally; and, coming from a gentleman of his large experience, from a practical man such as he is, I was rather surprised to hear it, because any one who knows anything whatever of a department of that kind, either Railway Construction or Public Works Department, knows how very material it is to have able and efficient assistance in the matter of accounting. The Accountant's work is a matter of extreme importance and in the matter of expenditure, there is no one connected with the work who can give greater assistance or do more to secure a saving and prevent waste than the accountant. He knows his business and he is *daily seeing the expenditure going on*; he is in a position to call the attention of the engineers to any over-expenditure or what he may consider a possible waste; and his recommendations and observations are more likely to result in a saving of money than those of any officer employed on the line. The hon. member went on to quote from Major Wilson's valuable report. In the first instance, I believe, he read the paragraph on page 2 of the report. Now there are some statements in Major Wilson's report on which I should like to say a word Major Wilson, of course, made his report entirely independent of Government and, with regard to the paragraph quoted by the hon. member, I am not prepared to accept the statements therein contained as being absolutely correct. He says: "In Ceylon, on the other hand, the line is surveyed by the Surveyor-General's Department." I do not think that is quite correct. The line may be surveyed by officers from the Surveyor-General's Department, but those officers act under the direction of the Engineer of the line. The survey is not made by the Surveyor-General's Department. Then he (Major Wilson) says: "This construction Department is practically independent of the Government itself." To that, too, I take exception. I have seen no indication of that. Everything in the shape of estimates and every essential matter has to get the approval of Government. Government does not interfere with the Engineer's Department in the matter of details. If Government did, it would be impossible for the construction to be properly carried out, but so far as saying it is independent of the Ceylon Government that is certainly incorrect. It is stated in the report that "when the line is reported complete there is no independent inspection, but it is handed over to the General Manager to incorporate in his existing system complete or incomplete. Moreover if the line is incomplete the defects have to be made good, for the most part at the expense of revenue." I understand, when a line is completed, that the Chief Resident Engineer invites the General Manager to go over the line and inspect it and say if he is prepared to

take it over. A man of experience, like the General Manager is about the last person to take over, anything he does not consider complete. And if he and his officers get an opportunity of seeing the condition of the line before it is taken over, I think as much is done as the permanent staff at the disposal of the Ceylon Government can be expected to do. With regard to the statement that defects have to be met, for the most part, out of revenue, to that I would take exception. So far as my experience has gone, defects which have been discovered on a line have been made good out of the construction account. As long as the construction accounts are left open all defects are charged to the cost of construction. The Hon. the European Member then went on to offer some remarks with regard to the line from Alutgama to Galle. In connection with that line he pointed out that a very large expenditure had been incurred subsequent to the opening of the line, and I understood from the hon. member that his impression was that that expenditure had not been charged to the construction account. If such were the impression in the mind of the hon. member I would hasten to remove it, and to assure him that the whole of the sum has been charged to the construction account.

The Hon. the EUROPEAN MEMBER :—I am glad to hear it.

The Hon. the Acting COLONIAL SECRETARY (continuing):—If the hon. member refers to the paper I have just laid on the table, a copy of which I gave him before the meeting of Council, he will see that under the head of "cost" in the 7th column, the total cost of the line from Alutgama to Galle was R4,139,204; and he will see in the next column there was an excess in the estimate of R291,634. That may remove any misapprehension the hon. member may have on that point. The reason for delay in carrying sums to that account was two-fold. In the first instance, being desirous of opening the line as early as possible, the line was opened before certain works that were not absolutely necessary had been completed. These works had to be completed subsequent to the opening and were completed at the cost of the construction account; and the details in respect of them can be given to the hon. member at any time he pleases. Besides that, very large expenditure was incurred to by persons connected, but not practically interested, in the sense that the engineers are connected with the construction of the line, and many accounts for material sent out were not received in time to be carried to account prior to the completion of the line. Those accounts were received subsequently and paid, and the amount, shown as paid subsequently to the opening of the line are charged to construction. The hon. member quoted Major Wilson's report about some details charged to the cost of maintenance on the Galle line which, I believe, represent a sum of R11,000. There was a dispute arose between the General Manager of the railway and the Chief Resident Engineer as to which department was liable to pay for that amount of ballast and the subject was referred to England to the Consulting Engineers, and the Consulting Engineers, after full consideration of the merits of the case on both sides, decided that the case was one where the cost should fall on maintenance and be defrayed by the General Manager. The hon. member also gave from the report Major Wilson's opinion on the trace from Kandy to Badulla and in respect of the line from Alutgama to Galle. With regard to the former I have nothing to say. Hon. members know they cannot make a railway by drawing a straight line. There are a great many things to be taken into account, the matter of traffic, estates to be served, and such like, and all these things were taken into consideration in laying out the line as it has been laid. With regard to what he says as to the curves and gradients on the Coast line I think it is only just to the construction department I should mention this, that when that section or extension from Alutgama to Galle was about to be made, the Chief Resident Engineer consulted the General Manager asking him what was his sharpest curve and his worst gradient in the existing Coast line and he got the information that they were a curve of 12 and a gradient of 1 in 100 respectively. The Chief Resident Engineer considered that this being so in the beginning of the line, if he gave nothing worse than this in the extension he was doing all that could be desired, and in only one or two cases is there anything approaching that. The worst gradient there is 1 in 132. I must apologize for having occupied the time of the Council; but, having regard to the observations that fell from the hon. member, I feel bound to answer them as well as I could.

The Hon. the EUROPEAN MEMBER :—Sir, I am very much obliged to the Hon. the Colonial Secretary for the lucid explanation he has given. I know, to most persons, it will read well, but to me—well I have yet to be convinced that when you take a cubic yard of rock and a cubic yard of earth, one is of greater measurement than the other. They are exactly the same so far as measurement *in* the soil is concerned; and it is the measurement *in* the soil you are taking into consideration, not when it is taken out. I call that nonsense,—not nonsense on the part of the Hon. the Colonial Secretary, but some mistake in coaching up as we call it. I am not the person who made the statement that the survey of the lines was done by the Survey Department. Major Wilson has made the statement in ignorance of the fact that those officers possibly do work under the Railway Department, that the work was done by survey officers is unquestionably the case. With regard to the remarks that have been made regarding the original estimate of Sir Charles Hutton Gregory these things are all very well. Sir Charles Hutton Gregory sits in his office in London—he has never seen Ceylon—and writes his reports—very able reports and most interesting, but we in Ceylon who have eyes and commonsense know perfectly well what the rates are. The rates mentioned here are reasonable rates per cubic yard; and if the Public Works Department had been asked what the rates were in that locality, as I have asked and as I know, it would be found that rates paid by the Chief Resident Engineer of the Railway were reasonable. I do not mean to say that the rates (not the estimates) are not too high taking them at an average. I think the rates in one estimate high and in the other a little low. But the rates have nothing to do with this large excess of rock-cutting. While the Colonial Secretary was speaking I have added up the total amount of difference, and I can give the result. I may explain I took the lines together and worked out the totals with no motive except for the sake of shortness. I take the two lines, and the difference amounts to R417,052: that cannot be gainsaid. When I take the cost of the estimate for rock and I then take the estimate for earth-work and add

them together and take the actual results of the work and what has been actually paid, the difference is R417,052. I say I have proved my case, let whatever else be said to the contrary. I am thankful for the information I have been given regarding the matter being submitted to Sir Charles Gregory. I requested information and wanted to be informed. Having been informed, I am perfectly satisfied that Sir Charles Hutton Gregory was the individual who increased the estimate and not Mr. Waring. Consequently that is so far right, but it is curious indeed that the amount of the original estimate, approved of by Mr. Waring, should be practically the same as what the work has cost. The proof of the pudding is the eating of it; and I maintain that if the original estimate was sound, the total estimate additional to it was unnecessary, even though it were made by so great an authority as Sir Charles Hutton Gregory, who was never in the island at all. With regard to rainfall here and elsewhere I maintain that the Haputale extension, where it comes down in torrents at certain times of the year, requires exceptionally strong works and you must do without steep embankments. I have heard people say they were glad when they were off that line altogether. I have never travelled on that line, but I may say that on a line like that the greatest care should be taken not to have steep embankments; you should rather slope them off as much as you possibly could. It is useless to contrast Ceylon with India: the circumstances are not the same, and that is a very exceptional line from Nanuoya to Bandarawela. With these remarks I will not detain Council further. I could follow the Hon. the Colonial Secretary further, but I will not do so because there will be another opportunity of doing it.

The Hon. the Acting COLONIAL SECRETARY:—Sir, what the hon. member seems to have lost sight of is that Sir Charles Hutton Gregory in increasing the estimates did so because he did not approve of the quantities submitted by Mr. Waring in connection with his low estimate. That was how the estimate came to be increased; and I intended to call the hon. member's attention to the accounts that are published in the last report of the General Manager where he will see the various details which went to make up the cost of the Haputale and Bandarawela line.

THE BONUS QUESTION

H.E. the LIEUT.-GOVERNOR:—The papers having been laid on the table, I take it that the motion is agreed to. With regard to the statements characterised by the Hon. member as nonsense I may say that, where earth-cutting is substituted for rock-cutting, a very much larger quantity of earth-cutting is done for the reason that rock-cutting can be made more precipitious. As a practical illustration, suppose the cost of rock-cutting to be R3 and of earth-cutting only R1 and the quantity of earth-cutting—the cubic contents—is three times that of rock-cutting, there is nothing to be saved in doing three cubic yards of earth-work at R1 against one of rock at R3. These are arguments and figures which I use for the purpose of illustration. Where rock-cutting is substituted for earth-cutting the amount of earth-cutting is three times more than the rock-cutting. When the hon. member first gave notice of his motion regarding bonuses, I thought he was going back a step, and I made some notes at the time. Far from there being any new policy of Government, in the case of the Colombo and Kandy Railway the contractors received R58,702, being 7 per cent on the estimates. In the case of the Nawalapitiya Extension Messrs. Reid & Mitchell received a bonus of £12,600 stg. and Messrs. Nowell & Co. in the case of the Nanuoya Extension received R52,000. In the case of the Matale Extension I have even heard remarks made begrudging the contractors, the reasonable profit they had made out of it and, notwithstanding that profit they received a bonus of R35,000. I mention all this to show that it was no new policy on the part of Government. In regard to the manner of distribution of bonuses under discussion they amounted to only R48,000 on the whole, and the sum was distributed according to the salaries of 15 officers whose salaries were R110,000 who in that way received as bonus, not quite 6 months' pay.

THE KEROSINE OIL TAX.

The Hon. the PLANTING MEMBER moved—

That His Excellency the Governor's despatch to the Secretary of State for the Colonies, forwarding the Memorial of the Planters' Association and other public bodies on the kerosine oil tax, together with the Secretary of State's reply thereto, be laid on the table for information.

He said:—I think, sir, that this motion almost explains itself. It is brought up for the purpose of obtaining information to be conveyed to those who are interested in this somewhat vexed question. Into the question I do not propose to enter at the present time. The different views of members of this Council on the question are well-known; and irrespectively of any of those views I think all those interested in this question will consider it desirable that as much information as is possible should be laid before Council. The steadily increasing revenue of the Colony points to the hope that before long effect may be able to be given to the promise of the Secretary of State that the reduction of the tax will be considered by Government. It was admittedly imposed as a temporary measure, and the promise is one that ought to be fulfilled on the earliest possible date, if reliance is to be placed on such promises in future. It is therefore with the view of eliciting information that I have brought forward my motion.

The Hon. the MERCANTILE MEMBER:—Sir, I have pleasure in seconding the motion. This tax was imposed to provide for a deficiency in revenue. I am glad, however, that the state of the revenue will admit, if not of its repeal, of a very large modification; and there is now no excuse for continuing it.

The Hon the Acting COLONIAL SECRETARY:—Government is not prepared to lay on the table, without the sanction of the Secretary of State, the despatches on the question. I will not attempt to go into the merits of the question.

The Hon the PLANTING MEMBER:—In that case I must ask the permission of Council, to amend my motion to the extent of asking that the permission of the Secretary of State be requested for the publication of these despatches. I trust I am in order in asking for this amendment, because it is very important these despatches should be published as soon as possible.

The Hon. the Acting COLONIAL SECRETARY:—I do not think it is necessary for the hon. member to amend his motion. If the hon. member wishes to ask the Secretary of State, the Government will have no objection to asking for that sanction.

The Hon. the PLANTING MEMBER:—I should prefer to put it in the motion that the Secretary

of State be asked for permission for the publication of these proceedings, so that it may remain on record.

Motion amended accordingly.

The Hon. the MERCANTILE MEMBER seconded. Motion adopted.

THE GALLE FEVER EPIDEMIC.

The Hon. the TAMIL MEMBER :—Sir, on the 9th December last month there was published in one of the newspapers a statement to the effect that the fever epidemic at Galle was fast subsiding, but that the number of persons treated from 1st August was 12,103. On seeing this statement I made inquiries, and the result is I hold in my hand a summary detailing the sick who attended the hospital there. I find for 1895 in the Municipality of Galle in which there is a population of somewhere near 35,000 the total number of persons treated was 50,638. This seemed to me such an extraordinary state of things that I thought I should call the attention of Council to the facts; and to tell them what I have heard from gentlemen who may be relied on and who are residents in Galle. One of my informants says Government have supplied medicine to the sick, but have done nothing more. I am told, I don't know how far my information is correct, that Government was requested by the Municipal Council of Galle to give a grant of money for relief works, but it was not granted. That is my information,—I don't vouch for it, but I think it will be in the interests of Government and of the public that an opportunity should be given to Government of denying that statement, especially as it is alleged on very high medical authority that the fever was due to the opening of the line from Galle to Matara, consequent on the turning over of the soil and leaving decomposing organic matter left exposed to heat, light, air and moisture. I should like to have any correspondence on the subject with the Government Agent of Galle and also the application made by and the reply given to the Municipal Council of Galle. It has also been stated, whether correctly or not I do not know, that a great deal of what might have been done was not done owing to the fact that the officers who were responsible for the sanitary condition of the town did not apply to Government in the proper form. These are the remarks I have to make and I should like to know what Government have to say about the matter.

The Hon. the SINHALESE REPRESENTATIVE seconded the motion.

The Hon. the Acting COLONIAL SECRETARY :—Sir, the assistance given by Government in connection with the recent epidemic of fever at Galle was by attending to the medical treatment of the sick. The general supervision was undertaken by the Colonial Surgeon (Dr. Attygalle), with the assistance of Mr. Ludovici, who had under his orders within the gravets six medical officers employed exclusively in rendering medical aid to those affected with the disease. Two vaccinators also were taken from their proper duties and employed in distributing fever powders to the sick at their own houses and otherwise assisting the medical officers. Four temporary outdoor dispensaries were established at convenient centres within the infected area, where medical aid was given almost all day to such as attended. Two medical officers were engaged in visiting at their own houses such of the sick as could not attend at the dispensaries. Two temporary hospitals were established and maintained—one wholly at the charge of the Municipality and the other partly by the Municipality and parly by contributions of the general public. In these temporary hospitals food and sick comforts were given to the destitute. Such patients as were too ill to be treated properly at the temporary hospitals were removed to the General Hospital and there treated. It should be mentioned that, in addition to the food and sick comforts afforded to the distitute in the temporary hospitals, the Municipality distributed food to the destitute at their homes. I think all that was necessary to be done was done and well done by the Municipality and the charitable public of Galle, who, I believe, subscribed a very considerable sum. This was largely supplemented by the Municipality and altogether I believe the sum of R7,000 was expended in providing comforts for the sick poor of Galle during the epidemic. Where the Hon. Member got his figures I do not know. I find in the annexture to Dr. Fernando's valuable report which I have laid on the table today and which included in Sessional Paper No. 27 of 1895, that in the five wards of Galle from July 18 to Sept. 26; during a period of 10 weeks only, out of a population of 33,505. 5,423 cases and 546 deaths were reported. These are the figures given by Dr. Fernando when the epidemic was most severe. The Government Agent of the province represented all the facts to Government at various times and in various ways. He brought everything he could to the notice of Government, and as Chairman of the Municipality he did everything in his power to relieve distress. The Municipal Council did make application to Government for a loan of R30,000 with the view of carrying out public relief works. The decision of the Municipality to ask for this loan was passed at a very small meeting of the Municipal Council; and apart from that fact there was very great difference of opinion amongst the members of the Municipality.—I think I am correct, speaking from memory, that almost one half objected to Government being asked for a loan and declared that a loan for the purpose was quite unnecesary. Having regard to the views of the minority of the Municipality, and it was very strongly put before Government in the form of a protest, the subject was carefully considered by the Governor in Executive Council and it was decided that the facts before Government were not sufficient to justify the loan. Since the cessation of the epidemic an application has been made by the Municipality to give a grant in aid of the R7,000 I have mentioned. They applied a couple of weeks ago to Government for this grant-in-aid to meet the heavy expenditure entailed in the relief of the destitute sick and to enable the Municipal Council to carry out Public Works which had to be deferred owing to the drain on the resources of the Municipality to meet the distress. Looking to the works they have carried out, Government did not think it was a case that required assistance at the expense of the general public. With regard to what has fallen from the hon. member as to this epidemic having been caused by the opening of the railway, *I would ask, for whose benefit were these public* works carried out if not for the benefit of the people of Galle? It is not as if the work was being carried out in the interests of Government and for its purposes, but the railway was constructed in the interests of the locality. It is very unfortunate that it should have been followed by an epidemic of this kind, but it is one of those things which cannot be helped and we must b on our guard to prevent a recurrence in fut-

are. I claim the indulgence of the Council for a moment when I read an extract from Dr. Attygalle's report :—

"The disturbance by the railway cuttings of the ground, which was either alluvial or made up of decomposed vegetable matter accumulated for ages in certain places and forming deep excavations, interfering with the natural drainage and allowing the water to stagnate in them, was in a manner the immediate cause of this outbreak of fever, and was an important factor in its propagation is fully borne out by the fact that it was confined chiefly, if not entirely, to a few localities through which the railway passed, and there was hardly a case reported from the Fort or other localities elsewhere that are not in its vicinity. But at the same time the conclusion I have come to after much consideration is that it was merely incidental, and that the actual source of the disease was the general insanitary condition of these localities themselves, the existence of which as a fruitful source of disease I find had been brought to the notice of the Municipality on several occasions by my predecessor, and it is much to be regretted that more attention was not paid to the representations made by him in that respect than seems to have been done by them."

Dr. Attygalle also lays very great stress indeed on a pure water supply and he seems to think that the probability of a recurrence of the epidemic can be best guarded against by providing a pure supply of water. In connection with that Government has intimated to the Municipality that they would gladly assist them by lending officers for surveying to ascertain whether a pure water supply can be obtained at a reasonable and fair cost.

The Hon. the TAMIL MEMBER :—I thank the hon. the Colonial Secretary for the information he has been good enough to give me which I think is on the whole satisfactory. As to the number of sick and the number of deaths my report is for a much longer period than mentioned by the Colonial Secretary—from 1st August to almost the end of the year. As to the question for whose benefit the line was opened that is no reason why sufficient precaution should not be taken against the introduction of disease. it is said here :—

[The hon. gentleman then read from aletter to the effect that if the hollows had been filled in with sea-sand and clay as in the case of the Bentota Railway there might have been less fever.]

This gentleman's authority is unquestionably the highest authority in Ceylon—that of Dr Anthonisz—who acted as Principal Civil Medical Officer and who was until recently a member of this Council. While the reply of the Colonial Secretary has been satisfactory I would press for the papers.

The Hon. the Acting COLONIAL SECRETARY :—I think these reports which have been put on the table give all information that is required, but any other papers I will let the hon. member see at any time he pleases.

BROAD *versus* NARROW GAUGE RAILWAY LINES.

The Hon. the MERCANTILE MEMBER :—Sir, the motion standing in my name is—

To call attention to Sessional Paper No. XXV. of 1895—a Report on Indian Railways by the Chief Resident Engineer—to the criticism thereon, especially in the London *Engineer*, and to move that he be invited to offer an explanation as to the alleged conflicting nature of the figures relating to the cost of construction of narrow gauge, as compared with broad gauge, and the cost of working of each.

Sir, in Sessional Paper 25 of 1895 there is a report from the Chief Resident Engineer on the Railways of India, his visit being made especially with a view to seeing narrow gauge railways, but forward by the Chief Resident Engineer,

In the report broad *versus* narrow gauge is dealt with very fully on page No. 6, para 43. There it is stated that—

"Taking as an example the Oudh and Rohilkund standard gauge and the Bengal and North-Western metre gauge railways, especially selected by the Government of India as those "where the conditions influencing the cost of working, principally the cost of labour and fuel are very similar," I find that during the half-year ending 31st Dec 1893 (the last figures I have) the cost of hauling a coaching unit one mile was pies 0·94 on the standard gauge line as against pies 0·97 on the metre gauge line and the cost of hauling a goods unit (viz. 1 ton) one mile was pies 3·00 on the standard gauge line as against pies 3·31 on the metre gauge line."

This statement, sir, has been controverted by the Secretary of the Bengal and North-Western Railway in the columns of the London *Engineer*, and that gentleman gives figures as taken from the report of the Director-General of Indian Railways as follows :—Cost of hauling one coaching unit one mile, Oudh and Rohilkund Railway, 5 ft. 6 in. gauge for 1893, pies 0·90 against Mr. Waring's 0·94, and Bengal and North-Western Railway metre gauge pies 0·78 against Mr. Waring's 0·97; and the cost of hauling one ton of goods one mile Oudh and Rohilkund Railway for 1893 pies 2·74 against Mr. Waring's 3 pies, and Bengal and North-Western Railway pies 2·48 against Mr. Waring's 3·31 pies. These figures show such a large discrepancy that I think it desirable there should be some explanation to see if they could be reconciled. Then, in regard to the question of first cost, Mr. Waring considers that the saving per mile should be reduced to R6,000, but the authority I have quoted comes forward with figures showing that the cost of metre gauge on the Bengal and North-Western Railway is R15,050 per mile against R27,825 on broad gauge, thus showing the difference in favour of narrow gauge to be R12,775 per mile. At this time it is of vital importance that figures should be accurate. Most people in Ceylon are in favour of further extensions on the narrow gauge: in fact, I can say with confidence that nine-tenths of the people, who are capable of forming an opinion upon it, are in favour of future extensions being carried out on the narrow gauge principle, but progress is barred by a conflict of opinion and apparently by a conflict of figures as well. The question of break of gauge is not the point. What is wanted is narrow gauge for extensions, the narrow gauge being run into Colombo on a separate line or by means of a third rail on the existing line. What everyone deprecates is transferring goods from broad to narrow gauge but the necessity of this yet remains to be seen. I do not think it will be necessary. It is the duty of Government to get this point settled, and a reference to the Chief Resident Engineer may possibly contribute towards hastening this. In a matter where there is such great divergence of opinion as there appears to be on this important question, it is desirable that the subject of broad *versus* narrow gauge should be referred to a thoroughly qualified Commission to go into the question, grapple with it, report upon it, and decide upon it once and for all. It is preposterous to think that we should be bound to accept the dictum of any one man, even so able a man as our Chief Resident Engineer, but it becomes still more so if alleged inaccuracies exist such as those I have called attention to. It is not with the view of impugning any figures

but merely to obtain correct information that I bring forward this motion.

The Hon. the EUROPEAN MEMBER :—Sir, I have much pleasure in seconding the motion of my hon. friend. In doing so I agree with him that the great majority of intelligent men in the Island are in favour of the narrow gauge: in fact I hardly ever met a man who was in favour of extensions in the broad gauge. Progress has been stopped for years in this Island in consequence of the misfortune of having that gauge to start with, and I hope it will not be perpetuated by going hundreds of miles up to Jaffna on the broad gauge at double the cost. Unless the people of India "cook" their official documents it is easy for the Ceylon Government to obtain accurate information by writing to India and getting the cost of narrow gauge, the cost of the maintenance of the rolling stock, and the cost of working both from the broad gauge companies and those lines laid down with the narrow gauge. It is a very simple matter. The returns are made up at stated periods and the information will be forthcoming if you choose to ask for it. I do not think we should be bound in Ceylon by the opinions given by men who have lived in England all their lives and who think the broad gauge is the only right thing. I understand the Great Western Railway (England) had to take up the broad gauge, and I wish to goodness we could take up ours in Ceylon by tomorrow morning. As for break of gauge it is a bugbear. Break of gauge, I admit, is an inconvenience and it would be a little more costly, but are we to stop progress in consequence of that? But we do not want to break the gauge. You can lay down a third line of rail and allow the existing broad gauge rolling stock when it becomes antiquated to perish. I should be very glad to see narrow gauge attempted in Ceylon, but, in the first instance, get reliable practical information from the Railway Companies of India who work with each gauge, and when we get it we will be able to judge.

The Hon. the PLANTING MEMBER :—Sir, I wish to support the motion now before Council. When responsible advisers of Government make a report, the statements in which are traversed by professional men; and when statements are made in reports issued by the Railway Department of the Government of India which conflict with statements made in reports furnished to the Ceylon Government, it is very desirable that these matters should be satisfactorily cleared up and that the Council and those interested in the question generally should be in possession of the true facts of the case. It is a well-known saying that figures can be made to prove anything. This is to a great extent true; but the reports which are issued by the Government of India may be taken, so far as we have them, to be absolutely correct, because I see no reason to suppose that the Indian Government is biassed particularly in favour of either the broad or the narrow gauge; whereas there is no doubt that our Chief Resident Engineer is admittedly biassed in favour of the broad gauge; and in, preparing his figures, he would naturally be biassed in favour of the views with which he has for a long time been prepossessed. It is right that any confusion should be cleared up so that the issue may be clearly understood. The question is a very important one. I regard as one of the most important questions in the Colony at the present time the future of Railway extension. If the prosperity of the Island is to go on, the only possible way to insure it is by enabling the produce of the country from the more distant and outlying parts, to be brought more cheaply to the capital for export. That can only be done by making the cost much cheaper in the future than it has been in the past. Everything points to the fact that the cost of a Railway on the metre gauge is very much less, possibly not more than one-half, than on the broad gauge, and unless we make up our minds that railways are to be carried out on the narrower gauge, railway extension in Ceylon will come to a dead stop. I believe the metre gauge can carry all the traffic that is likely to be developed on any future extension, and that the time will come one day when the sea-side line will be re-laid with the narrow gauge from Colombo to Matara. It is because I consider this one of the most important and urgent questions we have and one deserving an early decision being arrived at, that I hope this motion, which will tend to elicit information necessary to be given us, will be passed by the Council today.

The Hon. the Acting COLONIAL SECRETARY :—Sir, I do not propose to follow hon. members into the question of the relative merits of broad and narrow guage, or indeed to say more than is absolutely necessary with regard to the motion itself. I have to say that Government is not prepared to call upon its Resident Engineer to report upon newspaper criticism, but should the Chief Resident Engineer, as is probable, furnish the Government with information on the subject—with further reports on this question of narrow gauge—they will be printed as Sessional papers in the usual manner and laid on the table of Council. At the same time, with the permission of Council I would read a memorandum by the Chief Resident Engineer which he of his own accord has submitted to Government. Mr. Waring says, quoting from a confidential Report on Indian Railways :—

The cost of hauling a passenger unit on the Oudh Rohilkund railway in the half-year ending June 30th, 1890, was pies 0·84, the corresponding figure on the Bengal and North-Western Railway being pies 0·74. The cost of hauling one ton of goods one mile in O. and R. Railway in the same half year was pies 2·81 and in the B. and N.-W. Railway it was 3·04 pies. For the year ending 31st Dec., 1893, the figures were :—

		O&R Ry.	B&NW Ry.
Cost of hauling a passenger unit one mile	first half ..	0·86	0·60
	second half ..	0·94	0·97
	Totals ..	1·80	1·57
	Means ..	·90	·78½
Cost of hauling one ton of goods one mile	first half ..	2·56	2·11
	second half ..	3·00	3·31
	Totals ..	5·56	5·42
	Means ..	2·78	2·71

(The Hon. the Acting COLONIAL SECRETARY explained that the above was from the Administration Report Mr. Waring had before him when he wrote the paragraph to which objection has been taken. It is the Administration report on the Railways of India for 1893-4 part II. pp. 92, 93, 96 & 97.)

I thought it probable that in view of the discrepancies between the figures for the first and second half years, and also in view of the wide differences between them and those for 1890 given above, that the figures, for the first half year of 1893 were approximate only and in my report on my visit to India I, therefore, quoted those relating to the second half-year but to be impartial I added a footnote. The leading article in the *Engineer* of Dec. 6th, 1895, quotes the figures given by me, but does not mention the period to which they refer. Mr. Marryat in the *Engineer* of Dec. 20th, 1895, disputes

the accuracy of my figures and quotes, from the Administration Report for 1893-94 Part I. pp. 99 & 100 others as follows :—

	O. and R. Ry	B. and N. W. Ry.
Cost of hauling a passenger unit. a mile—pies	0·90	0·78
Cost of hauling a ton of goods one mile—pies	2·74	2·48

It will be noted that in the case of the goods traffic on the O. and R. Ry. the figures given in parts I and II of the Administration Report do not agree, while as regards the B. and N. W. Ry. the figures given in Part I of the Administration Report refer only to the Tirhoot section company's section of the B. and N. W. Ry. It is, I think, only necessary to add that Part II of the Administration Report is published much later than Part I and contains a much fuller analysis of the statistics of the Indian Railways than Part I, and it is, therefore, perhaps, not an unfair assumption that the statistics in Part II are more correct than those given in Part I which are described as general results only." If hon. members will refer to this report it will be seen that the figures quoted by Mr. Marryat refer to a section and not to the whole of the Railway.

The Hon. the TREASURER :—Sir, I should like to say a few words on this subject, not to enter into a discussion and on the relative merits of broad and narrow gauge, but in order that the Council and the public may know that this question of broad and narrow gauge is engaging the attention of the Northern Railway Commission and it is a question to which we hope to give strict and careful consideration. We intend to make inquiry in order to be able to report to Government what description of railway, in the opinion of the Commissioners, should be the railway between Jaffna and Kurunegala. I may say that I approach consideration of the subject with a perfectly open mind. I have been very much shaken in the views which I originally held as to the absolute superiority of broad gauge over narrow gauge, but as I am now sitting on the Commission I hope to be able to approach the subject most impartially and give it my best consideration. I am extremely sorry to find one member of the commission is so strongly impressed with the absolute superiority of narrow gauge that he should have expressed such very strong views as he expressed today in Council. As regards the general opinion of the intelligent public I hope the intelligent public will read these reports a little more carefully, than some of them appear to have done. As soon as I saw that the Secretary of the Bengal and North-Western Railway had declared that the difference between the cost of broad and metre gauge was R12,775, instead of only R6,000 as estimated by Mr. Waring I looked at the figures and saw at once that the Secretary had made an estimate for a broad gauge railway with rails of 75 lb. which would make the cost of rails alone R10,800. We all know that the estimate furnished by the Chief Resident Engineer with the sanction of the Consulting Engineer at home provided for rails of 46 lb. The difference in the cost, therefore, between the amount put down by Mr. Marryat and the cost for 46 lb. rails is over R4,000 in itself. There thus is R4,000 to be knocked off at once merely under the head of rails, and if you go through the various items you will see that the estimates for a heavy rail broad gauge line with 75 lb. rails, instead of the light broad gauge suggested by Mr. Waring with the approval of the Consulting Engineer of the Colony. I only mention that to show how carefully these figures should be scrutinized and to assure the Council that the Commission now sitting will give the matter every consideration.

The Hon. the MERCANTILE MEMBER :—Sir, as Mr. Waring has been good enough to write a memorandum it saves the necessity of my pressing my motion inasmuch as all the information that is desired is furnished, but in view of the conflict relating to the figures I think it would be well to refer to the Government of India and ask a plain question as to the relative cost of construction and working of their systems. I think it would be more satisfactory to have the information first hand. With regard to the remarks made by the hon. the Treasurer who is the Chairman of the Jaffna Railway Commisson I am sorry to see he apparently rather favours the idea of a light broad gauge railway which I look upon as impracticable for our wants and requirement. A broad guage railway with rails of 46 lb. would never carry the traffic, and I hope Government will never listen to any such proposal.

The Hon. the EUROPEAN MEMBER :—Sir, as I am the member of the Commission allued to by the Treasurer, I beg to say that it is very well known since 1871, when I applied for leave of absence for the purpose of travelling over light railways that I have always been in favour of light railways and I believe I have been appointed to that Commission because I do know something of what I am talking about and am able to use my judgment and commonsense. If it can be shown to me that broad gauge is cheapest and best and most suitable for Ceylon I would be converted ; but it must be shown to me that it is so. I cannot conceive it possible. As for the 46 lb. rails for a broad gauge railway which had been referred to by the Treasurer I certainly for one do not believe in it.

The Hon. the TREASURER :—Sir, I desire to say one word of personal explanation in reply to the statement of the Hon. the Mercantile Member that I was absolutely in favour of a light railway on a broad gauge. I can only say I have no such prejudice at all, but I do think that if, as I believe to be the case, the Consulting Engineer to the Government has approved of a 46 lb. rail for a broad gauge railway, I should accept that opinion even in preference to the strong opinion expressed by the Hon. Member who represents the mercantile community.

H.E. the LIEUT.-GOVERNOR :—Do I understand the Hon. Member not to press his motion ?

The Hon. the MERCANTILE MEMBER :—I withdraw my motion.

THE MUNICIPAL COUNCILS ORDINANCE.

The Hon. the ATTORNEY-GENERAL :—I move, sir, that Council do go into Committee, on "An Ordinance to amend 'The Municipal Councils Ordinance 1887.'"

Council went into Committee.

The Hon. the ATTORNEY-GENERAL :—Sir, I bring up the report of the Sub-Committee on the Ordinance and move that it be read.

Sub-Committee's report read. Council in Committee then went over the clauses *seriatim*

The Hon. the TAMIL MEMBER directed attention to the proviso attached to sub-section 1 clause 12 which is in the following terms :—

"Provided that the Chairman or the assistant Chairman shall, except in cases of extreme urgency, and when there would not be sufficient time to call a special meeting of the Municipal Council, not act in opposition to, or in contravention of, any resolution of the Municipal Council, or exercise any power which is directed to be exercised by the Municipal Council at a meeting."

The Hon. the TAMIL MEMBER :—At the last meeting of Sub-Committee I was not able to attend ; and did not move the amendment which I now suggest ; in this proviso I would ask that after the word "shall" in the second line the following words be inserted "carry out the resolutions and orders of the Municipal Council and shall not" and at the end of the proviso to add the words "and when any such action has been taken in such case of extreme urgency a special meeting of Council shall be called within——to consider the matter." I make the motion because, when the Chairman does anything in cases of extreme urgency, he must make a report of the matter to Council to permit Council to decide whether the action of the Chairman was right or wrong. I am sure this is a suggestion which cannot be unacceptable.

The Hon. the ATTORNEY-GENERAL :—I do not see any necessity for the amendment. They can pass a resolution to that effect in the Municipal Council. The proviso has been put in to allow the Chairman, only in case of extreme emergency, to take action. The Chairman is responsible to the members of the Municipal Council.

The Hon. the TAMIL MEMBER :—Supposing he did certain acts, unless he reported them, the Municipal Council might never know what he has done.

The Hon. the ATTORNEY-GENERAL :—By a resolution of the Standing Committee of the Municipal Council you can decide that when the Chairman acts under this proviso he shall report to Council.

The Hon. the EUROPEAN MEMBER :—Sir, I must support my hon. friend the Tamil Member in this matter. When a distinct resolution is passed by the Council it is the duty of the Chairman to carry it out; and he should always show cause why he has departed from that resolution. I think such a clause in the body of the Bill would be more to the point than in the form of a resolution by the Standing Committee.

The Hon. the ATTORNEY-GENERAL :—The proviso only gives power and it can only be acted on in cases where there is not sufficient time to proceed in the ordinary manner. There is no reason why the Standing Committee should not pass a resolution to that effect. I understand in the past, the Chairmen have always given satisfaction in the discharge of their duties ; besides, it would be a slur on the Chairman. If that amendment was adopted.

The Hon. the TAMIL MEMBER :—There is no slur intended. When the Chairman has entered into any contracts he is bound to report the matter to Council. I do not see why you should not make this other matter compulsory also. Surely it is no more slur upon him to insert it in the Ordinance than to get the Standing Committee to bind him.

The Hon. the TREASURER :—I would point out that the proviso says the Chairman shall not act in opposition to or in contravention of any resolution of the Municipal Council. If the Municipal Council pass a resolution for instance that he is to report to it, whenever he acts in opposition to their wishes surely that is a resolution of Council. The Chairman is bound by this very proviso not to act in opposition to any expressed wish without reporting it to Council.

Further conversation took place and the subject dropped.

Council next dealt with sub-section 2 of the same clause :—

(2) In the case of the Colombo Municipality such Chairman shall devote the whole of his time and attention to the duties of his office, and shall not hold any other appointment, temporary or permanent, save that of a municipal magistrate, nor follow any other occupation, nor be a director of any company.

The Hon. the ATTORNEY-GENERAL :—I beg to move the insertion after the word "shall," in the second line, of the words "be an officer in the Civil Service of the Ceylon Government, who, unless he be the Government Agent of the Western Province, shall."

The Hon. the EUROPEAN MEMBER :—Sir, I would mention that the members of the Municipal Council consider that the matter of selection, should be left an open question, and, unless the clause stands as originally framed, I shall be obliged to divide Council. The object of the original clause is to give the Governor a larger choice in selecting a Chairman, instead of confining it as to who and what the Chairman is to be. It gives an additional appointment to the Civil Service, and I do not wonder at Civil Servants wishing to have another open post. I think the choice should be left to the Governor and he should have a larger choice than from the Civil Service alone.

The Hon. the ATTORNEY-GENERAL :—The matter was fully discussed in Sub-Committee. I was inclined to hold the views of the hon. member who has just spoken, but, in view of the fact that the hon. the native members of the Sub-Committee and the hon. the Burgher member were of opinion that the appointment should be confined to the Civil Service ; I agreed to accept this alteration, and I hope the hon. member will not divide the Council. If he does I shall vote against him for the reasons that influenced me in Sub-Committee.

The Hon. the TAMIL MEMBER :—Sir, if our report is read, it will be seen we stated that the appointment should be confined to Civil Servants in case Government are not prepared to grant what we wanted—that power should be given to the Council to remove that officer by a vote of two-thirds of their number, should occasion arise. We said :—Let the Governor appoint whom he chooses, whether he be a Civil Servant or outsider, and it is only in the event that we cannot carry our view in this Council we shall be obliged to agree to the Hon. the Attorney-General's amendment ; and therefore, if the motion is that the appointment should be left open, subject to that proviso, I will agree to vote with the amendment.

The Hon. the EUROPEAN MEMBER :—I think the provision is distinctly a mistake. I do not consider we have difficult people to deal with in Ceylon. In the Municipal Council of Colombo, chosen as it is from a very large body of respectable citizens, and Government has the opportunity of appointing an equal number, there is every safeguard that can be expected. As a member of that Council and one who voted with my colleagues for the clause as it stood originally, I must vote against the motion. I do not go quite so far as my hon. friend. I would take half a loaf as better than none. Government will not accede to that part of the member's suggestion giving an adverse vote and thus getting rid of their Chairman. If we are willing to give that up, I will take half a loaf in thankfulness sooner than

get nothing. I am very glad to hear what my hon. friend the Attorney-General has said on the subject. I am particularly well pleased to hear that his views are the same as my own, but I am very sorry the original motion was not adhered to.

H.E. the LIEUT.-GOVERNOR:—What is the hon. member's motion?

The Hon. the EUROPEAN MEMBER:—That sub-section 2 stands as it is, without this proviso.

The Hon. the ATTORNEY-GENERAL remarked that Government were not prepared to accept this.

The Hon. the TAMIL MEMBER:—My position is this:—If my proviso, as to giving power to remove a Chairman, is accepted, I am certainly prepared to vote with my friend on the left (the hon the European Member), but without such proviso I am against giving power to the Governor, whoever he may be, to appoint a man outside the Service as Chairman of the Municipal Council. We can conceive of a Governor appointing a man from the outside public about whom we know nothing and about whom there cannot be any guarantee of fitness; but, if the Governor chooses a member in the Civil Service, he will at least be a man who is trained to the work. If my hon. friend on the left is prepared to put in that proviso and ask a division on that question I will vote with him; but if, without that proviso, he move that the clause should stand as it stands now, I shall vote against him. What the hon. member asks is power to enable the Governor to appoint an official to a post of R15,000 a year in respect of whom he has no direct control; for, how can he dismiss him if he is not a member of the Civil Service?

The Hon. the EUROPEAN MEMBER:—I thoroughly agree with the proposal made by my hon. friend. I shall bring this matter to an issue by pressing my amendment that these words proposed to be inserted be not inserted.

H.E. the LIEUT.-GOVERNOR put the question, and the hon. the European Member's amendment was negatived.

The Hon. the EUROPEAN MEMBER:—I move that the following words be added to the proposal that has been made by the hon. the Attorney-General—"Provided the Chairman is not a member of the Civil Service he shall be removed by a resolution to that effect being arrived at by two-thirds of the Members of Council." That, I think, ought to meet the views of Government. *I am sure it is conservative enough* for the Civil Service.

The Hon. the PRINCIPAL COLLECTOR OF CUSTOMS:—Is that an amendment to what we have already voted "such member shall be a member of the Civil Service"? The hon. member wishes to provide for a case where the Chairman is not a Civil Servant. We have already decided that he shall be a Civil Servant.

The Hon. the ATTORNEY-GENERAL:—I do not wish to cut out the hon. gentleman's right of dividing the Council.

H.E. the LIEUT.-GOVERNOR:—I think the majority of Council are in favour of the motion proposed by the hon. the Attorney-General.

The Hon. the TAMIL MEMBER:—We are all in favour of it.

The Hon. the EUROPEAN MEMBER:—I would propose that what I have just read be added to the clause as it stands in the Bill "provided that when the Chairman is not a member of the Ceylon Civil Service he shall be removed upon a resolution to that effe being arrived at by two-thirds of the members o the Council". That is really what we want.

The Hon. the ATTORNEY-GENERAL:—I do not think the Ceylon Government would be prepared to make such an invidious distinction between the Ceylon Civil Service and the outside public. It would look as if it wanted to make out that all men of the Civil Service were honourable men and those outside were not.

The Hon. the GOVERNMENT AGENT, W.P., suggested the substitution of the word "may" for "shall."

The Hon. the ATTORNEY-GENERAL replied that Council had already decided that the Chairman "shall" be a member of the Ceylon Civil Service.

The Hon. the TREASURER:—It gives two-thirds of the Municipal Council the right to veto the appointment of the Governor. I do not think the Secretary of State would sanction that.

The Hon. the EUROPEAN MEMBER:—If we found the Chairman was an unsuitable man, as from time to time we have found, the Municipal Council will have an opportunity of representing its grievance to the Governor by a vote of two-thirds of its number, showing a want of confidence in the Chairman Why, a Prime Minister is turned out of office by having a vote of no confidence. Surely it is not *infra dig.* for the Municipal Council.?

The Hon. the TAMIL MEMBER:—I fail to see how, when the Secretary of State and other of Her Majesty's Ministers, in the case of Madras and Calcutta, have agreed to be in this position, another Minister in one of the Colonies can fancy it is a slur on him. It has been recognised by English Governors in similar Colonies. Why it should be supposed to be a slur or that we should be supposed to be dictating to him I cannot understand.

The Hon. the BURGHER MEMBER observed that misconception might have arisen over the word "removed." He suggested the substitution of the word "removable." The Chairman would then be removable by the Governor who appointed him. He certainly should not support a motion that two-thirds of the members should have power to oust their Chairman *ipso facto*.

The Hon. the ATTORNEY-GENERAL:—The Governor may remove such person from the post whether he is a Government servant or not. That is laid down in clause (1) which refers not only to Colombo but to Kandy and Galle also. There is no necessity for the suggested amendment. The Indian Act appears to differ from the Ceylon one.

H.E. the LIEUT.-GOVERNOR:—I cannot explain the principle of the Bombay Act, but, in my opinion, it would be most unreasonable to expect a Governor to make an appointment of an officer who would be liable to be removed by two-thirds of a body over which the Governor had no control.

The Hon. the EUROPEAN MEMBER:—I must press my motion, instead of the word "removed" substituting the word "removable."

Council then divided on the motion, when there voted:—

Ayes:—(7) The Hons. the Kandyan Member, the Burgher Member, the Muhammadan Member, the Hon. the European Member, the Sinhalese Member, the Mercantile Member, and the Tamil Member.

Noes:—(10) the Hons. the Planting Member, the Director of Public Works, the Principal Collector of Customs, the G.A., C.P., the G.A., W.P., the Treasurer, the Auditor General, the Attorney-General, the Colonial Secretary and the Major-General.

The Hon. the ATTORNEY GENERAL:—Sir, I now move the insertion after the word "shall" in sub-section 2 clause 12 of the words "be an officer" &c.—Agreed.

The Hon. the TAMIL MEMBER:—In connection with clause 15, might I suggest to the hon. the

Attorney-General to amend clause 57 by substituting R1,500 for R1,000. The pay of the Municipal Magistrate is fixed at a sum not exceeding R1,000, and in view of the onerous duties he has got to perform, I think the alteration should be made; and also because we may have to appoint a man to attend to this work solely. Consequently I would suggest that the pay be increased to R1,500, subject to the approval of the Governor.

The Hon. the ATTORNEY-GENERAL:—I presume the hon. member has not considered retrenchment in the way Government has (laughter). I have no objection to the insertion of the amendment. I move that they be inserted in section 56.—Agreed.

Council then proceeded to discuss section 20 of the draft which proposed to insert after section 127 of the Principal Ordinance a new section be numbered 127 (a).

127*a*. (1) All houses, buildings, lands, and tenements within the Municipality belonging to the Crown, and leased out by the Crown to any person, or held, occupied, or otherwise enjoyed by any person under any agreement, contract, or permit, either express or implied, with or from the Crown, shall be liable to be assessed in respect of the rate or rates leviable under the preceding section, and every lessee or occupier of any such premises shall be liable to pay, and shall pay to the Municipal Council the rate or rates leviable in respect of the house, building, land, or tenement so held, occupied, or enjoyed by him by, from, or under the Crown.

(2) The warrant to be issued by the Chairman under section 149 in respect of any rate or rates due under the preceding sub-section shall not direct the seizure and sale of any such house, building, land, or tenement, or the lease-hold or other interest of any such lessee or occupier in the same, but shall be limited to directing the seizure and sale of all other the moveable or immoveable property of such lessee or occupier.

Provided always that nothing herein contained shall render any house, building, land, or tenement the property of the Crown, and in the occupation of the Crown or used by any department of Government, liable to be assessed in respect of any rate or rates leviable under this Ordinance, and no property of the Crown whatever, whether moveable or immoveable, shall be liable to be seized or sold for the recovery of any rate or rates, tax or taxes, which may be due from any person holding, occupying, or enjoying any house, building, land, or tenement the property of the Crown under any agreement, contract or permit either express or implied with or from the Crown.

The Hon. the SINHALESE MEMBER:—I move the omission of the word "herein" and the insertion after the word "contained" of the words "in this section." The object of the hon. the Attorney-General in introducing that proviso was, no doubt, in order that the words of the first paragraph of that section might not be considered as binding on the Crown, to the extent that Crown lands other than those specially referred to in this section would be liable to be taxed. I think the object of my hon. and learned friend will be met by the words in the motion I have made.

The Hon. the ATTORNEY-GENERAL:—I am sorry I cannot accept that, because if these words are put in, Government Crown lands under other sections would be liable. This particular clause has been amended and introduced entirely at the request of the Municipal Council.

The Hon. the TAMIL MEMBER:—Not the proviso.

The Hon. the ATTORNEY-GENERAL:—The clause is for the purpose of allowing the Municipal Councils to levy rates and taxes on the property of the Crown, which is not in the occupation of the Crown; and it is introduced merely at the desire of the Council. If the Crown is once brought within the scope of the ordinance the Municipal Councils may ask the Supreme Court to say that the Crown is liable. I, as the legal adviser of the Crown, cannot advise the Crown to bring itself under the operation of the Ordinance. It is a prerogative of the Crown that it should not be taxed.

The Hon. the TAMIL MEMBER:—It is a point contested between the Crown and the Municipal Council for a number of years. The Council maintain that Government is taxable; the Government on the contrary maintain that it is not taxable. All the same, Government have, in a way, shown they have a sort of a conscience by paying so many thousand rupees a year towards the maintenance of the police. That being the case, the Municipal Council certainly is not prepared to allow Government to put in these words without a protest and to allow them to absolve themselves from this right we have against them. If the Government cannot be taxed, what is the object in putting in this clause? Surely you cannot say you are allowing the Crown to be taxed under the Ordinance if the Crown is already taxable. Why should not Government be liable and pay its just debts like any other person in Colombo? Speaking as a member of the Municipal Council of Colombo, I believe that the whole of the members of that Council would much rather not have the clause. We would much rather not recover a few paltry taxes in this way and forfeit our rights which we may have to maintain before our Courts, notwithstanding the opinion of the hon. the Attorney-General. We will not be content to receive a small portion of our taxes and, on the strength of that small sum, give up the right to recover from Government from one and a half to two lacs of rupees a year.

The Hon. the EUROPEAN MEMBER:—Let the Attorney-General explain how the insertion of the words will make the case for the Crown worse than it is.

The Hon. the ATTORNEY-GENERAL:—What has been stated as the opinion of the Attorney-General is the opinion of the Supreme Court in the case which Mr. Horsfall brought against Government. At that time I contended for Mr. Horsfall that Government was liable to be taxed, and it was held that Government did not come within the Ordinance. I am not prepared as legal adviser of the Government to bring Government within the Ordinance. If the hon. member wishes the whole of this clause out I have no interest in putting it in. I am perfectly willing that the whole of it should go out. The proviso has been carefully drawn so as not to drag the Government within the provisions of the Ordinance which the Supreme Court has held it did not come under.

The Hon. the BURGHER MEMBER:—The Hon. the Attorney-General is probably under a misapprehension. There is the Supreme Court judgment which my learned friend alluded to and this section does not intend in any way to infere with it. If we introduce the first and second paragraphs of clause 127 we should be letting in the implication that Crown lands had become liable to be taxed, but then comes the proviso which saves the Crown lands from that implication by saying "nothing contained in this section" &c. I think that is the utmost the hon. the Attorney-General should ask.

The Hon. the ATTORNEY-GENERAL:—The substitution proposed is "nothing in *this* section shall render" &c. Consequently there may be other sections that would bring the Crown in and I am not prepared on behalf of the Crown to accept that. I am quite willing to meet the Municipal Council in Court any day as to whether the

Crown comes within this Ordinance, but I cannot myself bring the Crown within this statute.

The Hon. the SINHALESE MEMBER :—If the hon. members wish it, I would like to press my amendment.

The Hon. the ATTORNEY-GENERAL :—You will have to move the insertion of both clauses.

The Hon. the SINHALESE MEMBER.—I move the insertion of both clauses as printed in the draft with the proviso "provided always that nothing contained in this section" &c.

Council then divided, when there voted

Ayes (8), the Hons. the Kandyan Member, the Burgher Member, the Muhammadan Member, the European Member, the Sinhalese Member, the Planting Member, the Tamil Member, the Mercantile Member.

Noes (9), the Hons. the Director of Public Works, the Principal Collector of Customs, the Government Agent, C.P., the Government Agent, W.P., the Treasurer, the Auditor-General, the the Attorney-General, the Colonial Secretary and the Major-General.

The Hon. the TAMIL MEMBER (other hon. members signifying their acquiescence) stated that he did not want the proviso inserted in the form in which it stood.

The Hon. the ATTORNEY-GENERAL stated that he had offered it to Council, but hon. members would have none of it. He asked permission to withdraw the clause and proviso.—Agreed.

The Hon. the TAMIL MEMBER asked (the hour being 6-30 p.m.) if it was the intention to sit till 9 or 10 o'clock.

The Hon. the ATTORNEY-GENERAL replied that even though the Bill was finished that evening another afternoon's sitting would be necessary to get through the business.

After conversation it was agreed to sit till 7 p.m.

The Hon. the GOVERNMENT AGENT, C.P., (refering to section 176 (a) said:—Sir, the object of this section is to prevent fires and it is very difficult to determine how far away cadjan sheds should be in order to be absolutely safe. I think it would be very much better if it is left to the Municipal Council to say what houses are to be removed. In the Colombo Municipal Council there is a bye-law which has been legalised by Ordinance which says that any person who shall from and after the 1st of January, 1882, without the sanction of the Municipal Council, build, renew, or cause to be built or renewed any building constructed of thatch, leaves, straw, grass or shingle, within the limits of the Municipality shall be guilty of an offence, and be liable on conviction to a fine not exceeding R10, and to a further fine of not exceeding R10 for everyday after notice or conviction during which such building is kept standing, and it shall be further lawful for the Council to take down such building at the expense of the owner, and to sell the materials thereof, if necessary, to defray such expenses. I think similar power might be given to other Municipalities by leaving out certain words in this clause. The words I propose to omit are (2nd line) "house, hut, shed or other building is distant not more than 50 feet from any other house or building separately occupied or from any street and."

The Hon. the SINHALESE MEMBER :—Sir, I shall support the amendment proposed by my hon. friend, but I will go a little further. In lines 7 and 8 are the words "within one month after notice in writing has been given him by the Chairman so to do." I wish to make the Clause read "by the Chairman with the sanction of the Municipal Council."

The Hon. the ATTORNEY-GENERAL :—How are you to get the sanction of the Municipal Council?

The Hon. the TAMIL MEMBER :—By resolution.

The Hon. the ATTORNEY-GENERAL :—I merely suggested it as a difficulty might arise.

The Hon. the TAMIL MEMBER :—Why should a man be compelled to pull down his roof if it is so far apart from all other buildings and so far apart from the street that there can be no danger whatever. I would like to know how the Municipal Council is going to do what the hon. member requires.

The GOVERNMENT AGENT, C.P. :—You don't appear to think much of Municipal Councils then.

The Hon. the TAMIL MEMBER :—It all depends on the Chairman. The hon. member then proceeded to refer to the recent fire at Hetiyawatta remarking that it was owing to the incapacity of the officers of the Municipal Council, incapacity due to the fact that the Council had no executive power. In this case, he said, the houses were, some of them, not four feet apart and some had even no passage between.

The Hon. the ATTORNEY-GENERAL suggested that the clause be made to read "by the Chairman on behalf of the Municipal Council," and after conversation it was resolved, on the suggestion of the Hon. the TAMIL MEMBER, to insert the words "specially empowered thereto by resolution of Council.

In section 198 (1) the words "when required by the Chairman" were inserted after the word "shall" (3rd line of section).

The Hon. the SINHALESE MEMBER took exception to the requirements of this section which required specifications including "the dimensions of all beams, bressemers, posts, pillers, and columns of the proposed building and the materials to be used." He thought if the plans and levels were shown that was sufficient :

The Hon. the ATTORNEY-GENERAL replied that the section had been drafted on the recommendation of a Committee of the Municipal Council.

The Hon. the DIRECTOR OF PUBLIC WORKS said the requirements looked more formidable than they really were. The dimensions, as a matter of fact, would be shown in the plans.

The Hon. the TAMIL MEMBER said to furnish the required information would create a hardship. An ordinary mason could not be expected to draw up such specifications. He moved that the words referred to be deleted.

The Hon. the ATTORNEY-GENERAL expressed surprise that the hon. members who were also members of the Municipal Council should not have supported the recommendations of their colleagues.

The Hon. the SINHALESE MEMBER :—We are here not as members of the Municipal Council. We represent the public. In my dual capacity I should like these words omitted.

The Hon. the MERCANTILE MEMBER :—I think this section goes a great deal too far in asking all these things. I don't know what a "bressemer" is, and I think I am in good company as several members I have asked are no wiser. (Laughter.)

The Hon. the MUHAMMADAN MEMBER said he did not wish to state names, but he had heard of cases where R400 had to be paid to get plans passed when otherwise the building would require to be pulled down.

The Hon. the TREASURER also thought that the section went too far.

The Hon. the TAMIL MEMBER :—Sir, as a member of the Municipal Council of Colombo for over 20 years who knows the in stand outs of Council, I think my opinion, is entitled to a certain amount of weight and I can tell Your Excellency and this Council what

the insertion of this clause would mean. There is a Chairman under whom is an Assistant Chairman, under whom is the Officer Superintending Public Works, under whom are divers clerks and under them overseers. In the case of ordinary people, a clerk or overseer of the Public Works Department goes to a man and as frequently happens says "Give me R3." He refuses, and the officer or clerk reports against the work to the head officer of the department who adopts the report as a matter of form. I know as a matter of fact, though the present Ordinance requires people to present plans of buildings and renewals, hundreds of them have never been looked into. There are buildings which will never be looked into except where there is to be bribery and corruption. I think it is our duty to prevent bribery and corruption. I won't go the length of charging any member of the Municipal Councils with bribery or corruption, but I know there were cases and there are likely to be cases, in some Councils, of this kind of bribery and corruption. I do not say it is done in Colombo, Kandy, Galle, or elsewhere, but I know that men have had to pay R200 to R400 to get plans passed or, where the buildings were begun, to see these buildings were not demolished, because they had in a very minute manner deviated from the original plan. Our duty is, of course, to help the Municipal Council but certainly, as stated by the hon. the Sinhalese Member, to look after the public first. Government members and high officials have a very grand idea that everything is getting on here as if we were somewhere else than in this world—in a better place; but I can assure Your Excellency we are very far from that yet.

H.E. the LIEUT.-GOVERNOR:—To return to the subject of the Bill: it will rather weaken the hands of the Council to delete those words.

The Hon. the DIRECTOR OF PUBLIC WORKS did not see why, because there were certain Hon'ble members who did not understand what "beams, bressemers &c.," were, that the words should be excluded. It was both in the interests of the Municipal Council and of the community as well as for posterity that houses should be substantially built.

Council then divided on the question of whether the words "beams, bressemers &c.," should be deleted. There voted:—

Ayes (11) the Hons. the Kandyan member, the Burgher member, the Muhammadan member, the European member, the Sinhalese member, the Tamil member, the Mercantile member, the Planting member, the Principal Collector of Customs, the Treasurer and H.E. the Major-General.

Noes (6) the Hons. the Director of Public Works, the G.A., C.P.; the Colonial Secretary, the G.A., W.P.; the Auditor-General and the Attorney-General.

The Hon. the ATTORNEY-GENERAL:—I move that Council do resume.

The Hon. the Acting COLONIAL SECRETARY:—I move that Council be adjourned till tomorrow at 2 p.m.—Council rose at 7 p.m.

THURSDAY, JANUARY 23rd, 1896.

Council met at 2 p.m. in the Council Chamber. H.E. the Lieut.-Governor presided, and present were:—Lieut.-Colonel Corse-Scott, Acting Officer Commanding the Forces; Hon. Messrs. W. T. Taylor, Acting Colonial Secretary; C. P. Layard, Attorney-General; T. H. Skinner, Acting Auditor-General; F. R. Saunders, Treasurer; A. R. Dawson, Government Agent, Western Province; Allanson Bailey, Acting Government Agent, Central Province; L. E. Lee, Principal Collector of Customs; R. K. MacBride, Director of Public Works; P. Coomaraswamy, Tamil Member; A. De A. Seneviratne, Sinhalese Member; Sir J. J. Grinlinton, European Member; W. W. Mitchell, Mercantile Member; H. L. Wendt, Burgher Member; Giles F. Walker, Planting Member; W. Ellawalla, Kandyan Member; and M. C. Abdul Rahiman, Muhammadan Member.

Minutes of previous meeting read and confirmed.

PAPERS.

The Hon. the Acting COLONIAL SECRETARY:—Sir, I lay on the table a statement of sums from the irrigation fund for the construction, repair and improvement of important irrigation works for 1896.

THE MUNICIPAL COUNCILS ORDINANCE.

The Hon. the ATTORNEY-GENERAL:—Sir, I move that Council do go into Committee on "An Ordinance to amend 'The Municipal Councils Ordinance, 1887.'"

The Hon the TREASURER:—Sir, before proceeding to the point at which we left off yesterday, I would like to ask one question as to which there seems to be some misunderstanding. There was an amendment proposed, I am not sure that it was carried, in section 26 where it was proposed to insert the words "and shall if required by the Chairman." When I was about to address Council and point out that this clause applied to every building, and that I did not think it was necessary to require, for every building of four posts and and a few tiles, plans, specifications, levels, &c. I was met with the cry it was not required for every building, but only for such buildings as the Chairman might require. That amendment was proposed by the Hon. the Principal Collector of Customs and I would like to know if it was carried; if so, I would suggest it should be inserted now.

The Hon. the TAMIL MEMBER:—There was such a proposal, but I don't think it was put.

The Hon. the EUROPEAN MEMBER:—I was under the impression it was put.

The Hon. the PRINCIPAL COLLECTOR OF CUSTOMS:—I was the mover, and I was under the impression it was accepted.

The Hon. the ATTORNEY-GENERAL:—I was quite willing to accept it, but the majority of members were against it.

H. E. the LIEUT.-GOVERNOR:—I was in no way opposed to it, but certainly it was not put.

The Hon. the TREASURER:—May it be put now?

H. E. the LIEUT.-GOVERNOR:—Yes, with the permission of Council.

The Hon. the TAMIL MEMBER:—I should like to know how the clause stands now.

The Hon. the ATTORNEY-GENERAL:—I understand the motion made by the Treasurer is in the words "and shall when required by the Chairman submit plans."

The Hon. the EUROPEAN MEMBER:—It is highly desirable I think, otherwise plans would have to be sent in for paltry things where it would not be worth the cost of paying for a plan.

The Hon. the PRINCIPAL COLLECTOR OF CUSTOMS:—That was my object in moving it. The motion was then agreed to.

Council then proceeded to go *seriatim* over the different clauses of the Draft Bill beginning at clause 27.

The Hon. the TAMIL MEMBER :—Sir, might I call attention to clause 28 sub-section 1 —to the words "also the power to fix the fees to be paid" &c. To whom are the fees to be paid ?

The Hon. the ATTORNEY-GENERAL :—To officers of the Municipal Council.

The Hon. the TAMIL MEMBER :—Then is it not desirable to say so ?

The Hon. the ATTORNEY-GENERAL :—It is for the Municipal Council to make by-laws.

The Hon. the TAMIL MEMBER :—This does not make it very clear to whom the fees are to be paid.

The Hon. the ATTORNEY-GENERAL :—The Municipal Council will lay down to whom the fees are to be paid. We give full powers to the Council.

The Hon. the SINHALESE MEMBER :—In that section I would suggest to insert the words "with the consent of the Municipal Council" after the word "Chairman."

The Hon. the ATTORNEY-GENERAL :—Personally, I have no objection to the insertion of these words. The Municipal Council is satisfied it will work well. The entire clause is inserted at the request of the Municipal Council.

The Hon. the TAMIL MEMBER :—I certainly support the amendment. But there is a larger question. Power is given here to the Chairman, and, if the amendment is accepted, to the Municipal Council, to close cess-pools and substitute dry earth closets. But there is no duty cast on the Municipal Council to provide for the removal of night soil The Hon. the Attorney-General smiles at this idea of mine, but as I know how the matter is worked by the Municipal Council of the town of Colombo at present, there is no such provision for removal of night soil from dry earth closets in private houses except in one or two places; and even at these places the charge is enormously high. The matter was discussed some weeks ago in the Municipal Council, but no conclusion has been arrived at. I would suggest therefore that this amendment also should be substituted : "That it shall be the duty of the Municipal Council to provide for the removal of night soil daily at stated periods, and the cost of such removal shall not exceed 50 cents a month for each receptacle of soil." This is much cheaper than the present rate, but the Municipality should not charge to make a profit, but be able to carry it without loss if only 50 cents' charge is made per month for each receptacle and I am sure the cost would be more than covered. I do not think the Municipal Council whose duty it is to help the citizens of this town to get rid of their night soil should be allowed to make it a profitable transaction. If you give this power to the Chairman of the Municipal Council to close cesspools there should be a duty cost on the Municipal Council to remove night soil. Surely if the Chairman orders the closing of a cesspool it is not to be expected that I am to bury night soil in my garden. The Municipal Councils, of Colombo, Kandy and Galle should be forced to remove night soil at a certain charge Perhaps the question of cost might be left out. but the duty should be cast on the Municipal Council; therefore, I would move that at the beginning of clause 209 (a) the following words should be inserted : "It shall be the duty of the Municipal Council to provide for the removal of night soil daily at stated periods and."

The Hon. the EUROPEAN MEMBER :—I quite agree with the proposal of my hon. friend. I think it would be a very arbitrary act to compel people to close these offensive cesspools before you had made suitable provision for them on another direction. Some time ago when sitting on the bench as Municipal Magistrate several cases were brought before me in connection with this matter—people brought up for an offence punishable by law and really I felt it was very hard they shouldbe punished when no suitable provision had been made by the Municipal Council. I concur with the alteration proposed by my hon. friend.

The Hon. the MUHAMMADAN MEMBER :—Sir, as the clause stands, it would be a hardship upon the native inhabitants of Colombo. I support the amendment that the Municipal Council be required to provide for the removal of night soil at a cheaper rate.

The Hon. the SINHALESE MEMBER :—With regard to what has been stated by my hon. friend (the Tamil Member) if it could be carried out it would be very desirable, but what is the good of casting this duty on the Municipal Council, when we know that it cannot be done. My hon. friend wishes that this power should not be enforced until provision is made for removal. That I can understand, but that is not what is proposed.

The Hon. the TAMIL MEMBER remarked, as to the objection that people of a certain caste might object to the removal of night soil through their houses, that if the Hindus of Madras had no objection there should be none in Colombo.

The Hon. the ATTORNEY-GENERAL :—I don't know whether the hon. member wishes to give the Municipal Council power to visit his house. As a citizen I have strong objections to my house being invaded by an officer of the Municipal Council. If the section remains as it is the Municipal Council may make by-laws dealing with the dry earth system ; but that everybody's house should be liable to be walked into by any municipal officer for the sake of removing night soil appears to me a mistake.

The Hon. the TAMIL MEMBER :—The Attorney-General forgets that my amendment is only with reference to this particular power, the closing of a cesspit by order of the Chairman. As regards the hon. member's remarks about the invasion of his house, were there ten thousand Attorneys-General in this town, so long as the health of the town is concerned, if a thing has to be done for the sake of public health and for the sanitary convenience of the town, they must simply be moved aside like other men. I move this amendment because we are giving power to Municipal Councils to close cesspits without providing facilities for removal of night soil. That is a greater invasion of private rights than what was stated by the Attorney-General.

The Hon. the DIRECTOR OF PUBLIC WORKS : —I think the clause should be passed as it stands. It is, I am of opinion, owing to the dilly-dallying of the Municipal Council that these Sanitary measures are not in existence at present.

The Hon. the EUROPEAN MEMBER :—I cannot see what harm the amendment can do. It will only compel the Municipal Council to do what they have neglected to do. The Municipal Council has been established for 30 years, and it is high time they made by-laws and brought a proper system into force. If the clause is passed as it stands, you will be doing a great injustice. There are very many poor people within the Municipality, their holdings are very small, and for each to pay the sum of money necessary to a contractor to do this work is simply impossible. It is the duty of the Municipality to step in and provide

means for those who cannot provide for themselves. As the Municipality has hitherto neglected to do that, they should be compelled to do so now.

H.E. the LIEUT.-GOVERNOR :—I do not wish to interrupt the discussion, but I think we have got into the same disorder we got into yesterday. The question before the Committee is that the section which has just been read be amended in accordance with the motion of the Hon. the Sinhalese Member.

The Hon. the ATTORNEY-GENERAL observed that he had assented to that amendment, which was to the effect that, the sanction of the Council first being obtained the Chairman was then to carry out the purposes of the clause as stated in the draft.

The Hon. the SINHALESE MEMBER remarked that the motion of the Hon. the Tamil Member was only to cast a certain duty on the Municipal Council.

The Hon. the TAMIL MEMBER :—I have altered a few words in my amendment. What I propose to insert is :—"it shall be the duty of the Municipal Council to provide for the removal of night soil daily at stated times, thereupon the Chairman may by notice in writing."

The Hon. the ATTORNEY-GENERAL suggested that his motion be taken first.

The Hon. the TREASURER: we put the resolution that this clause be inserted, and if that is carried it is impossible to have the clause amended afterwards. I do not see why we should deprive ourselves of the privilege of inserting any words.

The Hon. the ATTORNEY-GENERAL directed attention to the fact that rule 58 stipulated that each amendment shall be taken in the order in which it is proposed,

After conversation on this point

The Hon. the TAMIL MEMBER read the full clause as proposed to be amended by him. "It shall be the duty of the Municipal Council to provide for the removal of night soil daily at stated times and thereupon the Chairman may by notice in writing require," &c.

H.E. the LIEUT.-GOVERNOR :—The question I put to Committee is that the clause as so fully read by the hon. member be inserted.

Committee then divided, and there voted—

Ayes (10):—The hons. the Kandyan member, the Muhammadan member, the European member, the Burgher member, the Sinhalese member, the Mercantile member, the Planting member, the Tamil member, the Principal Collector of Customs, the Officer Commanding

Noes :—(7) the hons. the Director of Public Works, the G. A., C. P.; the G. A., W. P.; the Treasurer, the Auditor-General, the Attorney-General and the Colonial Secretary.

Clause inserted accordingly.

The Hon. the TREASURER (referring to Clause 101 (a) which empowers the Chairman at his own discretion to cause to be removed any house or building infringing certain rules) said :—I do not wish in any way to limit the discretion of the Chairman, but it seems to me to be opposed to previous provisions of the Ordinance. It seems to me there is no particular reason for giving the Chairman unlimited discretion on this point any more than in any other points in the Ordinance.

The Hon. the EUROPEAN MEMBER :—I think the proposal of the hon. member is a very good one, and I am sure members of Council will only be too glad to accede to it.

The Hon. the ATTORNEY-GENERAL :—It cannot be done without permission in writing. With regard to clause 209 (a) I would only like to warn members that they have cast a duty upon the Municipal Councils all over the Island to remove night soil free of charge.

The Hon, the Treasurer's motion was agreed to.

In clause 32 of the draft sub-section III,

The Hon. the ATTORNEY-GENERAL moved the insertion of the words "officer appointed by him in writing" in lieu of the words "one of his officers."—Agreed.

In sub-section 5 of the same clause,

The Hon. the ATTORNEY-GENERAL moved that the words "Principal Medical Officer" be deleted and the words "Colonial Secretary" substituted, explaining that as the Principal Civil Officer was a member of Council it was very desirable that the report should be made to the Colonial Secretary.—Agreed.

The Hon. the ATTORNEY-GENERAL moved the deletion of the words "legally qualified" referring to medical practitioners in clause 37 of the draft. He would prepare a definition of the term "medical practitioner" as approved by Council in the Registration of Deaths Ordinance.

The hon. gentleman then moved that this definition be inserted.

The Hon. the TAMIL MEMBER, consequent on the amendment proposed by the hon. the Attorney-General, said :—Would it not be advisable to say that the regulations shall be subject to the approval of the Governor? All our bye-laws are subject to the approval of the Governor.

The Hon. the ATTORNEY-GENERAL thought it would be safe to leave the matter with the Municipality and he thought they could safely trust the Municipal Council to carry them out.

The Hon. the TAMIL MEMBER :—I have no doubt you can, but it would be safer, as between the Council and the public, that the Governor should see the by-laws especially as these regulations may have to be submitted to the Principal Civil Medical Officer who may have much to say about them.

The Hon. the ATTORNEY-GENERAL remarked that it was only Departmental regulations. If the hon. member wished it, he would put the duty on the Governor in Executive Council, but he thought it was better to leave it.

The subject dropped.

The Hon. the TREASURER, remarking on clause 42 said that he was not quite sure that penalties could be imposed by the Municipal Magistrate in such cases where milk, was sent from,—say an estate upcountry down to Colombo. At first he was not at all sure that butter did not come under the term of milk but he had learned the ordinance did not deal in any way with the sale of butter. He was informed that milk was set down within the municipal limits from estates, and, if so, it seemed hardly possible to apply the ordinance to such milk supplies.

The Hon. the TAMIL MEMBER said if it was confined to the dairymen residing in the Municipality, it would be a most dangerous thing. It would simply drive people just beyond the boundary and they could bring in all kinds of milk to sell in the Municipality.

The Hon. the ATTORNEY-GENERAL :—I thoroughly agree with the Hon. the Tamil Member.

The Hon. the TREASURER :—I think the clause might give power to some other officers. It seems to me we have not sufficient power to deal with these cases.

The Hon. the SINHALESE MEMBER :—The Chairman is not compelled to inspect these places.

H.E. the LIEUT.-GOVERNOR :—I do not anticipate there will be any hardship.

In Section 42 of the draft the words "in all cases under the last preceding sections the fine" were deleted and the section made to read "provided

further that the fine imposed under the authority in this chapter shall be paid to the Municipal Council of the Municipality wherein the offence is committed."

The Hon. the TAMIL MEMBER, speaking of section 60, sub-section 3, defining a laundryman as "the occupier of any premises" for the purpose of washing, ironing, &c., pointed out that dhobies were in the habit of washing in filthy wells and in all manner of pools. He suggested the addition of the word "elsewhere."

The Hon. the ATTORNEY-GENERAL said, that what the hon. member contemplated was met by a previous clause, forbidding and penalising the use of "any well or other source of water used in or on his laundry premises or in connection therewith."

The subject then dropped.

Other marginal alterations having been inserted,

The Hon. the ATTORNEY-GENERAL said:—I beg to report the Bill as amended and to move that Council do resume.

Council resumed.

The Hon. the ATTORNEY-GENERAL:—I move, sir, that the Bill be referred to the Law Officers of the Crown, and I give notice I will take the third reading at next sitting of Council.

THE MINES AND MACHINERY ORDINANCE.

The Hon. the ATTORNEY-GENERAL:—I rise, sir, to move the second reading of "An Ordinance to provide for the regulation and inspection of Mines and Machinery." I may state, sir, that the object of Government in introducing this Ordinance is to protect the lives of people employed in mines and factories; and the question as to how far this Ordinance should be amended will be considered when the Ordinance comes into Committee. Should it be decided by the majority of members of Council that it is desirable that this Ordinance should be restricted to mines and a separate Ordinance be provided for factories, I shall be happy on behalf of Government to introduce an Ordinance for factories only. If members of Council are of opinion with regard to the licensing of mines that in lieu of the licensing system any other system should be adopted such as registration, by giving notice to the Government Agent of the Province—I will be prepared to make an amendment accordingly; and it is for the Council to decide (1) as to whether the Ordinance shall deal with mines and factories and (2) whether the licensing system mentioned shall be adopted. I propose to take the Bill in Committee as soon as the Council will permit me.

The Hon. the SINHALESE MEMBER:—I am very glad indeed to hear the observations made by my hon. and learned friend on the second reading of this Bill. I should welcome an Ordinance to deal with both mines and machinery, but, whether the regulations to be made for the purpose of protecting the lives of the people engaged in mines and factories be under one Ordinance or two Ordinances does not matter to me, providing they are made. With regard to the machinery provided in the Bill there is a very objectionable portion of it; and that is where, before opening a mine, permission has to be obtained from the Government Agent. As my hon. friend suggested, if Government is content with simply registering mines I should, for my part, support the Bill; but, if that permission be insisted upon, it will be open to the same objections as the Gemming Ordinance. A good many of us know how hard it has been to work the Gemming Ordinance in consequence of permission having to be obtained from the G. A. before a mine can be opened. Whether for gems or plumbago, when a mine is opened, a search has first to be made and permission must be obtained, not for the purpose of working the mine, but looking for the metal so that a great deal of hardship will arise; and, besides, the G. A. who gives permission cannot inspect in every case and he is obliged to trust the other reports of subordinate officers. These persons, for a variety of reasons may delay reporting or may report adversely or favourably as may best serve their interest. All this can be avoided if a system of registration is adopted. I do not think miners themselves would object to their places being registered, seeing that it is for the protection of the people employed in them that regulations are to be made. On a previous occasion I was understood to object to regulations being made by the Governor and the Executive Council. I have no such objection, for, it is only right that this power should be conferred. My only objection is to making it compulsory to have a license before any mine is opened.

The Hon. THE PLANTING MEMBER:—Sir, I believe I am correct in saying that both in the United Kingdom and in India the question of the inspection of mines and factories has been relegated to different Ordinances. It certainly is the case in India where there is the special Factories Act of 1881, amended in 1891. In this Indian Factory Act the factories on indigo, coffee and tea estates were expressly excluded from the operation of the Act; and I must confess, sir, it is somewhat difficult for me to understand why the inspection of factories should have been included with the inspection of mines in the Ordinance now before Council. I believe it is admitted by everyone that it has become necessary to legislate for the protection of life and person in mines in the Colony; but I do not know that it has been shown that any large number of accidents have occurred within factories in Ceylon, sufficient, at any rate, to make it necessary to legislate for the protection of lives or even for the protection of persons employed in these factories. If such reasons have been shown I contend, at any rate, that no reasons have been brought forward, neither has it been shewn that there is urgency in this case. That being so, the subject can be as well dealt with in a second Ordinance as in the Ordinance before Council. I confess I expected statistics to be given by the Attorney-General when moving the second reading showing the number of accidents known to have taken place in factories during the last year or two. I think, sir, before any necessity for this Ordinance can be shown we should know that a considerable number of accidents have occurred. I can not speak myself but must leave it to other hon. members to speak of factories in Colombo, but, as regards factories up-country, so far as it has come to my knowledge I can state with confidence that the number of accidents has never at any time been very great; and that the large majority of the accidents that have occurred can hardly be said to be preventible accidents. The number of accidents that have taken place during the last twelve or eighteen months is considerably less than those which occurred previously, and I attribute the diminution to this cause:—that when the coolies, who are the operatives employed in these factories were first put to the work they were naturally careless and did not know the nature of machinery and, through their own carelessness, entirely, they brought upon themselves injuries which certainly would never have happened with ordinary precautions. Now they are becoming more accustomed to the machinery, they are more careful and give it a wider berth, and that is the reason why accidents

are less frequent than a short time ago. Never, at any time, were they very frequent, and for 12 months past I have not heard of a single accident occurring. There are several proposals in this Ordinance which make me think it will be very difficult to carry it out in practice as applied to factories. It will be very difficult to obtain proper inspectors in the country. I think it will be admitted that the persons who are to be employed as inspectors should be persons who have some professional knowledge of what they are going to do, and that they must also be persons of some position and possessed of some amount of authority in themselves. It will not do to send any ordinary mechanic round to inspect factories. He would probably not understand what was necessary and would suggest a great many things as necessary which, as a matter of fact, are not necessary, and a good deal of [illegible] be caused thereby. Further, I will submit, be impracticable to appoint as inspectors engineers connected with local firms, for these may be biassed in favour of the engines and machinery turned out by their own particular firms. If such engineers are sent round on inspection there will always be the risk of the employees of Messrs. A.B.C. & Co., condemning a great deal more stringently the engines and machinery of Messrs. X. Y. Z & Co., than those put up by their own firm. In cases of this kind it is not so much what men may do as men's apprehension of what may actually occur that causes friction and it is very desirable that any persons appointed Inspectors should be persons who are above any bias or suspicion of that kind. I believe it will be found necessary, if any inspection of the machinery in tea factories is to be carried out, to have special Government Inspectors and, for this purpose you will require a considerable number of Inspectors. I am not exaggerating when I say that there are on the tea and coffee estates of Ceylon, including both tea factories and coffee stores, 1,000 or 1200 factories. I suppose it would be necessary for the purpose of efficient inspection to have these factories inspected every six months or so. If I am right in coming to that conclusion it would be necessary to inspect 200 factories every month. Now, sir, how many factories do hon. members suppose one Inspector can inspect in a day? These factories are scattered about at considerable distances in some districts. I am quite aware that in some districts they are within one or two miles of each other, but in many districts there is a large distance between them and I doubt if any man can inspect more than two or three or four in one day. I feel convinced that it will be found in practice that to carry out efficiently the provisions of the Ordinance you will require four, five, or six Government Inspectors permanently engaged in carrying out the inspection. That will entail a very large charge on the revenue of the country, and before any such system is attempted it is very desirable to show that such inspection is absolutely necessary before making it one of the laws of the country. In matters of this kind, where an inquisitorial inspection of factories is required, it is necessary, I think, or very desirable at any rate, that the powers granted to such inspectors should be as clearly defined as possible. When, on the first reading of the Bill, I said very large powers were given under the Ordinance to the Governor and Executive Council I did not object to powers being given, as I know in such a matter they must be granted, but I felt that, in a question of this kind, it is very desirable to define very clearly and distinctly the powers that are to be granted, leaving the Governor and the Executive Council power to act only within the lines laid down in the Ordinance. The Attorney-General threw out a hint that, if the present Ordinance was not accepted, probably we should find introduced *a much more drastic measure. That remark, in my* opinion, was quite unnecessary and impolitic. I do not think it is necessary to ask members of this Council to consent to any Ordinance brought in under a threat; and I do not think hon. members on this side of the table (the Unofficial) would consent to such a course as that. For my own part I am perfectly willing to take the risk of a more drastic Ordinance for I am convinced the more this question is inquired into, as far as tea factories are concerned, the less reason will be found for inspection. There is one matter in which I think there is cause for inspection and that is the inspection of the boilers of steam engines, but that would be a limited inspection because the number of steam engines is very small indeed compared with the number of factories throughout the country. Even if it were found advisable afterwards to introduce an Ordinance for the inspection of factories, I think it would be found desirable to exempt factories on tea and coffee estates for these reasons: that the machinery employed on them of a very simple nature indeed and there is hardly any chance whatever of anyone working amongst the machinery being dragged into and becoming entangled with it except by gross carelessness on his own part; the employees are under constant European supervision, the Superintendent of the estate is constantly in and out and it is his interest as well as his duty to see that his coolies do not put themselves in any position of peril. These labourers are picked coolies and it is to the Superintendent's interest that they should not come to any harm. Moreover one of the chief points of my argument and this is women and children are not employed in connection with the machinery in factories. It is quite true that some women and perhaps a few children are occasionally employed in the factory but they are never employed in any single instance I know of in connection with the machinery. For these reasons it is very desirable that the inspection of tea factories should not be included in the present Ordinance. I have no objection whatever to the principle of inspection. All I ask is that, before any such inspection is made the law of the land, reasons should be brought forward and statistics, if available, be given, showing that there is good cause for such inspection, and if there is not very good cause the inspection should be limited to those factories where good cause is shown that inspection is necessary. Those factories for which no reason has been shown should in my opinion be exempted from the provisions of the Ordinance. No good can be done by hasty or injudicious legislation; there is no question of urgency shown by the hon. the mover in the case of factories; and, leaving aside the question whether we should have inspection, as the feeling of the planters is strongly in favour of the matter being held over at present, I move that the inspection of machinery in connection with factories be withdrawn from the purview of the present Ordinance. I am not quite sure what form my amendment ought to take.

The Hon. the ATTORNEY-GENERAL:—The view of the Government, is when the Bill comes up in Committee, you can move the deletion of the word "factory" in each clause and it will leave members to say whether they approve of the inclusion of factory or not.

The Hon. the PLANTING MEMBER :—I have n desire to oppose the Bill as a whole because think there is reason for the inspection of mines Do I understand the hon. the Attorney-Genera to move the deletion of the word "factory"?

The Hon the ATTORNEY-GENERAL :—The Bill must be read a second time.

The Hon. the PLANTING MEMBER :—Then it is clearly understood that this does not prevent the exclusion of the word "factory" when it comes up in Committee.

The Hon. the MERCANTILE MEMBER :—Sir, I agree with the hon. member who has just spoken that it is a mistake to combine in one Bill legislation connected with mines and legislation connected with factories, or, in other words, to include factories. I do not oppose the Bill as a whole, because I am not prepared to say that legislation of some kind is not requisite in regard to mines, but, at the same time, the provisions are more stringent perhaps than is necessary. With regard to taking out a mining license, it is provided that it shall not be lawful to use any mine without having first obtained a license. Diggers for plumbago have to try a mine in many directions before hitting upon plumbago. It involves the opening of a great many, called by courtesy, pits, but what are merely holes in the ground, and, for a license to be obtained for every hole a man digs in this way, will, it can easily be understood, operate as a great hindrance to the prosecution of the enterprise. Even the license he does apply for is liable to be revoked and it may be refused altogether. This industry is a very important one. There are somewhere about 403 pits or mines in the Island, and there are in Colombo somewhere about 25 plumbago stores where large numbers of people are employed in the manipulation of the plumbago for export; and, to do anything to interfere with this large industry, would be a very serious matter if it deterred or restrained people from engaging in it. By all means take reasonable precautions for the safety of workmen, but beyond that I do not think it at all necessary to go. The subject of the Bill has been considered by the Chamber of Commerce a short time ago, and a copy of the resolution arrived at was sent to Government, but for the information of members of Council, I may mention that, in the opinion of the Chamber, legislation for the inspection of mines and machinery should take the form of an enactmentseparate and dissociated from any Ordinance that may be introduced in reference. They deprecated the proposal which required that a license should be obtained in order to open or work any mine, instead of which they suggested a system of registration of mines which they thought was quite enough for reasonable purposes. That, I think, is a very reasonable proposal; and I hope in view of what has fallen from the hon. the Attorney-General that Government may possibly not object to adopting some such course. Enormous powers are given to the Governor in Executive Council to make rules for regulating mines and factories. The appointment of inspectors, as has been pointed out by the hon. the Planting Member, may lead to very great difficulties unless we have inspectors who are really qualified. Where are these men to be got? We have not got them in Ceylon. As regards factories we should require well qualified engineers, highly paid; and to permit of these men visiting all the factories in the Island we should require a staff which would involve a very heavy charge on the revenue. Unless men are duly qualified they would constantly be putting forward all sorts of impossible requirements in factories—unnecessary requirements, and friction would be caused between superintendents and these so-called inspectors, who would become, very probably, unbearable. The penalties provided in the Bill in clause 11 are very heavy. One very objectionable clause is the last one No. 15. The reference to the informer's share is most obnoxious. Under it, spies, as we might say, would be encouraged to keep an eye upon everything going on the ian fctory, and give information—false information—to some jack-in-office inspector. Superintendents would be fined right and left. These men would not hesitate to do this, in order to get half the share of the fine as provided in this clause. I hope such a clause will be eliminated. With regard to factories it has not been shown that there is any occasion for the appointment of inspectors. Tea factories in India are specially exempted from the Factory Act. It has been stated that there is another act, a Machinery Act—but that I have not seen and do not know the provisions of; but, at all events, from the factory act, tea factories are expressly exempted. That legislation I think we should follow; and as has been pointed out when we take up the Bill in Committee that we can easily accomplish. I am not aware that accidents have been so numerous as to require intervention; and, from the nature of the factories, experts would be required to say what protection might be necessary. I cannot conceive any necessity for introducing a factory act into Ceylon at present. The time may come when a factory act might be necessary, when accidents became more numerous, showing that employers of labour are not sufficiently careful of those they employ. This charge cannot be made now, No such charge has been made and if it were made it could be disproved. I hope the suggestions of the Chamber of Commerce and Planters' Association will receive due weight and the suggestions they have ventured to make will be adopted.

The Hon. the EUROPEAN MEMBER :—Sir, I beg to support the views expressed by the preceding speakers. I think it would be well to expunge the word "factory" altogether from this Ordinance; and, as pointed out by the hon. the Attorney-General, this may easily be done in Committee. With regard to the registration of mines, that I think is unquestionably a much less cumbersome system than that which has been proposed in the Ordinance, and I think if the Ordinance were carried out it would militate very much against the interests of these persons who wish to prospect.

The Hon. the TAMIL MEMBER :—There seems to me to be some misapprehension on the part of the hon. members who have spoken as to what a factory act means. I have not read this particular Indian Factory Act which has been referred to by my hon. friend, but I have always understood a factory act meant an act to regulate the employment of labour in factories—to say whether women shall be employed or not, at what age children can be employed, and how many hours they may be employed. Consequently to me it appears it is a misnomer to call a Factory Act "An Ordinance to provide for the regulation of machinery in mines and factories." It is not called a Factory Act and it does not purport to be one. It deals with mines and machinery and with the powers which are necessary to be granted to Government to inspect such things. I believe, in India, I speak under

correction, there are what are called Machinery Acts, and I believe, in these acts no machinery whatever, whether it is in a tea factory or elsewhere, is exempt. And I do not see why in Ceylon any machinery should be exempted from the operation of the Ordinance because it is under the supervision of competent men. The more competent men we have the better, but surely there may be incompetent men in these 1,200 factories, which, if not inspected, may cause danger and perhaps death to the persons employed. In this case Government cannot deal with a particular number of factories and leave others out; and, therefore, it is quite right that this Bill matters in the colony, everyone, be he European or Tamil or Sinhalese or Burgher,—they must all come under the operation of the law, and I fail to understand what is this complaint that is made against the introduction of this Ordinance. In respect to tea factories it was said the mover of the Bill had not shewn that there were accidents; but it has not been said that there was a certainty that there would be no accidents. If we are assured of that there will be no necessity for the Bill; but, because there have been no accidents, and I am not quite sure of that,—I believe there have been accidents here and there —there is no guarantee there will be none in the future. But that is not the thing. In what way has it been shown this Bill would act perniciously against the working of the tea factories? If the Government are good enough to pay for inspectors who should deal with all those places where machinery is employed. It has been admitted by all the speakers who have spoken against this Bill that the inspection of machinery is necessary, and how they can say that tea factory machinery should be exempted I cannot understand. I am strongly of opinion that it is necessary to inspect it, and I hope the Council will support me that this division that is asked for should not be made. I don't think any special favour should be shown to any special class. If you are dealing with certain of the general revenue, and employ men to go and inspect the machinery, how can they be said to cause inconvenience to the tea factories? That certainly has not been shown. Why should it be supposed that competent men, when they are employed, would interfere to a great degree with the working of the tea factories, and, in fact, act against the factories and the superintendents? I think that has not been shown, I agree with my friend on my left (the hon. the Mercantile Member), if men are employed on inspection duty they ought to be not only competent men, but well paid, so as to be above suspicion altogether. About one or two minor matters, I certainly think there are things the Government ought to agree to; for instance, in clause III, instead of licenses, I think registration quite enough, and in clause XI the punishment is too severe, and certainly the last clause XV, relating to the informer's share—that should never, I think, appear in any Ordinance in our books. With these observations I support the Bill.

THE HON. THE TREASURER:—Sir, all Members of Council must have listened with great satisfaction to the speech of the Hon. the Atttorney-General when he introduced the Bill. This Bill is a Bill regarding which there must necessarily be a great difference of opinion. There are persons in this Council who possess special knowledge with regard to the subjects touched on by the Bill, and it is of the greatest importance we should hear from them what they have to say on these subjects. I am sure, the announcement that Government intended to leave this Bill an open question must have given the greatest satisfaction to Members of Council. The first point that seems to be open for discussion is whether factories, especially tea factories, should come within the purview of this Bill; and if it could possibly be asserted that to exclude Factories from this Bill was attempting to draw a class distinction and to subject a certain class of persons to inspection and penalties which are not intended to be imposed on another class, I am sure every member of this Council would vote against such a measure. But I understand the Hon. the Planting Member's objection to be that the Bill provides for two classes of trades or occupations which are usually, and in fact generally, dealt with by separate laws and he asks that on this occasion the usual practice may be followed—that factories shall be dealt with separately from mines; and he has distinctly stated that all he asks is that the law, as regards factories, should be postponed for the present. Looking at this Bill, if I were a planter, I should have, thought it dealt so gently with machinery in factories, and the provisions are so mild that I would have been prepared to accept them rather than wait for a Factory Bill to be introduced, when, as a matter of necessity, the provisions would be more stringent and where most restrictions would be gone into with more detail. Here, in the present bill, the provisions are very general and I think would not inflict any great hardship on the persons using factories. If the planting community think that they can bring forward at a later date arguments which will convince the Council that a very much milder Bill will meet the necessities of the case, I should be disposed to divide the Bill and provide for factories hereafter in a separate measure. I shall vote for that merely because I believe such is the practice. I think such a practice would not have been followed were it not a good practice; but I think it right to say, without intending any threat whatever, that the provisions of a separate Ordinance regarding Factories would undoubtedly be more stringent because they would be more minute and more in detail than the provisions of this Ordinance. But, sir, when a large body of planters and others say they are prepared to accept a measure regulating factories on a later date, I, as a member of this Council, am prepared to vote that the Ordinance should be divided. The second question for discussion and decision is a question affecting entirely the industry of mining. I am quite prepared to accept the proposal of the Chamber of Commerce that registration should take the place of licensing. This Bill is intended to provide as the hon. the Attorney General said, merely for the protection of life and person engaged in Mines and for the proper regulation and management of mines. The Ordinance, very properly, gives the Governor in Council power to make rules for the proper management of mines. It provides penalties on persons who do not manage mines according to the rules laid down. What more than that can be required? It may be said that Government requires to have notice where these mines are in order that their officers may inspect them. To give this the Ordinance provides further that every person shall hand in to the Government Agent his name, the situation of his mine, and the names of persons whom be intends to employ. That is practically registration. When the Government has got all this, I contend there is really no object to be gained by requiring a man to obtain the permission of the Government Agent to take out a license. If there is nothing practically to

be gained by this, it seems to me the clause requiring it should be deleted. It interferes to a certain extent with the private rights of persons on their own private property. That is necessary sometimes, but I can see no reason why it should be necessary in this Ordinance, or that it will serve any sufficiently good purpose. It may even be very harassing to a person. The waste of time that a mere application of that kind would entail—and those who know the manner in which it is necessary for applicants to proceed, especially natives, in order to obtain the permission of the Government Agent—know that considerable time very often elapses; and that the applicant is subjected to considerable inconvenience and even loss. It is quite possible that were this clause to remain it might be three months before a man might even begin to search his land to discover whether it was fit for plumbago mining. The Government Agent has referred him to the headman and the headman reports to the Government Agent and a man would not get an answer within 30 days. If the answer is adverse he must appeal to the Governor in Executive Council and it would be dealt with at the end of another 30 days, and, if the answer were favourable, and he obtains no redress for having been delayed three months before he can begin work. I heard with great satisfaction that Government was prepared to allow that matter to be decided by a majority of the Council and that the Hon. the Attorney-General was so far anxious to meet the wishes of the Council that he had an amendment ready in the event of the majority of the Council altering the Bill as I and others wish. I have stated my views fully and I shall vote for the registration of mines rather than for the licensing.

The Hon. the BURGHER MEMBER:—Sir, I should like to say one word on the propose to divide the Bill into two parts. I have listened with great attention to what has fallen from the speakers some of whom have claims to special knowledge on the subject. As I understand the case made by the hon. gentleman who represents the Planting Community it is against any legislation at all in respect of factories. His line of argument was shown by questions like these—has it been shown by statistics that there have been accidents necessitating some such provision as the Bill contains? Has it been shown that supervision has been wanting and that accidents are attributable to causes like that? And have not accidents rather been all non-preventible? The drift of his remarks, if I understood them aright, was against any provision being made for factories on estates. I believe he went the length of moving or suggesting that all factories should be excluded. I feel unable to concur in the exclusion of factories altogether and if factories are to be legislated for by a separate bill introduced almost simultaneously with this bill I do not see what objection there can be to their inclusion in the present measure. It is not suggested that there is any such inconsistency between the two branches of it as would render it inconvenient to deal with them in the same measure. The Bill practically deals with machinery, machinery in mines and machinery in factories, and provision for securing inspection of that machinery and for the working of it in a condition that would protect the lives of those employed. Therefore I think no objection can be taken to the comprehensive character of the Bill. For myself, I would vote for the Bill dealing with both branches of the subject as it now does.

The Hon. the PRINCIPAL COLLECTOR OF CUSTOMS:—Sir, the hon. member who represents the Planting Interest, controverted a statement of the Hon. the Tamil Representative that similar acts in India only dealt with the employment of labour and did not concern the inspection of machinery. I do not know whether the hon. member opposite (the Hon. the Planting Member) has read his act. If he had begun at the beginning he would have found the object of the Act stated thus: "Whereas it is expedient to regulate labour in factories." It therefore points to what my hon. friend on my left (the hon. the Tamil Member) stated to be the object of a Factory Act was the object of this Indian Act.

(The hon. member then read a number of the titles of the Indian Act which he said related exclusively to labour in factories.)

The Hon. the PLANTING MEMBER:—May I ask if the fencing of machinery is one with the regulation of labour in factories?

The Hon. the PRINCIPAL COLLECTOR OF CUSTOMS:—The fencing of machinery is in relation to the employment of women and children.

The Hon. the PLANTING MEMBER:—I regret I cannot follow my hon. friend in his explanation.

H. E. the LIEUT.-GOVERNOR:—We should postpone discussion of the clause till the Bill comes up in Committee. I have already allowed considerable license; one member has spoken at least there times.

H. E. the LIEUT.-GOVERNOR then put the question to the House and the Ordinance was read a second time.

The Hon. the ATTORNEY-GENERAL:—Sir, I move that Council do go into Committee on the bill.

Council went into Committee and proceeded to go over the various clauses of the Draft Bill.

In clause 2

The Hon. the PLANTING MEMBER moved the omission of the definition of the word "factory." He said:—I wish to remove a misapprehension which has arisen in the mind of the Treasurer who said that I was prepared to accept a measure for factories at a later date. I must have used words of a dubious meaning, for the hon. gentleman who represents the Burgher Community takes me with wishing to altogether exclude factories from legislation. What I said was that I objected to the inclusion of factories in the present Bill, but I should be prepared to give consideration to a measure in due time. I did not say I was prepared to accept it, because that would depend very much on the nature of the proposals brought forward.

The Hon. the TREASURER:—I was under the impression that the hon. member was prepared to accept legislation of some sort, though what sort of legislation he did not say.

The Hon. the MERCANTILE MEMBER remarked that it seemed to be necessary that a new Bill to deal with mines only should be drafted.

The Hon. the ATTORNEY-GENERAL:—I am prepared to make all the necessary alterations. I have got it all ready and there is no necessity for drafting a new Bill. I shall be prepared to move the amendments.

The Hon. the EUROPEAN MEMBER:—I support the hon. the Planting Member that factories be excluded; and that the whole paragraph be deleted. The following paragraph can be altered accordingly.

The Hon. the ATTORNEY-GENERAL:—If any arguments had been urged, and strong reason shown—why they should be excluded, Government would take it into consideration. Nothing has been urged today except the expense. The Government is prepared to bear the amount of the expense, and the Government do not intend

to have monthly or weekly inspections, but as many as are necessary. As to the statement of the Mercantile Member that spies may come and give information to the Government, that is the very worst argument that can be used. It looks as if there were things at the back which Government would learn from people if this Ordinance were passed.

The Hon. the MERCANTILE MEMBER :—I don't mean to say they would give correct information, but that they will come and give false information. It is said I have not shewn why factories in general should be omitted: it has not been shewn why factories should be included in the Bill at all.

The Hon. the EUROPEAN MEMBER :—Have the Government any cases before them of accidents occurring of a serious character? If so, I think it well to produce them. For myself, I have been the owner of a factory for a considerable number of years, and, with one exception, that of a man losing a portion of his finger through his own act of carelessness in putting his hand where it had no business to be put—if nothing on earth would prevent that accident—there has not been a single accident in that place for fifteen years, and I have only heard of one or two other accidents elsewhere. You hear of accidents all over the world in connection with machinery; but I think the accidents reported in Ceylon with tea machinery have been very few in number; indeed, as far as my knowledge goes, Government may have information. If so, let it be produced.

The Hon. the PLANTING MEMBER :—The onus of proving the necessity for such legislation as this lies on the Government. It is not for us to disprove reasons that have not been brought forward. Our view is that as regards factories upcountry—at least my view on that point is, that the accidents that have occurred have been non-preventable, very few and far between, that so far from increasing they are decreasing, and that all necessary precautions that can be taken are practically taken in factories at the present time. If that be the case (as I contend it is), to employ elaborate and expensive machinery is charging the revenue unjustifiably, and will create discontent amongst the managers of factories, which it is desirable to avoid.

The Hon. the TAMIL MEMBER :—It is said that machinery should not be exempted. If you have valuable machinery in the factories here they must have more valuable machinery in England. I suppose a man would be laughed at there if he protested against his machinery being inspected. The fact of there being such opposition to the machinery being inspected makes me think there is more in this than we know of, and seems to make such inspection all the more necessary.

The Hon. the MERCANTILE MEMBER :—The great difference is that we have qualified inspectors in England, and none in Ceylon.

H.E. the LIEUT.-GOVERNOR :—I think the Council may rest satisfied that the Government will only appoint qualified persons.

H.E. then put the question of whether the definition of factories should be omitted and declared for the Noes.

The Hon. the PLANTING MEMBER pressed for a division, and the motion was lost by 13 votes to 4, the voting being :—

Ayes 4 :—The Hons. the European member, the Mercantile member, the Planting member, the Treasurer.

Noes 13 :—The Hons. the Kandyan member, the Burgher member, the Muhammadan member, the the lowcountry Sinhalese member, the Tamil member the Director of Public Works, the Principal Collector of Customs, the Government Agent, Central Province; the Government Agent, Western Province; the Auditor-General, the Attorney-General, the Colonial Secretary, the Officer Commanding.

The Hon. the TAMIL MEMBER :—Now that this matter has been decided comes the matter of going into Sub-Committee.

The Hon. the ATTORNEY-GENERAL :—There is no reason why the Bill should go into Sub-Committee. It is all in order now except any amendments which members may have to make.

The Hon. the TAMIL MEMBER :—I would move the deletion of clause 3 in respect of a person having to obtain a license for mining.

The Hon. the ATTORNEY-GENERAL :—If the sense of the Council is generally that the licensing system should be done away with, I have no objection.

The Hon. the EUROPEAN MEMBER :—I think we are all of the same opinion on that point.

The Hon. the ATTORNEY-GENERAL :—I have drafted a clause which will do away with clauses 3, 4, 5, 6, 7, 8 and 9 of the Bill. The clause will run as follows :—

(1) If any person intends to open, work, or use any mine, he shall, one week at least before commencing to open, work, or use such mine, furnish the Government Agent of the province within which such mine is situate with a declaration in writing containing the following particulars.

(The particulars are given in the draft in sub-sections a, b, and c of clause 5, in clause 6 and in clause 7).

The Hon. the GOVERNMENT AGENT, C.P., inquired if any provision was made as to the action of the Government Agent on receiving such notice.

The Hon. the ATTORNEY-GENERAL :—He has nothing to do. Of course, he will have to register it.

The Hon. the MERCANTILE MEMBER referring to sub-section (c) of clause 5 providing for a return to be made to the Government Agent of

(c) The name or names and residence or residences of himself and of the person or persons under whose management or superintendence the mine is intended to be opened, worked, or used.

He said :—Sir, this will be very difficult to carry out. The person who intends to dig for plumbago or the person under whose superintendence the mine is opened up or other persons who are prospecting cannot possibly tell beforehand who are to be employed in that mine and I think the provision will operate very harshly. I move to delete the latter part and restrict the requirement to the name of the person who intends to open the mine.

The Hon. the ATTORNEY-GENERAL.—In the event of a person being a prospector he would state that there was no person managing it. The person in charge would come in under sub-section 2. A person who is absent from a mine is not criminally liable. In a criminal matter no man is bound by the act of his agent.

The subject then dropped.

The Hon. the SINHALESE MEMBER suggested that the Hon. the Attorney-General should put in the Bill a provison for the purpose of placing on the table of the Legislative Council the by-laws and rules which existed every year.

The Hon. the TREASURER:—Would it meet the hon. members wishes if the rules were published once a year in that valuable periodical the *Government Gazette*?

The Hon. the SINHALESE MEMBER.—Even that is better than le ving people to find out for themselves.

The Hon. the ATTORNEY-GENERAL.—I shall be prepared to insert a clause declaring that the rules should be published on or before the 1st April every year.

The Hon. the SINHALESE MEMBER:—That would meet my wishes.

The Hon. the TAMIL MEMBER:—The rules should be laid on the table of Council so many days before they are published, so that members may have an opportunity of seeing them. There is a similar provision in another Ordinance.

The Hon. the SINHALESE MEMBER:—In the Forests Ordinance, but it has never been acted on.

The Hon. the ATTORNEY-GENERAL:—I think it would meet the wishes of Council if they were published in the *Gazette* if the rules are left on the table of Council, I am sure members of Council will never see them.

The Hon. the PLANTING MEMBER thought that the Ordinance was a very inquisitive Ordinance, and that the proposed rules should be put before Council before they became law. He suggested the insertion of a clause similar to clause 93 of the Forests and Waste Lands Ordinance, which ran:—

All regulations and rules under this Ordinance, made and approved by the Governor, with the advice of the Executive Council, shall be laid before the Legislative Council within one month of the commencement of the session next after the making of such regulations or approval of such rules, and shall cease to have any force or effect of disapproved by the Council within two months of being so laid on the table.

The Hon. the ATTORNEY-GENERAL:—I have no objection to the insertion of such a clause. —Clause inserted.

The Hon. the TAMIL MEMBER (speaking on clause 11):—I would suggest that, for the first offence, there should be no imprisonment at all. This is a new Ordinance, and I do not think, for a first offence, there should be any imprsonment. I would therefore ask the hon. the Attiorney-General whether he will consent to accept my suggestion to omit the words "or to rigorous imprisonment not exceeding three months, or both."

The Hon. the PLANTING MEMBER:—I think there are so many provisions, for breaches of which, persons are liable under this section and that it would be better to leave out imprisonment altogether. Under this section, persons are liable to imprisonment for comparatively minor offences. To render them liable at the option of the Magistrate to rigorous imprisonment for minor offences is certainly unfair and is a power that might be greatly abused. It would be far better, if it could be done, to define certain of the graver offences under this Ordinance and make those offences subject to imprisonment and of course in the event of the fine not being paid imprisonment would come automatically. Here, amongst other things, any one will be liable to rigorous imprisonment for not reporting cases of personal injury. A man might bruise his arm on a roller, and a Superintendent might think it trifle and would not report it. In that event he would be liable to rigorous imprisonment. I think the penalities are far too rigorous.

The Hon. the TREASURER:—If the Magistrate was to use extreme measures, some of the members of Council might be liable to imprisonment for not inserting the rules in the *Government Gazette* as in the case of the Forests Ordinance. I do not know which member is liable. (Laughter.)

The Hon. the ATTORNEY-GENERAL:—If such a case as that cited by the hon. the Planting member occurred it could be laid before H.E. the Governor and, I am sure, the prisoner would be released. I am inclined to leave the discretion entirely in the hands of the magistrate.

The Hon. the TREASURER:—I have an amendment to bring up on this clause. My amendment is exactly opposed to that of the hon. the Planting member. I propose to increase some of the penalties. One great objection I took to this Bill in its original form although I did not mention it when the second reading was under discussion, was, that by introducing the licensing system it gave the Government Agent power, not only to refuse a license, but to close a mine—giving the Government Agent power to interfere with private individuals which power it struck me should only be given to the Court. I do think, however, that where a mine is very dangerous and it is shown in Court that it cannot be worked without great danger, or where a person persistently works a dangerous mine, the Magistrate should have power to order it to be closed, and I would propose such a provision at the end of section 11.

The Hon. the ATTORNEY-GENERAL suggested the addition of the words "And the Court may order a mine to be closed in such time as it may think fit."

The Hon. the TAMIL MEMBER:—That would be to punish the wrong person. Supposing there is a firm in Colombo which has a mine at an outstation and the Superintendent does certain acts there without the knowledge of the owner, you would be punishing a man for the fault of the servant.

The Hon. the MERCANTILE MEMBER:—I hope that the proposal of the Hon. the Tamil Member will be considered well by the Council. I think it most objectionable that a Magistrate should have power to sentence to three months' rigorous imprisonment for a first offence. I shall vote against the reading of the clause as it is.

The Hon. the PLANTING MEMBER:—I wish to say I am not at all afraid of the discretion exercised by Magistrates; but I would point out, that in other Ordinances offences are classified in a schedule or in the different clauses or sections, and the penalties are different for different offences. This section includes both the major and minor offences that can be committed under this Ordinance. There ought to be one penalty for minor offences and another penalty for major offences. And I think the Hon. the Attorney-General might be able to define offences under this Ordinance and separate them into major and minor offences.

The Hon. the TAMIL MEMBER:—Several of these offences, if wilfully done, should be severely punished, and I ask that punishment be not awarded for the first conviction only. I think it would be very difficult to define offences as suggested by the Hon. the Planting Member.

H.E. the LIEUT.-GOVERNOR:—The feeling of Council is that the clause just read by the Hon. the Attorney-General be added to clause 11 as printed?

The Hon. the Acting COLONIAL SECRETARY:—The only objection—but a very great objection—I have to the amendment proposed by the Hon. the Tamil Member is that a first offence may probably be an offence of so serious a nature that it could not be adequately punished by fine only. I should not like to see it carried.

H.E. the LIEUT.-GOVERNOR:—How would the

Hon. member meet an offence almost amounting to manslaughter?

The Hon. the TAMIL MEMBER:—I would have been prepared to classify offences, but the Bill is so drawn that it is very difficult to classify them. If it is necessary to punish by imprisonment a man who has committed a henious first offence, it is wrong to imprison him if he has committed a minor offence. In a serious case of manslaughter, three months' imprisonment would not be sufficient punishment. That is my answer.

The Hon. the TREASURER:—The clause merely states that a man is liable to imprisonment, if, in the opinion of the Magistrate, the magnitude of the first offence requires it. Altering it would make that impossible.

The Hon. the SINHALESE MEMBER:—If there is any other offence while committing a breach of the rules the offender can be in addition punished for that offence under the Penal Code. For instance if it was a case of manslaughter he could be punished for that.

The Hon. the EUROPEAN MEMBER:—Are these punishments not maximum punishments? I think the majority of Magistrates in this country are to be trusted. Because you put in the maximum punishment, it is not necessary to impose it.

Council then divided and the amendment was lost by 12 votes to 5:—

AYES 5:—The hons. the Kandyan member, the Lowcountry Sinhalese member, the Mercantile member, the Planting member, the Tamil member.

NOES 12:—The hons. the Burgher member, the Muhammadan member, the European member, the Director of Public Works, the Principal Collector of Customs, the G.A., C.P.; the G.A., W.P.; the Treasurer, the Auditor-General, the Attorney-General, the Colonial Secretary, the Officer Commanding.

The Hon. the ATTORNEY-GENERAL:—Sir, I move the insertion of the clause as I read it.

The Hon. the MERCANTILE MEMBER:—In this clause I would like to know what the notice is to be—"after receiving notice in that behalf." Is that verbal notice or written notice?

The Hon. the ATTORNEY-GENERAL:—Do you wish the words "in writing" added?

The Hon. the MERCANTILE MEMBER:—I think it would be better.

The clause was then inserted with this amendment.

The Hon. the ATTORNEY GENERAL moved the deletion of clauses 12 and 13.—Agreed.

The Hon. the SINHALESE MEMBER:—Sir, before we pass clause 15, I would like to ask is there any necessity for encouraging informers by offering them a share of the fine? I think it would not be very advisable to encourage them because people are only too ready to give false information, not so much in expectation of half of a fine but by holding the dread of a charge over the head of an unfortunate person; and it might be, by the threat, inducing him to give them money. Therefore, if you hold out this additional inducement of half of the fine, it will work mischief.

The Hon the PRINCIPAL COLLECTOR OF CUSTOMS:—An informer, according to the law, is not an informer until his evidence is proved to be true.

The Hon. the EUROPEAN MEMBER:—I think it is an inducement for men to bring a case against their employers for the purpose of annoyance. It may be all very well for people who live in Colombo and who are able to attend Court; but if a man had to leave his business and go to Kandy or elsewhere I think it would be a very serious thing. I think it is a pity to encourage anything of this nature. If the case is real, then there is no doubt it ought to be brought before the Court; but to follow this method encourages men to go against their masters, and in the event of a men being dismissed it is an extra inducement for him to revenge himself and that too in a Country where revenge is so much resorted to.

The Hon. the PLANTING MEMBER:—The system I think would be a very bad one indeed and one which would create a great deal of discontent, and I think that an opportunity should not be afforded to any miserable person to lodge a false charge against his employer or any superintendent of a tea factory. I strongly oppose the inclusion of this clause.

The Hon. the TREASURER:—I think Government should keep all the fines it can get and not give them to informers.

The Hon. the MERCANTILE MEMBER:—I think it is a most obnoxious clause and ought to be struck out at once. It will act as an inducement to fabricate false statements and laying false information with a Magistrate against a superintendent of an estate who would be required to travel, it might be many miles very frequently to answer a false charge. I think it is unworthy of Government to introduce such a clause and an insult to the planting and general Community; and it ought to be struck out.

H.E. the LIEUT.-GOVERNOR:—I don't think any member has pointed out why it should be struck out. I do not see there is any difference between this Ordinance and other Ordinances.

The Hon. the EUROPEAN MEMBER:—I move that the clause should be struck out.

H.E. the LIEUT.-GOVERNOR put the question whether the clause should be inserted. There voted:—

Ayes 9:—The Hons. the Burgher member, the Director of Public Works, the Principal Collector of Customs, the G.A., C.P.; the G.A., W.P.; the Auditor-General, the Attorney-General, the Colonial Secretary, the Officer Commanding.

Noes 8:—The Hons. the Kandyan member, the Muhammadan member, the European member, the Lowcountry Sinhalese member, the Mercantile member, the Planting member, the Tamil member, the Treasurer.

The clause was accordingly inserted.

The Hon. the ATTORNEY-GENERAL:—I move, sir, that Council do resume.

Council resumed.

The Hon. the ATTORNEY-GENERAL:—I move, sir, that the Bill be referred to the Law Officers of the Crown, and I give notice that the third reading will take place at next meeting of Council.

Resolved accordingly.

THE TOLLS ORDINANCE.

The Hon. the ATTORNEY-GENERAL:—I rise, sir, to move the second reading of "An Ordinance to consolidate and amend the Law in respect to the Collection of Tolls."

Bill read a second time.

The Hon. the ATTORNEY-GENERAL:—I move, sir, that Council do go into Committee on the Ordinance.

Council went into Committee.

The Hon. the ATTORNEY-GENERAL:—I move the insertion of the figure 6 so that the ordinance may be cited as "The Toll Ordinance, 1896," and the insertion of the words the "first day of January 1897" so that it may come into operation on that day.

The Hon. the TAMIL MEMBER (directing attention to the scale of charges on page 2) said:—In that section it is stated "every ox, cow,

calf, sheep, goat or pig" shall be liable to a toll of 1 cent. Cows and calves should be exempted from toll.

The Hon. the ATTORNEY-GENERAL :—There is no alteration: it is merely consolidating the Ordinance.

The Hon. the TAMIL MEMBER :—Anyhow I ask that they may be deleted.

The Hon. the DIRECTOR OF PUBLIC WORKS :—Sir, I would move a reduction of the toll for bicycles. I think 10 cents is rather high for a bicycle; and I would beg to move it be reduced to 5 cents, the Municipality is in fact, surrounded by a cordon of tolls. There are many cyclists—clerks and others—who live outside the Municipality and who cannot afford to pay so much daily. In the case of bicycles there is practically no wear and tear of the road. They only occupy about one inch of the road way and in comparison with other vehicles, the toll is much too high.

The Hon the Acting COLONIAL SECRETARY :—There is no other tax on them.

The Hon. the DIRECTOR OF PUBLIC WORKS :—There is the import duty.

The Hon. the PLANTING MEMBER :—I think it is a very healthful exercise and should be encouraged as much as possible; and, considering that bicycles do no harm to the road if they have the new patent tyre the toll ought to be reduced.

The Hon. the TAMIL MEMBER :- I do not see why bicycles should be exempted any more than tricycles. I ride a tricyle. (Laughter.)

The Hon. the PLANTING MEMBER :—A tricycle may be used to carry luggage like a rickshaw. I I move that bicycles he omitted.

The Hon. the DIRECTOR OF PUBLIC WORKS :—A tricycle occupies two or three feet of a road, a bicycle about one inch.

Council then divided when the motion to exempt bicycles was defeated by 14 votes to 3. There voted :—

Ayes 3:—The Hons. the European member, the Planting member, the Director of Public Works.

Noes 14:—The Hons. the Kandyan member, the Burgher member, the Muhammadan member, the Lowcountry Sinhalese member, the Mercantile member, the Tamil member, the G. A., C.P.; the G. A., W.P.; the Treasurer, the Auditor-General, the Attorney-General, the Colonial Secretary, the Officer Commanding, the Principal Collector of Customs.

The Hon. the MERCANTILE MEMBER :—I wish to refer to the last item but one "for every boat propelled by steam or electric power or any power obtained by any means other than hand, beast or sail, whether loaded, or unloaded and of whatever load or capacity :—R2·50." As one of the members of the Sub-Committee on this Bill I agreed to everything but this item. I think it is much too heavy. Steamboats now plying between Colombo and Negombo are a convenience to vast members of people. The amount of toll they pay at present is low, and if we require them to pay a heavy toll, I am afraid, the usefulness of the steamers will be very much restricted. I may be allowed to read from a communication from one of the Directors of the Company the Ceylon General Steam Navigation Company. He says, speaking of the year ending 31st December the number of trips made was 877, the number of passengers was 33,016, and the average earnings per trip amounted to R20·40. At present each launch running makes a trip out and home per day and pays a toll of 50c for the double journey. The average for each trip is small because the fares are small—R1 first-class, and 50 cents second-class. The toll levied is admittedly low, but so are the fares, and it is only by keeping down the running expenses to the lowest point that enables the service to be kept up. The amount that is proposed to be levied —R2·50—on the earnings—R20·40—means 12½ per cent. on the earnings. I think it will be admitted this is a heavy tax—5 times as much as they are paying at present. That might very well be considered and I would move that the amount be reduced to R1.

H. E. the LIEUT.-GOVERNOR :—Are the takings for a single trip?

The Hon. the MERCANTILE MEMBER :—I understand they are for the whole trip.

H.E. the LIEUT.-GOVERNOR :—I did not understand that from the letter just read.

The Hon. the SINHALESE MEMBER :—I see in the list that R2·50 is payable for a padda-boat 50 feet in length, and therefore I do not think a steam-boat should pay less than that, especially as a steam-boat plying between Colombo and Negombo breaks up the canal to such anextent that land-owners on the sides naturally complain that their lands are being washed away. I do not think they ought to be encouraged at all and seeing they cause damage to the sides of the canal I think they ought to be expected to pay a little more.

The Hon. the TAMIL MEMBER :—Even if it be a loss to Government, the steam navigation to Negombo should be encouraged, especially as people who travel there would have to go by coach and that is no joke. I certainly support my Hon. friend on the left (the Hon. the Mercantile Member) in his proposal that R2·50 should be reduced to R1. The Government are not going to give us a railway to Negombo soon, and surely when 33,000 people travel every year we are not going to put the traffic out of the canal and make these people pay two or three rupees for travelling by the coach. As to the statement made by the hon. member opposite (the Hon. the Sinhalese member) that parties are complaining that the Canal has damaged their lands, I do not know whether my friend has travelled by the canal, but I may inform him that all along there are no private lands bordering on the canal, but on either side there is a broad footpath—certainly of 10 feet or more—so that I fail to see how private lands could have been damaged unless the whole of the path on either side were washed away. It is the duty of Government to provide for communication between one place and another and to see that the canal is maintained. I think the steamer company are doing a benefit to the public and that therefore the toll should be reduced.

The Hon. the EUROPEAN MEMBER :—Sir, it must be admitted that the steam-boats are a great public convenience and as such should be encouraged. At present the amount of toll levied is 2½ per cent on the earnings a day. It is proposed to raise it to 12½ per cent which in my opinion is an excessive charge. I was surprised when I saw the earnings were so very small, and I think it is a great pity to handicap an industry like this which is so great a public convenience to persons who wish to travel by the canal. With regard to the remarks made by the hon. the Sinhalese member, I may add that the land bordering the canal does not belong to private individuals. There may be small pieces here and there, but the erosion can only take place on the sides of the canal by the disturbance of the water caused by

steamers. That may damage the sides a little,—I believe it does—but we must put up with inconveniences of that sort if steam power is to be used and if we do not wish to return to the days of our ancestors and go in padda-boats up and down the canal. I support the amendment.

The Hon. the MUHAMMADAN MEMBER also deprecated raising the toll to the extent proposed in the draft and supported the motion of the hon. the Mercantile member.

The Hon. the TREASURER:—Sir, as Chairman of the Committee appointed to report on the Tolls Ordinance, the object of which was to make the rates more proportionate, we considered first of all the amount of inconvenience or damage done by steamers in the canal, the amount they earned, and the return that was given by the traffic; and it was thought that where the toll on padda-boats under 50 feet was put at 75 cents unloaded, and for padda-boats of over 50 feet at R1·25 unloaded and R2·50 loaded the charge of R2·50 for steam boats was not excessive. I quite agree with hon. members; it is well to encourage the steam-boat traffic, but I would not do it by reducing the amount of the toll for the reason that I think a steam-boat ought to pay as much as for using the canal as a padda-boat.

The Hon. the GOVERNMENT AGENT, C.P.:—I think it is only fair that a steam-boat which earns so much more and which does damage to the canal ought to pay more.

The Hon. the EUROPEAN MEMBER:—If you take the expenditure required for fuel, and skilled labour, and contrast that with the labour of the padda-boat and the amount the padda-boat receives for journeying to Negombo and back, I think you will find, taking into consideration the position of life of those who use these padda-boats, that they get the preponderance of the money.

The Hon. the DIRECTOR OF PUBLIC WORKS:—Sir, the proprietors of padda-boats with more or less oriental sagacity, in order to evade the provisions of the old Ordinance have made their boats wider. It is, therefore, I think desirable that the breadth as well as the length should be specified. With regard to the steam-boats, there have been many complaints. Being the chief officer responsible to Government for the condition of the Canal, I have made personal inspections and have found that, owing to the high speed at which they are run, a great deal of damage is done to the Canal banks. The limit of speed fixed by Government is four miles an hour: this is exceeded considerably. If the speed were limited to four miles an hour there would be no damage done. An officer of my department who was unknown travelled to Negombo sometime back: the speed run in the Canal was 7 miles an hour. When he was returning it was known who he was and the speed was four miles an hour! So long as the steam-boats damage the Canal as they do at present, Government will be but poorly paid by a toll of R2·50.

The Hon. the PLANTING MEMBER:—It is right I admit, to encourage steam-boat traffic, but it is only fair that these boats should pay for the damage they do. The difference between R1 and the rate of the schedule would entail a difference in the passage money of only four or five cents, and I would ask can it fairly be considered that the addition of that small sum to fares would drive passengers off the canal? The Government has it in its power to protect itself, and I think it should do so.

The Hon. the MERCANTILE MEMBER remarked that if the regulation was enforced and if the boats were made to go at the rate of 4 miles an hour, most of the damage might not be done. He would not object to meet Government half way and make the toll R1·50. A toll of R2·50 he considered excessive.

The Hon. the ATTORNEY-GENERAL:—I am afraid the only course that could be pursued would be to send an officer by each boat to keep the pace down.

The Hon. the PLANTING MEMBER:—Would it not be advisable to encourage informers in this matter? (Laughter.)

The Hon. the MERCANTILE MEMBER:—I move that the toll be R1·50.

H.E. the LIEUT.-GOVERNOR:—And padda-boats R2·50?

The Hon. the TAMIL MEMBER:—These padda-boats travel only 5 or 6 times a month up the canal; the steamers travel at least 30 times.

The Hon. the TREASURER:—That is to say, six times as often as the padda-boats and therefore they should pay six times as much.

The Hon. the MERCANTILE MEMBER:—I move that the toll be fixed at R1·50.

H.E. the LIEUT.-GOVERNOR put the question, and the division resulted as follows:—

Ayes 5:—The hons. the Muhammadan member, the European member, the Mercantile member, the Tamil member, the Principal Collector of Customs.

Noes 11:—The hons. the Kandyan member, the Burgher member, the Lowcountry Sinhalese member, the Planting member, the Director of Public Works, the G.A., C.P.; the G.A., W.P.; the Treasurer, the Auditor-General, the Attorney-General, the Colonial Secretary.

The Hon. the TAMIL MEMBER asked if green leaves for manure were exempted by clause 4.

The Hon. the ATTORNEY-GENERAL:—If it is not exempted here, it will be exempted by proclamation under another clause. If there is any necessity, a proclamation will be issued by the Governor as specified in clause 7.

The Hon. the SINHALESE MEMBER.—In the 3rd proviso are these words:—

Provided further that all vehicles fitted with trays, baskets, or other apparatus for the carriage of green tea leaf and drawn by a horse or an ox, or by horses or oxen, and all boats and canoes so fitted, shall be exempt from toll respectively, except when actually carrying such leaf or any other load in respect of which toll is leviable under this Ordinance.

Provided further that every vehicle so fitted and drawn by a horse or an ox, or by horses or oxen, and every boat or canoe so fitted, shall be exempt from toll when loaded with green tea leaf to be manufactured by any factory standing upon the estate whereon such leaf has been plucked or gathered.

If they are not going for the purpose of getting leaf, should they pass free—if they go beyond the toll-bar and remove the trays or baskets, the vehicles could be used for any purpose whatever. It appears to me the carts may be used for other purposes although they may be fitted up for tea leaf.

The Hon. the PLANTING MEMBER:—I don't think the baskets could be stowed away and there is not the slightest chance certainly of any of the tea estates putting themselves out of the way to do what is suggested. It is quite possible, but, practically, I would say, it is beyond the bounds of probability.

The Hon. the TAMIL MEMBER:—I would propose that they should be fitted in accordance with certain plans or specifications to be sanctioned by Government or the Planters' Association.

The Hon. the TREASURER made an inquiry as to boats and canoes in the same connection.

The Hon. the PLANTING MEMBER:—It is quite possible that boats or canoes can be used for

the purpose. I should doubt whether it would be worth the while of anybody to attempt to commit such a fraud and I think the possibility of such fraud is very remote.

The Hon. the SINHALESE MEMBER:—I will not press my motion.

The Hon. the TAMIL MEMBER:—Before we leave section 10 sub-section b. I would like to say it is usual before a place is declared a toll for an Ordinance to be brought in and with the sanction of the Legislative Council the toll is established. If I am right then this clause (b) completely abolishes the power of the Council and gives power to the Governor to establish tolls.

The Hon. the ATTORNEY-GENERAL:—In reply to the hon. member I may state that the clause does not mean that the Governor shall establish a toll; it only says he shall *determine* at which place it shall be put. A toll is *established* by the Legislative Council under clause 9.

The Hon. the TAMIL MEMBER:—Referring to section 13 I am inclined to mention one matter. In this section seed grain is exempted and I would ask the hon. the Attorney-General whether he would consent to paddy plants passing free also. Very frequently in the Northern Provinces plants are put in certain fields and allowed to grow to a certain extent and then taken to other fields, to be transplanted.

The Hon. the ATTORNEY-GENERAL:—I have no objection to insert the words "paddy plants."

Clause amended accordingly.

The Hon. the TAMIL MEMBER:—Sir, in connection with the third item of Schedule B, the Kotté Toll, I would ask why the toll should not be collected at its original place. It used to be collected near the bridge about a quarter of a mile from where it is now collected. Why should it be brought so close to Colombo to prevent people living in the suburbs of Colombo.

The Hon. the ATTORNEY-GENERAL:—The places are not fixed in this schedule. We cannot alter them here.

The Hon. the ATTORNEY-GENERAL:—I move, sir, that Council do resume.

Council resumed.

The Hon. the ATTORNEY-GENERAL:—I report the Bill as amended and move that it be referred to the Law Officers of the Crown. I give notice that I will take the third reading at next meeting of Council.

THE SUPPLEMENTARY CONTINGENT CHARGES FOR 1894.

The Hon. the AUDITOR-GENERAL.—Sir, I rise to move the second reading of "An Ordinance for making final provision for the Supplementary Contingent Charges for the year 1894."

The Hon. the GOVERNMENT AGENT C.P.—I beg to second.

Bill read a second time.

The Hon. the AUDITOR-GENERAL:—I move, sir, that Council do now go into Committee.

Council went into Committee.

The Bill having been gone over in Committee

The Hon. the AUDITOR-GENERAL said:—Sir, I move that Council do now resume.

Council resumed.

The Hon. the AUDITOR-GENERAL:—I report the Bill as amended and move that it be remitted to the Law Officers of the Crown. I give notice that I will take the third reading at next meeting of Council.

Bill referred to Law Officers of the Crown.

The Hon. the Acting COLONIAL SECRETARY:—Sir, I move that Council do now adjourn till Friday, 7th February, at 3-30 p.m.

Council rose at 6-15 p.m.

FRIDAY, FEBRUARY 7th, 1896.

Council met in the Council Chamber at 3-30 p.m. Present:—H.E. the Lieut.-Governor (presiding); H.-E. the acting Officer Commanding (Colonel Corse-Scott); the Hon. the Attorney-General (Mr. C. P. Layard); the Hon. the acting Colonial Secretary (Mr. W. T. Taylor, C.M.G.); the Hon. the Treasurer (Mr. F. R. Saunders, C.M.G.); the Hon. the acting Auditor-General (Mr. T. B. Skinner); the Hon. the Government Agent W.P. (Mr. A. R. Dawson); the Hon. the Director of Public Works (Mr. R. K. McBride, C.M.G.); the Hon. Sir J. J. Grinlinton; the Hon. H. L. Wendt; the Hon. P. Coomaraswamy; the Hon. A. de A. Seneviratne; the Hon. W. Elkawella; and the Hon. Abdul Rahiman.

A NEW MEMBER.

Mr. F. R. ELLIS took the oath and his seat as the Hon. the acting Principal Collector of Customs.

MINUTES.

The Clerk read the minutes of previous meeting. Minutes confirmed.

PAPERS &C.

The Hon. the Acting COLONIAL SECRETARY:—I lay on the table, sir, Revised Code for Aided Schools for 1896 together with a notification of amendments; and An Epitome of proclamations, notifications, etc., promulgated in the Colony during 1895. I also give notice that I will, at a sitting of Council not less than one month hence, move that a ferry toll be established between Kalpitiya on the peninsula and Karaiton on the mainland and directly opposite it.

WITHDRAWAL OF A MOTION.

The Hon. the TAMIL MEMBER:—In view, sir, of the Ordinance to amend the Marriage Registration Ordinance of 1895, which the Hon. the Attorney-General has given notice of for today, I would ask leave not to put the question that stands in my name, because the Ordinance will give me all the information I require on the subject.

Council granted permission and the hon. member's motion, which was in the following terms was withdrawn:—

"What instructions if any, have been received from the Right Hon. the Secretary of State for the Colonies by the Government with regard to the Ordinance to consolidate and amend the Laws relating to the registration of Marriages other than the Marriages of Kandyans or Muhammadans, passed on July 10th 1895, and to move for papers."

IRRIGATION IN THE MATARA DISTRICT.

The Hon. the EUROPEAN MEMBER was down on the agenda paper to put the following motion:—

"With reference to correspondence that has recently appeared in the public press relative to the question of the recovery of irrigation rate in the Matara district, to move for papers dealing exclusively with this subject in the year 1891."

The Hon. the EUROPEAN MEMBER:—Sir, with reference to the motion which appears in my name, I would ask Your Excellency's permission and that of the Council to postpone it to some future occasion.

H.E. the LIEUT.-GOVERNOR:—I presume Council will grant permission?—Motion withdrawn.

THE MARRIAGE REGISTRATION ORDINANCE.

The Hon. the ATTORNEY-GENERAL:—I rise, sir, to move the first reading of "An Ordinance to amend 'The Marriage Registration Ordinance 1895.'" The object of the Ordinance is to repeal section 15 of the Marriage Registration Ordinance No. 2 of 1895, by which it was enacted that marriages were not valid unless registered.

The present Ordinance has been introduced under instructions by the Secretary of State who considered that such a provision might cause considerable hardship, and who pointed out that it does not exist in the law of England. I move, sir, the first reading of "An Ordinance to amend 'The Marriage Registration Ordinance 1895.'"

The Hon. the Acting COLONIAL SECRETARY :—I beg to second, sir.

Bill read a first time.

ROADS.

The Hon. the COLONIAL SECRETARY :—I would ask, sir, the permission of Council to withdraw the notice of motion that stands in my name :—

"That in place of the amounts provided in the Supply Bill of 1896, the Treasurer be authorized to pay on the order of the Governor out of the revenues of the Island, to the Director of Public Works, the following amounts, being the respective moieties of the cost of constructing, under the provisions of "The Branch Roads Ordinance, 1891," the several roads hereinafter mentioned :—

R31,500, Glenalla estate to the Haeldand.

R21,355, Passara-Medagama road to Doomoo Gap."

Permission granted and notice of motion withdrawn.

THE MUNICIPAL COUNCILS ORDINANCE.

The Hon. the ATTORNEY-GENERAL :—I bring up, sir, "An Ordinance to amend, 'The Municipal Councils Ordinance 1887,'" and the report of the Law Officers of the Crown thereon, and move that the same be read.

Report read.

The Hon. the SINHALESE MEMBER :—Sir, the report of the Law Officers of the Crown has been read; and, before the third reading is taken, I have a few verbal amendments in this Bill to suggest to Council. I move, sir, under clause 61 of the Rules and Orders of Council on page 4 :—

"At the first convenient meeting of the Council after the report of the Law Officers shall have been received the Bill shall be brought up by the member in charge thereof; when it shall be competent to any member to move the adoption of the substance of such further amendment as he may deem necessary. And, in the event of any one or more of such motions being carried, the Bill shall be re-committed for the purpose of framing and inserting the same and making any necessary alterations consequent thereupon; but no amendment affecting the principle of the Bill shall be in this stage discussed in the Committee *which shall not have been proposed and* carried in the Council previous to the re-committal of the Bill. When all the amendments and alterations shall have been gone through, the Bill shall be again brought up to the Council, and, if the Council shall deem it necessary, be again submitted to the Law Officers and again brought up to the Council."

It is in accordance with this rule I have taken the liberty of adopting this somewhat unusual procedure, and suggested these amendments now. The first of the amendments I have to suggest is on clause 12 of this Bill. I would suggest a slight alteration of the wording of the proviso to sub-section 1. It is provided :—

"That the chairman or the assistant chairman shall, except in cases of extreme urgency and when there would not be sufficient time to call a special meeting of the Municipal Council, not act in opposition to, or in contravention of, any resolution of the Municipal Council, or exercise any power which is directed to be exercised by the Municipal Council at a meeting."

I do not think it requires an Ordinance to tell the Chairman or Assistant Chairman that he is not to exercise any power he is not empowered to exercise, which only the Municipal Council can exercise; and I think it would be implying, if we had this wording, that the Chairman of the Municipal Council, whether of Colombo of Kandy or of Galle has been exercising powers which only the Council has power to exercise. It should be remembered, sir, that the Chairman has certain special powers under the Ordinance, and, I think, the intention of this Council in the proviso was to restrict the Chairman in the exercise of those powers where the opinion of Council was adverse to the opinion of the Chairman. The amendment I move is this—the insertion of the words "in the exercise of any power vested in the Chairman under this Ordinance" between the words, "that," and "the." The proviso will then read "provided that in the exercise of any power vested in the Chairman under this Ordinance the Chairman or the Assistant Chairman shall except in cases of extreme urgency," etc. Also, I would move the omission of the words after the word "Council" in the fifth line, so that the proviso will stop at the word "Council." The need for the amendment will be apparent from one illustration. Under section 176 of Ordinance 7 of 1887 the Chairman and not the Municipal Council may grant permission for the erection of huts. Recently there was a fire in Hetiyawatte. Who gave permission for the building of these huts? It was the Chairman. Was it in consonance with the wishes of the Municipal Council? No. There was, if I remember rightly, a resolution of the Municipal Council that no building should be erected in Hetiyawatta—no thatched building. In spite of that, in the exercise of the powers vested in the Chairman by this Ordinance, he allowed thatched buildings to be erected and the result was that there was a great fire, a great many people were left without houses for a day or two; and I need not mention what damage was caused to the different owners and also the damage that might have been caused to the whole city, if the fire had extended further to the petroleum store. What we wish in this proviso is to prevent the Chairman exercising such powers as are vested in him where he finds the Municipal Council is opposed to such exercise. I think it may be taken for granted that the Chairman, being a member of the Council, and one-half of the members being members nominated by the Governor; the Municipal Council is likely to exercise these powers with discretion.

The Hon. the TAMIL MEMBER :—Sir, I beg to second the motion for the amendment of that clause. I need not say anything further because all that has been said by the hon. member I endorse.

The Hon. the EUROPEAN MEMBER :—As a member of the Municipal Council, I fully concur with the amendment that has been proposed by the hon. member opposite (the hon. the Sinhalese member).

The Hon. the ATTORNEY-GENERAL (after consultation with H.E the Lieut.-Governor) :—I do not think the proposed amendment would effect the proviso very much. The only effect would be to give the Chairman more power; and, under these circumstances, I am prepared to accept the amendment.

H.E. the LIEUT.-GOVERNOR :—The question is that the words that the hon. the Sinhalese member moved be added to the proviso and the deletion he proposed be made.

Motion agreed to.

The Hon. the SINHALESE MEMBER :—I have a further amendment to propose—in Clause 20 of the Bill, the insertion of the following, which

will come in after the sub-section marked (3) (j 1) and it will read as follows :—

No. 4 After clause N of the same section there shall be inserted the following sections.

(N 1) the removal and disposal of night soil.

(N 2) the charging, levying and recovering fees for the removal and disposal of night soil.

I may say, sir, that these are matters that it is necessary the Municipal Council should provide for in making regulations for sanitary purposes ; and this amendment has also necessitated an amendment of clause 33. After Council has agreed to this, I shall move the further amendment.

The Hon. the EUROPEAN MEMBER:—Sir, I beg to second the motion.

The Hon the ATTORNEY-GENERAL:—I cordially, on behalf of Government, accept those amendments, because as I pointed out, although the majority of Council carried it against me, the duty that was provided for by clause 33 –the removal of night soil daily at stated times throughout the Municipality—would place the Municipality of Colombo and other Municipalities in great difficulties with regard to funds.

The amendment was agreed to.

The Hon. the SINHALESE MEMBER :—In section 29 of the Bill I have a slight amendment to propose—the insertion after the 3rd clause of the following clause :—

(g) "The setting back of the building for the improvement of the street."

The Hon. the ATTORNEY-GENERAL :—And the original cause (g) would then be (h)?

The Hon. the SINHALESE MEMBER :—Yes.

The Hon. the ATTORNEY-GENERAL :—I have no objection, sir, on behalf of Government. It is only a question as to whether it is desired by the Municipal Council or not. They had it in a former section of the old Ordinance

Amendment agreed to.

Clause 33 *209* (*a*) was next taken up. It stood in the following terms :—

209 (*a*) "It shall be the duty of the Municipal Council to provide for the removal of night soil daily at stated times, and thereupon the Chairman may by notice in writing require the owner or occupier of any house or building or land having a cesspool on his premises to close such cesspool, and to substitute a dry earth closet therefor, and if the owner or occupier neglects during fourteen days after notice in writing for that purpose to close such cesspool, and to substitute a dry earth closet therefor, the Chairman shall cause such cesspool to be closed and a dry earth closet to be substituted therefor, and the expense incurred by the Chairman in respect thereof shall be paid by the owner or occupier, and shall be recoverable as hereinafter provided."

The Hon the SINHALESE MEMBER :—In clause 33 *209* (*a*) I move the omission of the first two lines and the first two words of the third line, and the insertion, after the word "Chairman" in the third line, of the words "when specially empowered thereto by resolution of Council," making the clause read—"209 (a) The Chairman when specially empowered thereto by resolution of Council may by notice in writing" &c.

The Hon. the TAMIL MEMBER :—I beg to second that, sir. Those words were put in on my motion, but, in view of amendments that have been proposed, which, I admit, are better than my own, I think they ought to be omitted ; and I am sure the Hon. the Attorney-General will have no objection.

The Hon. the ATTORNEY-GENERAL :—I am only too glad to think that the Council have now taken a sensible view of Clause 33. With regard to that clause I warned them that these words would occasion great difficulty. I accept the amendment with great pleasure.

The Hon. the SINHALESE MEMBER :—These are all the amendments I had to propose. I think the Bill should be re-committed to give them effect.

The Hon. the ATTORNEY-GENERAL :—I move, sir, that the Bill be re-committed under section 61 of the Rules and Orders of Council, for the purpose of [illegible] and inserting the Amendments proposed [illegible] the Council, and I will move at once the adoption of these amendments.

Council then went into Committee.

The Hon. the ATTORNEY-GENERAL moved *seriatim* the insertion of the amendments proposed by the Hon. the Sinhalese Member. The motions in each case were agreed to, and the Ordinance was amended accordingly.

The Hon. the ATTORNEY-GENERAL :—Sir, I bring up the Bill as amended and present it to Council. It is in the option of Council, if they deem it necessary, to refer the Bill to the Law Officers of the Crown. I daresay they will not consider it necessary, and, if so, I would move the suspension of the Standing Orders and move the third reading of the Bill.

H. E. the LIEUT.-GOVERNOR :—The question is that the Standing Orders be suspended.

Standing Orders suspended.

The Hon. the ATTORNEY-GENERAL :—I move, sir, that the Bill be read a third time.

The Hon the Acting COLONIAL SECRETARY seconded.

Bill read a third time.

THE MINES AND MACHINERY ORDINANCE.

The Hon. the ATTORNEY-GENERAL :—I bring up sir, a Bill entitled "An Ordinance to provide for the regulation and inspection of Mines and Machinery" and the report of the Law Officers of the Crown thereon and move that the same be read.

Report read.

The Hon. the ATTORNEY-GENERAL :—I move, sir, the third reading of the Ordinance.

Ordinance read a third time.

THE TOLLS ORDINANCE.

The Hon. the ATTORNEY-GENERAL :—Sir, I bring up a Bill entitled "An Ordinance to consolidate and amend the Law in respect to the collection of Tolls" and the report of the Law Officers of the Crown thereon and move that the report be read.—Report read.

The Hon. the ATTORNEY-GENERAL :—I move, sir, the third reading of this Ordinance.

The Hon. the Acting COLONIAL SECRETARY seconded.

Ordinance read a third time.

SUPPLEMENTARY CONTINGENT CHARGES FOR 1894.

The Hon. the Acting AUDITOR-GENERAL :—I rise, sir, to submit the report of the Law Officers of the Crown on "An Ordinance for making final provision for the Supplementary Contingent Charges for the year 1894," and move that it to read.—Report read.

The Hon. the Acting AUDITOR-GENERAL :—I rise, sir, to move that the Ordinance be read a third time.

Ordinance read a third time.

ASSENT TO ORDINANCES.

The Hon. the Acting COLONIAL SECRETARY : —I beg to announce that H. E. the Lieut.-Governor has given his assent to the following Ordinances :—

Ordinance No. 1 of 1896 entitled "An Ordinance to amend 'the Municipal Councils Ordinance of 1887.'"

Ordinance No. 2 of 1896 entitled "An Ordinance to provide for the regulation and inspection of Mines and Machinery."

Ordinance No. 3 of 1896 entitled "An Ordinance to consolidate and amend the Law in respect to the Collection of Tolls."

Ordinance No. 4 of 1896 entitled "An Ordinance for making final provision for the Supplementary Contingent Charges for the year 1894."

DRAFT OF ADDRESS OF WELCOME TO THE NEW GOVERNOR.

The Hon. the Acting COLONIAL SECRETARY:—I now, sir, bring up the draft of an address, prepared by a Sub-Committee, to His Excellency Sir Joseph West Ridgeway; and I move it be read.—Address read.

The Hon. the TAMIL MEMBER:—I move, sir, that the address now read be adopted by this Council.

The Hon. the EURO[illegible] MEMBER:—I beg to second the motion.

H.E. the LIEUTENANT-GOVERNOR:—The question is that the address just read be adopted.

Address adopted.

H.E. the ACTING GOVERNOR:—The Clerk will record it as having been adopted unanimously.

Agreed.

ADJOURNMENT.

The Hon. the Acting COLONIAL SECRETARY:—I move, sir, that Council do now adjourn *sine die*.

Council rose at 4-10 p.m.

WEDNESDAY, JULY 29th, 1896.

Present.—H. E. the Governor, Sir West Ridgeway, President; the Hon. W. T. Taylor, Acting Colonial Secretary; the Hon. P. Ramanathan, Acting Attorney-General; the Hon. F. R. Saunders, Acting Auditor-General; the Hon. Ælian A. King, Acting Treasurer; the Hon. A. R. Dawson, Government Agent of the Western Province; the Hon. Allanson Bailey, Government Agent of the Central Province; the Hon. H. L. Moysey, Acting Principal Collector of Customs; the Hon. P. Coomaraswamy, Tamil Representative; the Hon. W. W. Mitchell, Mercantile Representative; the Hon. A. de A. Seneviratne, Lowcountry Sinhalese Representative; the Hon. M. C. Abdul Rahiman, Muhammadan Representative; the Hon. W. Ellawala, Kandyan Representative; th Hon. H. L. Wendt, Burgher Representative.

Absent.—H.E. Major-General W. Clive Justice, Officer Commanding the Forces; the Hon. R. K. MacBride, Director of Public Works; the Hon. Sir John Grinlinton, General European Representative (on leave in Europe); the Hon. T. N. Christie, Planting Representative.

NEW MEMBERS TAKE THE OATH.

H.E. the GOVERNOR:—Hon. gentlemen of the Legislative Council, Mr. Ramanathan having been appointed Acting Attorney-General, will take the usual oath.

The Hon. the Acting Attorney-General took the customary oath, as did also the following new members:—The Hon. the Acting Treasurer and the Hon. the Acting Principal Collector of Customs.

MINUTES.

The Clerk (Mr. Thorburn) read the minutes of the meeting of February 7th, 1896.

H.E. the GOVERNOR:—Is it the pleasure of hon. members, that these minutes be adopted?

Minutes adopted.

ABSENT MEMBERS.

The CLERK intimated that H.E. the Governor had been pleased to excuse H.E. the Major-General and the Hon. T. N. Christie from attendance at that day's meeting of Council.

PAPERS.

The Hon. the Acting COLONIAL SECRETARY:—Sir, I lay on the table for the information of hon. members correspondence regarding the report of the Royal Commission on Opium. I also lay on the table the following Sessional Papers:—

6 of 1896—Information regarding the working of the Colombo Agricultural School during the last five years.

8 of 1896—Return of abandoned plantations resumed by Government.

9 of 1896—Governor's despatch to Secretary of State and Secretary of State's reply about the kerosine tax.

10 of 1896—Statement of accounts of the Widows and Orphans' Pension Fund for the year 1895.

11 of 1896—Final report of the Bandarawela railway.

12 of 1896—Archæological survey of Ceylon (6th progress report).

13 of 1896—Archæological survey of Ceylon (7th progress report).

14 of 1896—Final report upon the construction of the Matara railway.

15 of 1896—New Central Passenger railway station for Colombo.

Blue Book for 1895.

And the following Administration Reports:—

Post and Telegraphs, Public Instruction, Royal Botanic Gardens, Colombo Harbour Works, Colombo Museum, Government Printing Office and Revenue, Judicial and Scientific.

THE INVESTMENT MINUTE.

The Hon. the TAMIL MEMBER:—Sir, before putting the question which stands in my name I would beg leave to say, I am thankful and I am sure the members of the Public Service will be equally thankful, that the rules of 15th May 1895 have been withdrawn and the rules of 15th July 1896 have been substituted. My object in putting this question is to know how these rules, which were said to be unalterable, have now been modified in the right way. I ask:—

Whether the Hon. the Colonial Secretary will explain the reasons why the rules of May 15, 1895, in regard to the acquisition or possession of land, have been withdrawn, and other rules, as published on July 15, 1896, have been substituted.

The Hon. the Acting COLONIAL SECRETARY:—Sir, the question of the minute governing investments by public officers, came under the Governor's notice shortly after his assumption of the administration of this Government. Whilst fully concurring in the principle that public servants should not engage in commercial or agricultural pursuits, or acquire landed property, it appeared to His Excellency that the Regulations regarding investments were unusually severe, and went far beyond the rules in force in India and elsewhere. Nor did it seem that circumstances had arisen to justify special stringency—as, for instance, if there had been undue speculation by public servants in the local share market. His Excellency was of opinion that these regulations tended to discourage thrift, and to drive capital out of the Colony which might properly and profitably be expended in it (Hear, hear, and applause.) For these reasons the Governor thought it advisable to bring the matter under the notice of the Secretary of State, as there seemed to have been some misunderstanding in connection with the introduction of the rules of the 15th May, 1895, and received his sanction to introduce the existing minute, which brings into force practically the same regulations that obtain in India and other Colonies. (Renewed applause.)

KALPITIYA–KARATIVU FERRY.

The Hon. the Acting COLONIAL SECRETARY:—Sir, at the last meeting of Council I gave notice of the motion which I have now to move. It is

"That from and after January 1, 1897, a ferry toll be established between Kalpitiya, on the peninsula, and Karativu, on the mainland, directly opposite it."

In the Puttalam District in the North-Western Province it appears, sir, and it has been represented to Government by the officers of the province directly concerned, that the establishment of a ferry at this point will serve the interests of the public and will also be in the interests of officials who have business in that neighbourhood. It appears, sir, that some 25 years ago a ferry which had been in existence at this point was discontinued at the time the existing ferry between Etalai and Puttalam was brought into existence. I move, sir, the resolution which I have just read.

The Hon. the Acting AUDITOR-GENERAL:—Sir, I beg to second the motion.

Resolved accordingly.

THE CEYLON STEAMSHIP COMPANY'S SUBSIDY.

The Hon. the Acting COLONIAL SECRETARY:—Sir, hon. members are aware that in the year 1887 Government entered into a contract with Messrs. Walker, of Colombo, for a steam-boat service round the island. This contract provided for the coming into force of a fornightly service, from 15th September 1888, and that it should continue in force for a period of five years from that date. In return for what Messrs. Walker undertook, the Government on its part undertook to pay a yearly subsidy of £3,000 stg., and to give to the Company who undertook this service, certain exclusive privileges such as the exclusive right to convey Government stores and Government passengers. When the contract terminated in the year 1893, it was renewed for a further period of five years, that is, it will expire in the year 1898. Meantime, sir, a Company—the Ceylon Steamship Company—had succeeded to the interest of Messrs. Walker. The Company put on a second steamer and what in terms of the contract was required to be only a fortnightly service became, in fact, a weekly service—a regular weekly service, excepting only when one or other of the steamers had to be withdrawn for the purposes of repair or cleaning. In 1893 the Company first approached Government with representations that the terms and conditions on which it was carrying out the contract were insufficient and that they were heavy losers over this contract and over the steamer services. These representations were renewed and continued during the years 1894 and 1895 and the Company intimated to Government that unless some improvement in their position resulted from these representations they would be forced to withdraw the service of the second steamer and they would have to fall back on the strict conditions of the agreement, that is, a fortnightly service. It is manifest, sir, that any such step would be retrograde and would be injurious to the trade and commerce of the colony. Government having this in view, after full and careful consideration, determined to offer to the Ceylon Steamship Company certain improved terms on certain conditions. The improved terms they offered to the Company were a continuance of the service—a continuance of the contract—for a further period of two years from the year 1898, that is, up to and inclusive of the year 1900; and, subject to the vote of this Council, to pay an increase in addition to the existing subsidy of £1,000 sterling a year up to that time from the present, that is for a period of 5 years—1896 to 1900. The conditions on which the Government offered these improved terms were that the service should be a regular interweekly service; that there should not be any interruption of the service; that the Company should waive the exclusive right which it possessed to transport Government passengers and stores, and that both steamers of the Company should be subject to the conditions of the contract. The public derive two important advantages from these conditions—they secure a regular weekly service, and they secure that both steamers, and not one only, are subject to the conditions of the contract. The conditions are indeed very much in favour of the public, but the great advantage that is secured is a regular weekly service. Another matter too, sir, that the Government conceded to Messrs. Walker which does not appear to the subject of this resolution was power to increase their rates by [illegible] above the rates laid down in the [illegible] attached to the contract. [illegible] passage money greatly [illegible] to rival steamers and [illegible] and I do not think this concession matters much so far as the public is concerned. I now move, sir,—

"That this Council is of opinion that the subsidy payable to the Ceylon Steamship Company may be increased by a sum of £1,000 sterling annually for five years from January 1897, on condition of—(*a*) The Company giving regular continuous weekly service; (*b*) The Company assigning the exclusive right to the transport of Government stores and passengers; and (*c*) That both the steamers of the Company shall be subject to the conditions of contract."

The Hon. the MERCANTILE MEMBER:—In supporting [illegible] sir, you have heard read, I merely wish to say that in my opinion the Ceylon Steamship Company has rendered very good service indeed to the colony in facilitating the development of trade both of the different ports where the steamers call and also the trade between these ports and the capital, Colombo. The subsidy, I think, has been very well earned It is now proposed to add to it £1,000 stg. a year. Even then the amount that would be paid will not be more than the Government lost when they were running the service and serving the different ports of the Island by means of the steamer "Serendib." A continuous regularly weekly service, I think, will be very cheaply purchased by this means and I hope the Government and Council will agree to this vote, seeing Government has apparently got a very good bargain.

The Hon. the TAMIL MEMBER:—From what fell from the hon. the Colonial Secretary, sir, I should say there is no subsidy required at all. I believe, sir, that the hon. gentleman said there were rival companies and in consequence of that, Government accepted the proposal that an increase of ten per cent should take place in the case of passengers, and though Government conceded this right, yet the Company would not avail themselves of it because of rival steamers. Surely, sir, if there were rival steamers I fail to see why this particular Company should have its subsidy increased. If there were such rivalry in the trade one would say the right thing would be to decrease the subsidy. Apart from that question, I must admit that much of what was said by my hon. friend opposite (the hon. the Mercantile member) is quite right. This Company has done good service to the colony, and I do not grudge this addition of an increase to £1,000 to its subsidy, but I certainly protest against Government accepting the pro-

posal that the rate of passenger fare should be increased by ten per cent. I protest against that most strongly. I was this morning, not knowing that this increase had been granted, thinking of asking Government whether it would not be right that the schedule charges for goods conveyed should be reduced. I do not know what the schedule of fees is, and where it is to be found, but I heard, on my last trip to Jaffna, several complaints that the charges made in respect of parcels and goods were very excessive. In view of that, I would ask Government to reconsider this matter and also I would urge that the schedule referred to may be revised for the benefit of the public and not for the benefit of the steamer which has benefited already to the extent of R75,000 or £4,000 sterling.

H.E. the GOVERNOR:—Do I understand the hon. member to propose an amendment?

The Hon. the TAMIL MEMBER:—No, sir.

The Hon. the Acting COLONIAL SECRETARY:—I am afraid, sir, the hon. member who has just sat down has misunderstood what I desired to convey to the Council; I stated that the increase of subsidy granted is with the view of preventing the heavy loss which, we understand, the Company is incurring by running on the present conditions, and to secure for the public, what the Government has most in view, a regular and continuous weekly service. When I alluded to rival companies keeping down rates, I did not allude to a rival company giving a regular weekly service. If that were possible I admit all reason for an increased subsidy would be removed; but it is not so. So far as their goods rates and passenger rates go, the Company still has to compete with other companies which occasionally may call at ports in the island. The schedule of rates I would mention, sir, is to be found attached to the copy of the contract which I shall have great pleasure in placing at the disposal of the hon. (the Tamil) member. I have no doubt that schedule will also have been published in the *Government Gazette* and elsewhere.

The motion was put to the Council and carried without a division.

RAILWAY STATION ACCOMMODATION.

The Hon. the COLONIAL SECRETARY:—Sir, I am sure hon. members know that for a considerable time past the question of providing increased station accommodation at the Colombo Terminus has occupied the attention of Government. The subject has received very full and very careful consideration at the hands of Government and various schemes have been submitted to Government with the view of getting rid of the difficulties that are now said to be experienced. Hon. members know better than I do that the terminal station at Colombo was erected many years ago in order to serve the traffic on the main line—that is the line from Colombo to Kandy, a line of some 70 miles—whereas now, owing to the extensions that have taken place and to the construction of the south coast line, this Terminus is required to serve the purposes of a line some 300 miles in length. Of course, many additions and many important improvements have taken place in that station during the period since it was first built; but, even with these additions and improvements, it is found that the accommodation afforded is far from sufficient to meet the demands of traffic, more particularly, of goods traffic. I said, sir, that schemes have been submitted from time to time for the consideration of the Government with the view of affording greater facilities and to remove some, if not all, of the difficulties under which the Railway Department labours. Many of the schemes involved large expenditure and Government hesitated to incur this large expenditure of public money in view of the fact that objection could be taken to most of the schemes that were presented to it and difficulties lay in the way of carrying them out. I may mention that the sum involved varied from 1½ million of rupees to 3½ millions of rupees. Well, sir, when Major Wilson, the expert, who reported on the system of Ceylon Railways, was here, the subject occupied his attention and the latest scheme, which I think I may term Major Wilson's scheme—the scheme referred to at page 9 of his report—was submitted to the railway officers and was seen by them and recognised by them to possess many advantages and was practically accepted by them, with some slight modifications, as affording all the improvement of accommodation and advantages that were required. Plans and estimates, submitted by the Railway Department, were sent by the Government to a Commission, the Commission having before it many schemes that had been presented to Government, and desiring that this latest scheme should have very full and careful consideration. This Commission was presided over by the Hon. the Acting Auditor-General whose experience in that direction is of the very greatest and he had as colleagues two experienced members of this Council, the Hon. the Director of Public Works, the cause of whose absence today we must all regret, and the hon. member representing the Mercantile community. With these were associated an expert, I think I may say of the first order, Mr. Hodson, the Consulting Railway Engineer to the Government of Madras, whose services were placed at the disposal of this Government for the purpose by the Government of India. The Commission were also, I should mention, asked to take into consideration plans and estimates submitted by Mr. Waring, till recently Chief Engineer for Railway Extensions to this Government, and to report upon that plan. The plan of Mr. Waring was for the improvement of the Fort Railway station, the improvement and extension of the Fort Railway station to meet the requirements of the increased traffic. The Commission having given the subject that careful and intelligent consideration that might be expected from its constitution, has submitted the report which I have laid on the table today; and in that report the Commission accept practically the scheme as submitted by the railway department,—the scheme of Major Wilson, modified by recommendations of the Ceylon Railway Department. The Commission, however, in submitting this report and in recommending the adoption of the scheme, appear to have some hesitation as to recommending immediate action with regard to the passenger station. They seem to think that further inquiry on the part of the officials of the Railway Department and more mature reflection may lead to improvement; but they entertain no such hesitation with regard to the measures that are recommended for the improvement of the Maradana Yard and they recommend that all these measures, as submitted here, should be carried out without delay. They enumerate these measures in paragraphs 4 and 12 of their report; and if hon. members will permit me, I

will read those paragraphs. Para 4 is to the following effect:—

"Partial relief can be given by extending the goods sheds, and removing the present engine shed, &c., and laying marshalling sidings, so far as practicable, without immediately removing the coaching arrangements, and by improving the road approaches. This measure will, however, not materially relieve the congestion of cart traffic near the sheds, nor will the full benefit of the improved shunting arrangements be felt so long as the coaching business has to be done in the same yard."

In para 12 it is stated:—

"Besides the above, the General Manager produced estimates for the following works, urgently required at the present Maradana terminus, to give the partial relief referred to in paragraph 4, and he stated that these requirements are altogether independent of the proposed removal of the coaching arrangements, and that if they be sanctioned, he will be able to get along for about four years, unless the traffic continues to increase at the rate at which it has been increasing recently."

The cost is as follows:—

	R	
"Removal of old engine and turn-table and relaying of marshalling sidings in the space so obtained	117,653	
Enlargement of certain workshops	36,600	
Extra staff for supervision	5,000	
	159,253	
Add contingencies, at 5 per cent.	7,963	
		167,216
Providing present open passenger platform with temporary covering (say)	25,000	
Extending goods sheds and altering boundary	35,371	
Widening canal bridge and improving approach road ..	28,689	
Interlocking (say) ..	20,000	
Lighting goods yard with electricity (say)	20,000	
	129,030	
Add contingencies, at 5 per cent.	6,452	
		135,482
Total ..		302,698"

Well, sir, as I said, the Commission had no hesitation with regard to these proposals and they recommend their immediate adoption and execution. It is with regard then, sir, to these proposals that I bring forward this motion before Council today. The object of the resolution is to give effect to the recommendation in this report of the Commission. We propose, as the Commission advises us, that without delay, a rearrangement of the Maradana Yard should be taken in hand and an extension of the goods sheds carried out to increase the accommodation required; that a system of interlocking signals should be established on the line and the other works which I have just referred to in para 12 be given effect to; and the object of the resolution is, as I say, to give effect to these recommendations. To enable Government to carry them out funds must be provided and the resolution indicates the manner in which Government propose that these funds should be provided. The amount—three lakhs of rupees—may seem comparatively small, having regard to the magnitude and importance of the works to be undertaken, but even three lakhs of rupees cannot be found by Government from its permanent sources of revenue without seriously crippling its resources and without interfering with the execution of other necessary works. For this reason it is proposed to raise the amount by loan, but as some delay will arise in obtaining a loan we think it necessary to propose, in the first instance, to take the amount from the cash balance in the hands of the Treasurer, and repay to the Treasury that amount when it can be obtained by loan. It must not be supposed by Council, and I do not wish it to be supposed by the public, that Government in making this proposal to Council and putting this resolution before Council, desire that the larger subject of increased passenger accommodation is to be lost sight of. That is not the intention of Government. The intention of Government is that that question shall be taken up in due course and the Commission in the last paragraph of its report in (sub-section 3) recommended that

"(III.) The General Manager should be directed to carefully revise the Beira scheme so as to fulfil the conditions laid down in paragraph 10, and to submit complete working plans and estimates for the same within three months."

These plans and estimates Government is awaiting; and when these plans and estimates are before Government, Government will take into consideration the question of the increased passenger accommodation which is to be provided.

I now move, sir:—

"That this Council is of opinion that the improvements and additions to the Colombo Terminus of the Railway, recommended by the Commission appointed to inquire into and report upon the question of a site for a new central passenger Railway Station for Colombo, should be carried out at as early a date as possible; and that for the purposes of this service the Government should advance from the Cash Balances in the hands of the Treasurer a sum not exceeding in amount R300,000, such amount to be hereafter repaid from the proceeds of a loan to be raised for the purpose."

The Hon. the GOVERNMENT AGENT, W.P.:—I beg, sir, to second the motion.

The Hon. the SINHALESE MEMBER:—Sir, I have no desire to oppose this motion in any way, but I should like to ask whether it would not be more regular to consider this motion after hon. members of Council have had an opportunity of reading the report of the Commission that was tabled today. Certain parts of that report were read by the hon. the Colonial Secretary, but I think it would be more satisfactory if we expressed our opinions with regard to the report after we have had an opportunity of reading the report. I therefore, move if my hon. friend the Colonial Secretary has no objections, that this motion be taken up at next meeting of the Council.

H.E. THE GOVERNOR:—The hon. member proposes an adjournment of the debate till next meeting of the Council?

The Hon. the SINHALESE MEMBER:—Yes.

H.E. THE GOVERNOR:—Is that seconded?

The Hon. the TAMIL MEMBER:—Sir, I agree with my hon. friend—

H.E. THE GOVERNOR:—May I ask if the hon. member is to second the amendment?

The Hon. the TAMIL MEMBER:—Yes. Your Excellency will see that the motion is "that this Council is of opinion that the improvements and additions to the Colombo Terminus of the Railway recommended by the Commission," &c., "should be carried out," &c. As to what the Commission is, or what the report is, we have no information yet. A pamphlet has been given to me within the last five minutes. I have not been able to read anything at all. It would certainly be more satisfactory if the debate is adjourned till next meeting of Council, in order to enable us to study the papers. I would second the motion, but I scarcely agree to it.

The Hon. the MERCANTILE MEMBER:—Sir, if the hon. members who have just spoken have any misapprehensions as to the necessity of improvements at the General Terminus, after having read the report, I would recommend them to pay a visit to the railway station—a visit to the goods [illegible] and workshops—and I think they will be astonished to see how the work has been carried on [illegible] years in the limited space they have. The extension is looked upon as absolutely essential for the carrying on of the railway business of the country, and on behalf of the Mercantile Community, I have to thank Your Excellency for the [illegible] you have taken in this matter.

H. E. the GOVERNOR:—I see [illegible] "An adjournment of the [illegible] may be moved by any [illegible] seconded, shall be [illegible] Accordingly, I put [illegible] declared the "noes" [illegible]

The Hon. the [illegible] a division.

Council then [illegible]

Ayes 6.

The Hon. the [illegible] Member.	[illegible] the Mercantile Member.
The Hon. the [illegible] Member.	[illegible] the Acting Principal Collector of Customs.
The Hon. the Sinhalese Member.	
The Hon. the Mercantile Member.	The Hon. the Government Agent, C. P.
The Hon. the Tamil Member.	The Hon. the Government Agent, W. P.
The Hon. the Acting Attorney-General.	The Hon. the Auditor-General.
	The Hon. the Acting Treasurer.
	The Hon. the Colonial Secretary.

The motion for postponement of the debate was therefore negatived.

The Hon. the MERCANTILE MEMBER, in giving his vote, explained that he was quite willing that hon. members should have an opportunity of studying the report.

H. E. the GOVERNOR:—The debate now is on the main question of the motion brought forward by the Hon. the Colonial Secretary. (After a pause), His Excellency put the question and the motion was carried.

THE BRANCH ROADS (AMENDMENT) ORDINANCE.

The Hon. the COLONIAL SECRETARY:—Sir, the draft Ordinance which I am now about to ask Council to take into consideration and to read for a first time provides for the amendment of sections 11, 19, and 24 of the Branch Roads Ordinance 6 of 1874. It provides also for the addition of a new clause (No. 39 *a*) and for the addition of a proviso to section 23. With regard to the amendment that is proposed in section 11, I would mention to the Council that in the course of this year it was discovered that when a vote was taken on account in the Supply Bill for the construction of a branch road—a road constructed under the Branch Roads Ordinance—that the money was practically of no avail for the purpose for which it was voted in the Council, because no action could be taken, as the Ordinance stands at present, until the whole moiety or unless the whole moiety had been voted in the Supply Bill. It is to get rid of this difficulty, because it does not always happen that the Government can make provision in the Supply Bill for the whole amount of the moiety that is proposed to be spent on a road, that the amendment of clause 11 is here proposed. The object of this amendment is that when the Council gives a vote for the construction of a road the work may proceed on the usual steps being taken, that is, the usual steps as provided in section 11 of the ordinance—Ordinance 6 of 1874. This is provided for in the Draft Ordinance now before us and this section 4 also provides for another small amendment in section 11 of the main ordinance. It was found, although theoretically it appeared to be perfectly sound, that in the matter of the election of the Road Committee proprietors or resident managers representing two-thirds of the acreages affected should be present, that in practice and in reality in some districts of the island it was impossible to secure the attendance of proprietors or managers representing that extent of acreage, so that, when this Ordinance is passed in its present form section 4 as it stands will provide that in place of proprietors representing two-thirds of the acreage being present, proprietors or managers representing one-third of the acreage may be present and may take the necessary action. With regard to the amendment of section 19 of the main ordinance, the amendment here proposed under section 5 of this draft Bill will allow of one moiety payable by estate proprietors being paid in instalments. As it now stands the whole amount of moiety has to be paid before the construction of the road can be proceeded with. It is believed that this concession may prove a convenience to some of the small estate proprietors. And then, sir, with regard to the additional section 39 (*a*) it is proposed by section 8 of this Ordinance to add to the main ordinance a provision to enable a road that has already been constructed by the proprietors of any estate to be brought within the provisions of the main ordinance; and the object of the proviso which we propose to add to section 23 of the Ordinance is that a moiety of the cost of erecting cooly lines for the coolies engaged in repairing or improving any road may be charged as part of the cost of such repair for improvement. I should mention that the amendment of section 24 which is proposed is a small amendment that follows necessarily on the amendment we propose on sections 11 and 19. Then it is proposed by this draft Ordinance to repeal the shorter Ordinance 28 of 1892. The reason is that it was found more convenient to re-enact section 11 of the main Ordinance and section 11 being re-enacted the only section of Ordinance 28 of 1892 that remains is section 2 and for convenience sake Ordinance 28 of 1892 is repealed and section 2 re-enacted in this draft Ordinance as section 3. I move the first reading of "An Ordinance to amend 'The Branch Roads Ordinance of 1874.'"

The Hon. the Acting AUDITOR-GENERAL:—I beg to second the motion.

Bill read a first time.

The Hon. the Acting COLONIAL SECRETARY:—Sir, I beg to give notice that I will take the second reading at next meeting of Council.

WIDOWS' AND ORPHANS' PENSION FUND.

The Hon. the Acting AUDITOR-GENERAL:—I rise, sir, to move the first reading of "An Ordinance to consolidate and amend the Law providing for the granting of Pensions to Widows and Children of deceased Public Officers of this Colony." Hon. members of this Council are no doubt aware that Ordinance No. 15 of 1884, which was the original Ordinance making provision for granting pensions to the widows and children of deceased public officers, provided that

at the end of 10 years there should be an investigation into the fund and its result should be compared with the estimates upon which the fund was based. The clause of the Ordinance which requires this to be done is clause 38 of the amending Ordinance 20 of 1885 which reads as follows:—

"On the 31st day of December of the tenth year following the original establishment of the fund under Ordinance No. 15 of 1884 (or so soon after as possible and quinquennially thereafter) an actuary or actuaries to be appointed by the Governor in Executive Council shall make an investigation of the fund, and report in full as to its working, its results as compared with the estimates upon which it was based, its financial position, and whether any, and if so, what, readjustment of the benefits or contributions are considered necessary."

There is also another clause of the Ordinance which requires that attention should be paid to it at the end of ten years.—Clause 4 which states:—

"All moneys belonging to the said fund, whether arising from past or future contributions, fines, interest, or otherwise, shall be invested with the Government of this Colony, and shall bear interest payable by the said Government for ten years from the date at which the said Ordinance No. 15 of 1884 came into operation, at the rate of six per cent per annum free from any deduction, and such interest shall be made up on the 31st day of December in each year and shall be calculated upon the mean monthly balance in the hands of the Treasurer to the credit of such fund during the course of the year."

In accordance with the directions contained in the Ordinance, Government, on the expiration of ten years, directed that the books and papers of the fund should be placed in the hands of an actuary, Mr. Ralph Hardy, who, in conjunction with Mr. Paterson, deceased, had drawn up the tables and rules upon which this fund had been worked. From the figures which appeared on the accounts of the fund, the Government and the Directors were of opinion—or rather were in great hopes that there would be a substantial alteration made in the rules regulating the administration of the fund—alterations which would be advantageous to the Government and also to the advantage of the contributors and their widows. Mr. Hardy, who is an actuary of very great experience and very high standing in his profession, had no sooner looked into the figures that were laid before him than he at once expressed his fear that these hopes were groundless. This was what he said:—

"I have gathered that, in the view of the Ceylon Government and also in that of the subscribers, the accumulated assets of the fund point to so highly prosperous a financial condition that it is considered that not only can the state-aid of six per cent interest be withdrawn and the Trustees left to the employment of the moneys at the market and necessarily, lower, rate of interest, but also that either the existing or both the existing and prospective pensions can be safely increased."

He also said:—

"It has been shewn to me that:—

"(*a*) The realised assets have been mounting up, are still increasing, and probably will continue to grow; and that the present accumulation is so large that its amount attracts attention and implies that the resources are unduly swollen.

"(*b*) That the yearly outgo for Pensions is practically met by the Interest income alone, leaving all the contributions to be carried to and to swell the investment account. It was also suggested, but not put forward as a fact certain to issue in the degree indicated, that, while the Pensions may be expected to rise somewhat, the growth of annual charge would be retarded by the natural shrinkage through the deaths of the Pensioners, so that the future payments would not expand at the same rate as hitherto. This latter contains some element of truth in the suggestion, but not, as I consider, to the extent requisite to sustain the argument (probably) aimed at, viz. that the Pension payments are nearing the maximum.

"I am familiar with this class of tests as applied to the working finance of a Provident Fund, and have constantly to combat them as subtle and dangerous delusions."

I may state Mr. Hardy held out no hopes either to Government or to the contributors that he could make any alterations in the rules regulating the fund, which would be to the advantage of either. He admitted that the fund was in a healthy condition and that it was [illegible] for a fund only 10 years old, but he said that growth was only natural and not extraordinary and was merely what the framers of the rules had always expected. As regards the [illegible] that the pensions paid to widows were very [illegible] he said that so was only natural. The [illegible] that were paid to widows during the [illegible] years of a fund were naturally [illegible] subscription—they [illegible] dy poor to the widows of public servants [illegible] had joined the fund between the ages of [illegible] 50 and who had subscribed only somewhere [illegible] en five and ten years and it was not to be expected that the widows of officials who had subscribed so short a time would be large beneficiaries; but, when the fund was 30 to 35 years old, pensions would be paid to the widows of officers who had joined at 20 or 25 years of age, who had subscribed for 30 or 35 years. The pensions that would be paid to such widows would very largely in excess of the pensions that were now paid to the widows of officers who had only joined the fund for a few years. Mr. Hardy made a report in a lengthy memorandum, but he did not make an actuarial valuation, indeed, he stated that it did not appear to him to be necessary to incur the cost of an actuarial valuation, but he gave the general conclusions at which he arrived thus:—

"The present position may be briefly summarised as follows:—

"(A) dealing with the general principles of the finance of these funds:—

"(a) That the belief of the Ceylon Government that because the investments have grown to their present amount, and are still growing the full 6 per cent rate of interest is no longer needed, is groundless—since, at no future time can the original and fundamental condition of this definite interest yield be realised. The financial effect of a withdrawal of the subsidy involved in the 6 per cent rate would be to make the fund insolvent and to necessitate a reduction of all present and future pensions.

"(b) That the expectations of the members for further benefits founded upon the supposed excessive amount of the realised assets and upon the present pension-outgo, have no proper warrant; even under the continuance of the 6 per cent interest and, *a fortiori*, not so, should the subsidy be withdrawn."

I may mention that the Government authorized me when I was in England to place myself in communication with the Crown Agents to act in conjunction with them in carrying out negotiations with Mr. Hardy, and, apart from the great weight that the mere opinion expressed by so high an authority as Mr. Hardy would necessarily carry, I must say, I was led from his arguments to believe that he took an entirely right view of the case; but at the same time I felt that probably Government and the subscribers, from the fact that Mr. Hardy was the parent of this scheme, might think it desirable that the Crown Agents of the Colonies should obtain the opinion and report of some other actuary who might be considered less biassed

than Mr. Hardy; but there was the very greatest difficulty in obtaining any one who would take up the inquiry. The Crown Agents referred to more than one actuary, but all of them said "if you have Mr. Hardy's opinion what more do you want"; and the last gentleman who wrote on the subject wrote as follows:—

"If I am not intrusive will you pardon my suggesting that for full acquaintance with the affairs of the fund and for soundness of judgment and professional aptitude for investigation Mr. Ralph Hardy cannot be surpassed."

The Crown Agents then felt themselves in considerable difficulty when a circumstance occurred which, I think, enabled them to come to a sound conclusion. A similar fund for regulating the amount of pensions to be paid to the widows and orphans of public officers in the Straits Settlements, had, like our own, just run for 10 years and the Straits Government [illegible] sent the papers of that fund home and asked for [illegible] and report. These papers had be[illegible] another actuary also eminent in hi[illegible] Finlaison, and Mr. Finlaison [illegible] a report on the condition [illegible] the Straits Fund. I should me[illegible] the law regulating the Straits Fund [illegible] almost entirely from our Ordinance [illegible] the fund is based upon precisely the same principl[illegible]. Mr. Finlaison's report on that fund took precisely the same lines as Mr. Hardy had taken. Mr. Finlaison made a full report and this is the conclusion at which he arrived. He said if the Singapore Government reduced the rate of interest from 6 per cent to 4 per cent "an entire modification of the rates of annuity will be necessary." In fact he practically confirmed what Mr. Hardy had said of our scheme. When the Secretary of State received this report he authorised the Crown Agents to stay proceedings and forwarded the papers together with the report of Mr. Finlaison on the Straits fund, to the Ceylon Government. The Secretary of State in his dispatch wrote as follows:—

"(2) The subject is one on which I do not wish to fetter the discretion of the Colonial Government but I may express my own opinion that when a recognised expert of very high standing whose views are, to some extent at any rate, borne out by the similar testimony of another experienced actuary in the case of a similar fund elsewhere, states clearly and unmistakably his opinion that unless the fund is carried on under as favourable conditions as have hitherto prevailed it will become bankrupt, it is the duty of the Government either to ensure the continuance of those conditions or to take over the fund.

"(3) I would suggest for your consideration that the fund should be continued on the same terms as before for a further period of say five years, six per cent on the moneys being guaranteed by the Government."

Under these circumstances it seemed to Government there was nothing to do but to at once bring in a Bill to enable them to pay as heretofore 6 per cent on the moneys entrusted to them by the Directors of the Widows and Orphans Pension Fund and to pay that sum from the 1st April, 1894, until a report had been received with reference to the working of the scheme after another period of five years. It is for this purpose that the Ordinance which I have now to move [illegible] on the table. Council will see that it provides that a rate of 6 per cent per annum shall be paid for seven years from the first day of April 1894. The term of seven years has been placed in the ordinance in order that hon. members may have an opportunity of determining whether the rate of 6 per cent should be continued should there be any delay in obtaining a report immediately at the end of five years as has been the case at present, It has been thought better to put in a term of seven years to carry it well over the next term of five years. Of course, it is for hon. members to say whether they would like to carry it on for seven or only for five years. The Ordinance is also drafted to enable Government to make certain small alterations in the working of the Ordinance and to meet difficulties which have arisen during the past ten years. These alterations are not very many nor are any great principles touched. I do not propose to trouble Council with the details of these alterations in moving the first reading of the Bill, but I may, when I move that the Bill be read a second time, enter into the details of the several alterations proposed. With these remarks I beg to move the first reading of "An Ordinance to consolidate and amend the Law providing for the granting of Pensions to Widows and Children of deceased Public Officers of this Colony."

The Hon. the GOVERNMENT AGENT, W.P., seconded.

The Bill was read a first time.

MARRIAGE REGISTRATION (AMENDMENT) ORDINANCE.

The Hon. the Acting ATTORNEY-GENERAL:—I rise, sir, to move the second reading of of "An Ordinance to amend 'The Marriage Registration Ordinance of 1895.'" The amendment proposed is the repeal of section 15 of the Ordinance No. 2 of 1895, which provided that marriages should not be considered valid unless registered. Hon. members are aware of the opposition which this clause raised in Council, especially on the part of some of the unofficial members, and how their protest was handed in and also how the Secretary of State, in view of the representations made not merely by the unofficial members but, I believe, by Mr. Layard, the Attorney-General, advised her Majesty the Queen not to sanction the Ordinance so long as the clause objected to remained as part of it. Hon. members are also aware of the dispatch of the Secretary of State which requested Government to carry out the repeal of the clause in question. Hence the necessity for the present Bill. I do not know that it is necessary for me to state anything further, but it appears to me that the repeal of section 15 of the Ordinance in question would necessarily involve the modification of some of the details of one or more of the clauses of the Ordinance, It may be necessary, if it is the wish of hon. members of Council, to appoint a small sub-Committee to consider whether it is really desirable that other sections of the Ordinance should be amended or not. I am entirely in the hands of Council in regard to that, and for the present, I would only ask permission to move the second reading of "An Ordinance to amend 'The Marriage Registration Ordinance, of 1895.'"

The Hon. the Acting TREASURER seconded.

The Hon. the MUHAMMADAN MEMBER:—Sir, section 15 of the principal Ordinance now to be repealed under instructions from the Secretary of State takes away the strength of that Ordinance. I understand the Secretary of State has followed the views of his predecessor in office. The clause which it is sought to repeal is nothing new to us. The privilege extended to Muhammadans under the Muhammadan Marriage Registration Ordinance was only extended to other sections of the community. Marriage ties are

entirely civil contracts. Most of them are solemnized with religious ceremonies according to the several denominational sects. If a man's religion is good for him, certainly his marriage according to the forms of that religion must hold good. But the weak point is that whenever disputes are raised, regarding the proofs of such marriages solemnized or recorded by unauthorized persons no records are to be procured in order to establish the validity of such marriages. Only recently I noticed in a certain disputed case a question raised about the validity of a marriage, where a man swore that his marriage took place in a certain church, "but he did not even know the name of the priest," nor had he "signed any book in the church after the marriage nor got any certificate of marriage." The marriage register was produced but it was not signed by the parties or the priest who performed the marriage ceremony. Now, sir, there are the same difficulties with regard to Muhammadan Marriage Ordinances. Section 17 of the principal Ordinance 8 of 1886 was repealed by Ordinance No. 2 of 1888, which is similar to that now before Council. I do not believe that among Muhammadan marriages as many as one per cent are registered; although books are kept by the priests called the "Caduttam" in which records of marriages are entered. When these books are lost or destroyed, there are no duplicates to be procured and it is in the discretion of the priests whenever application is made for a certified copy that they can either supply it or refuse. Recently a marriage took place at a certain house and it was alleged to have been solemnised by a Muhammadan priest. A copy was sought by a person who wished to know if the marriage had been solemnised, but none was procurable the documents being in the priests' control. In these circumstances, I can only say this much—that when the registration of marriages is allowed to be optional, the results will be the same as under the Muhammadan Registration Ordinance. Therefore I must oppose the optional registration of marriages.

The Hon. the TAMIL MEMBER:—Sir, when this Ordinance was brought before this Council in June 1895 I strongly opposed the passing of this section and only two members, namely my hon. friend who represents the Lowcountry Sinhalese and myself, voted against its being passed, while all the others voted in favour of the retention of that clause. It must be remembered that during that discussion both of us stated that the Rt. Hon. the Secretary of State could not surely give effect to a section so monstrous as this. What may be considered to be a kind of a prophecy has been fulfilled and it affords me much gratification to find that the Secretary of State has not only given directions to Your Excellency to have this section repealed, but has given these directions for the very reasons I urged at this Council Board. Sir Arthur Havelock, Your Excellency's predecessor, unfortunately was persuaded by the gentleman who had charge of the Bill to allow the principle of compulsory registration to be considered as a Government measure and hence the Bill was passed, notwithstanding much opposition here, not only on the part of us, two or three of the native members and a large body of Roman Catholics, but of a very large body of the Hindu population of Ceylon. The passing of the clause in question would have resulted in very serious consequences to the people and I am very glad to find these evil consequences are happily to be averted by the introduction of this amending Bill. I, for my own part, am very thankful that the compulsory registration of marriages is no longer to prevail in Ceylon and that the law is now to be what it was before 1895. Speaking for and on behalf of the Hindus I am extremely pleased to know our marriages will be in the future as they were before 1895 and that our marriages will not depend for their validity, on the parties going before a Registrar or anywhere else, because we hold that the ceremony of marriage is a religious ceremony. I must allude to one part of the proceedings with regard to the original Bill. The gentleman who had charge of the Bill, the Hon. L. P. Lee, said "Take away compulsory registration and you may pitch the whole Bill into the fire." I am very glad that this Council is going to take away the principle of compulsory registration without pitching the Bill into the fire. As regards this present Bill, I think it is a Bill which must be committed to a Sub-Committee of this Council. The principal Ordinance was framed on the basis that no marriage should be valid without registration, in fact, marriage was to form part of any religious ceremony or ceremony, but depend altogether on registration. For that reason several sections in the principal Bill had been inserted which have now to be altered—not altered in principle, but verbal alterations have to be made to give effect to this repeal. It will not do to make any amendment without due consideration because if it is done hastily today at this meeting it might imperil the whole Bill. I have looked through this ordinance carefully this morning and I find, for instance, section 56 of the principal Ordinance declares that any person who shall knowingly or willingly solemnise a marriage before the issue of the registrar's certificate, &c., shall be liable to fine and imprisonment. That was all right when section 15 stood, but if you remove section 15 the Hindu priest, who solemnises a Hindu marriage, if you pass the section I have referred to, will be punished and will be liable to imprisonment if he solemnizes a marriage without registration. I think it is right the matter should be referred to a sub-Committee to go through the whole Bill to see in what respects the Bill requires amendment.

The Hon. the SINHALESE MEMBER:—Sir, I received a letter this morning from the Secretary of the Buddhist Defence Committee complaining that this Bill, like many others affecting native interests, has not been published in the *Government Gazette* or elsewhere in the vernacular. It is simply upon that point I wish to draw the attention of Your Excellency and the Government to the letter I have received. I will read a part of it:—

"As you are aware the majority of the Sinhalese editors of the Sinhalese journals are unacquainted with the English language to which fact may be attributed the absence of any discussion on the said measure."

I think there is a misapprehension on the part of this Committee in asking me to get a postponement of this Bill. They are evidently under the impression that it is the Registration Ordinance that is being discussed by this Council. The Registration Ordinance is passed and we are only dealing with one clause of that Ordinance which was objected to when the discussion on the Registration Ordinance took place. I think it is very desirable that registration should be made compulsory; but our fear was, in the state of this country, that it was impossible to compel everybody to go

before a Registrar especially as going before a Registrar had to be done not once but twice—first to give notice and afterwards to solemnise the marriage. As a matter of fact, a good many ignorant natives, once they have been to the Registrar to give notice and signed some papers, without intending to avoid registration, simply through their ignorance, consider themselves lawfully married. I am not opposed to registration in theory. I think that compulsory registration is admirable but in practice we think it cannot be carried out. I am very glad that the Registration Ordinance will come into force with this clause left out; and when this Bill is sent to a sub-Committee I think it is desirable, as may be, that it has pointed out, to examine the whole Ordinance and see how far the repealing of the 10th section will affect the other clauses.

The motion was carried on a division.

Bill read a second time.

The Hon. the Acting ATTORNEY-GENERAL:—I move, sir, that Council [illegible] Committee.

The Hon. the TAMIL [illegible] beg to second that.—Agreed.

The Hon. the Acting ATTORNEY-GENERAL:—I move, sir, the appointment of a Sub-Committee consisting of the Hons. the Auditor-General, the Tamil member, the Sinhalese member, the Burgher member and the Attorney-General.

The Hon. the Acting TREASURER seconded.—Agreed.

The Hon. the ACTING ATTORNEY GENERAL:—I move that Council do resume. Council resumed.

The Hon. the ACTING COLONIAL SECRETARY:—I move that Council do now adjourn *sine die*.

Council adjourned *sine die* at 4-30 p.m.

WEDNESDAY, SEPTEMBER 23rd, 1896.

Council met in the Council Chamber at 3 p.m. H.E. the Governor, presided, and present were the Hon. W. T. Taylor, Acting Colonial Secretary; Hon. C. P. Layard, Attorney-General; Hon. F. R. Saunders, Acting Auditor-General; Hon. E. A. King, Acting Treasurer; Hon. A. R. Dawson, Government Agent, Western Province; Hon. W. R. Kynsey P. C. M. O. Hon. J. B. A. Bailey, Government Agent, Central Province; Hon. H. L. Moysey, Principal Collector of Customs; Hon. P. Coomaraswamy, Tamil Representative; Hon. W. W. Mitchell, Mercantile Representative; Hon. A. De A. Seneviratne, Low-country Sinhalese Representative; Hon. M. C. Abdul Rahiman, Mahommedan Representative; Hon. T. N. Christie, Planting Representative.

NEW MEMBERS.

Dr. KYNSEY and MR. T. N. CHRISTIE took the oath and their seats as new members.

THE MINUTES.

The minutes of the last meeting were read and confirmed.

PAPERS TABLED.

The Hon. the COLONIAL SECRETARY:—Sir, I lay on the table Administration Reports for the year 1895, on Railways, Registration, and Forest Conservancy. I also lay on the table reports and estimates by the Hon. R. K. Macbride and Mr. F. J. Waring, relating to the proposed light railway from Nanuoya to Kandapolla, the Central Provincial Irrigation Board's Reports for 1895 and the Preliminary Report of the Commission appointed to report on the means of improving communication with the northern parts of the island, the probable cost of the Railway Extension in that direction and the profits, if any, likely to arise therefrom.

A PETITION AS TO TOLLS.

The Hon. A. DE A. SENEVIRATNE:—I have a petition to present from certain inhabitants in Chilaw praying for the removal of one or other of the two tolls in the district of Chilaw, within a little over two miles of each other. I move that the petition be read.

The petition was taken as read.

PROPOSED ABOLITION OF THE KEROSINE OIL TAX.

The next matter was the Hon. Mr. Christie's motion in favour of the reduction of the Kerosine oil tax. On this stage being reached, however,

H.E. the GOVERNOR said:—Before calling on the hon. member who represents the planters' interest to move the resolution of which he has given notice, I should like to say a few words to the Council on a suggestion which I understand has already been communicated privately to the hon. member. I would submit for the consideration of the Council that this motion—"That in the opinion of this Council the present tax upon kerosine oil is excessive and should be reduced"—is inopportune. In the first place, I do not think that the last days of a moribund session is a very good moment for an exhaustive discussion of so important a question, and, further, next month it will be my duty to explain to the Council the financial situation of the island and the policy of the Government as regards the future. Therefore, I think it would be premature and inopportune to discuss a question which is so nearly connected with that topic. We cannot discuss now whether the tax should be reduced or abolished without touching on the general question of the finances of the island and if this discussion were pursued it would be impossible for any member of the Government to take part in it for the reason I have indicated. Accordingly, any discussion on this point, whether the tax can be abolished or reduced, must be a one-sided discussion and, therefore, devoid of weight. But if the intention of the hon. member in moving this motion is to have an opportunity of explaining and clearing away certain misunderstandings which I am told have arisen regarding the memorial that was presentd to the Secretary of State, then I can understand the eagerness with which he rushes into the fray and how he seizes his first opportunity to make that explanation. For my part, I should be very sorry indeed to stand between the explanation and the Council and indeed the public, and if that be the intention of the hon. member I would ask him whether his purpose would not be satisfied by simply making this motion and after making his statement allowing it to be withdrawn and then bringing it in the ensuing session. I leave the matter in the hands of the hon. member and of the Council.

The Hon. THE PLANTING MEMBER:—Sir, I regret very much I cannot accede to Your Excellency's request to delay the discussion upon this important matter, and I would point out that if this is an inopportune moment, that fact is really due to the Government. The despatch, which it is necessary to criticise and answer, was sent in a year ago, and this is the first opportunity on which it was possible for the planting member or, I think, any other member of Council to take notice of it. It was only produced and made public at the last meeting of Council, and, therefore, if this is an inopportune moment for

bringing up the resolution it is really the fault of the Government that it is so, and it is more especially the fault of Sir Arthur Havelock when he was in the island who did not make the despatch public. With all due respect, sir, I must submit that the reasons you have given why we should not go on with the discussion are not entirely relevant. Your Excellency says you are shortly to make a statement as regards the island's finances, and that, therefore, it would be better that I should defer this until you have made that statement. I submit it must be a great aid to Your Excellency to know what the feelings and wishes of the unofficial members are on a matter like this, indeed, their wishes will undoubtedly guide you very considerably in any financial proposals you may make, and, therefore, the discussion on it would be an aid to Government. As for the motion being inopportune it may be so in so far as this is the last meeting of Council this Session but otherwise it is extremely opportune, because the three representative bodies who were attacked by Sir Arthur Havelock in the dispatch are just on the point, of sending in an explanatory statement and it is undoubtedly opportune that the opinions of the unofficial members of Council should be taken and made public before that explanatory statement is considered either by Your Excellency or by the Secretary of State. In any other circumstances, I need hardly say I would gladly accede to Your Excellency's wishes to defer this motion, but as the circumstances are, I am unable to do so.

In proposing the resolution, sir, of which I have given notice, I must naturally take for my text the dispatch of Sir Arthur Havelock, dated June 17th, 1895. During the time that I had the honour of serving in this Council with Sir Arthur Havelock, I invariably found him extremely fair and certainly as accurate as any of us. I, therefore, was much astonished when I came to peruse this dispatch for it is full of lamentable errors and it is extremely unfair. The errors, lamentable though they may be, are perfectly honest errors; I do not doubt for a moment Sir Arthur Havelock thoroughly believed everything he said was accurate and fair; but I do not think it would be possible to make much excuse for him for having kept back from the three representative bodies who memorialised the Secretary of State—kept back from the different bodies the statement of the Secretary of State that they had sent in a paper calculated to mislead. That was a very grave stigma for the Secretary of State to put on the Planters' Association, the Chamber of Commerce and the National Association, and Sir Arthur Havelock must have known it was not justifiable; yet, instead of making it public then, which he could have done, at all events, in September when he communicated with the Planters' Association the expression of the Secretary of State was practically suppressed, and the utmost reluctance was shown by the local Government to give publicity to the despatch.

H. E. the GOVERNOR: I understand that the hon. gentleman imputes this to an error of judgement, not to any improper motive?

THE HON. THE PLANTING MEMBER:—Certainly sir, I can only wish, sir, that Sir Arthur Havelock had been present to-day to defend what he had written and explain his reasons for what to the Ceylon public has seemed a very curious proceeding. And now, sir, I take up his despatch. In paragraph 3 His Excellency says [illegible] be inferred from the terms of the memorial, but because it was at that time unproductive.

That was an inference of Sir Arthur Havelock's own. There was no such inference in the memorialists statements, and it was merely an inference which the Governor created and put up in order that he might knock it down again. But had the inference existed I would maintain, sir,—the references are too long and too tedious to go through—that a reference to one or two of the points of the proceedings of the Commission of 1877, will show that rightly or wrongly it was include' in the list of taxes which the Commission considered to be vexatious and more or less oppressive. I would rather leave paragraph 4 over which deals of the general question until the end, and take the [illegible] paragraph. His Excellency said

"They [the memorialists] do not, however, mention that the abolition of the Paddy Tax caused a loss to the general revenue of nearly one million rupees which more [illegible] counterbalances the amount [illegible] by the additional taxation in case it [illegible]

That the memorialists clearly meant to [illegible] is open to [illegible] that a remission [illegible] and the effect of which was to reduce the [illegible] revenue by one million rupees, therefore [illegible] necessary that three alternative taxes should be put on. Unfortunately for Sir Arthur Havelock's argument he had forgotten what he said in 1891 [illegible] Despatch to the Secretary of State when he was urging the abolition of the Paddy Tax.

"In mentioning a million [illegible] as the yield of the Paddy Tax, I overstated [illegible] proceeds of the paddy tax amounted to [illegible] 1889 and to R829,527 in 1890. The proceeds during the present year will, by reason of the large reduction recently made with your lordship's approval in the assessment of the Province of Uva, and by other causes, be probably still further decreased. If the collection of the tax under the present system were continued, its average annual yield would certainly not exceed R900,000. But it may be confidentially assumed that under no circumstances will the present system be continued. If the tax be not repealed the inevitable alternative will be the adoption of the recommendations made in the Report of the Select Committee of the Legislative Council. The result of the adoption of those recommendations will be a loss in the proceeds of the Tax which would not be safe to estimate at less than R350,000. The gross yield of the tax would be thus reduced to about R550,000, without any decrease in the cost of collection. If the cost of collection be deducted, the nett value of the tax would be considerably less than R500,000."

You will see that His Excellency at the time he was urging the abolition of the Paddy Tax showed, apparently to the satisfaction of the Secretary of State, that in 1891 the nett loss on the tax would be under R500,000. It is, therefore, a glaring error for His Excellency in 1895 to have talked of the loss as being one million rupees. Then, sir, I pass to paragraph 6 in which His Excellency, talking of the fall in the price of Silver, says—"which has so much embarrassed" Government. Now just a very short time before His Excellency made that statement the Currency Commission had sat—the Currency Commission upon which were the Hon. Treasurer and the Hon. the then Acting Auditor-General and it most carefully considered this special point. If you refer to the Currency Commission's Report you will find it emphatically states the very reverse of what Sir Arthur Havelock stated:—unfortunately that fall in silver had not embarrassed the finances of the Ceylon Government.

In the 7th paragraph of the despatch, Sir Arthur Havelock, says: —

"Turning now to the main allegation in the Memorial. Is it a fact that the present tax on kerosine oil of 25 cents or [illegible] threepence a gallon is a 'm[illegible] and embarrassing' or 'unproductive' or [illegible] oppressive as to call for appreciably increased [illegible]?"

That Sir Arthur [illegible] describes as the main allegation. [illegible] is no such [illegible] either main or subsidiary [illegible] inverted commas were put over certain words [illegible] as if they had been used by the Memorialists, when the fact was that they were used by the Governor of the [illegible] subjects, "unproductive" having applied to the Ker[illegible] Tax when it was first [illegible] and the other words also those of Lord K[illegible] applied to the Paddy Tax. And there [illegible] to be found in the Memorial. I might [illegible] was possible [illegible] has found [illegible] speech of [illegible] on the Bill [illegible] as a matter [illegible] who spoke about [illegible] England. [illegible] rate of taxation on [illegible] compared with Ceylon. [illegible] omits all mention of India, [illegible] one of the most appropriate of countries to compare with Ceylon, but Sir Arthur Havelock has not done so. Why? Because the tax there is infinitely smaller [illegible] it is only 6 cents per gallon. In paragraph 8 Sir Arthur Havelock said:—

"Again, if, as asserted in the Memorial, the tax is a 'prohibitive' duty, the natural result would be a decrease in the amount imported."

And he went on to show that, though the memorialists had said the tax was prohibitive yet in spite of this prohibitive tax the imports had gone up immensely. But what was the truth? The truth was that the memorialists in the last paragraph but one of the Memorial said:—

"Your memorialists would further point out that in view of the very serious danger to the great Tea Industry in the near future from a scarcity of fuel a prohibitive duty on an article which bids fair to supply this want, is causing anxiety in planting circles, and is of itself inadvisable."

Can there be two interpretations put upon that? The memorialists never said for a moment that the duty was prohibitive of *importation* or prohibitive of consumption. It would have been nonsense to say so, but they were right in saying it was prohibitive of the use of oil for a certain specific purposes, viz for fuel. In the same clause of Sir Arthur Havelock's Despatch there was a most extraordinary misconception. The memorialists had stated that in the year following the imposition of the tax the revenue had been only R4. This was the exact wording of the Memorial on that point:—

"The Revenue for 1897 was estimated at R17,847,984 of which this tax [illegible] kerosine oil was calculated to produce R270,000, but the actual result was that the revenue reached R18,051,950, although the tax in question only yielded R4."

Now, I ask hon. members of Council—what possible deduction can you make from a statement like that? The obvious deduction is that the reason for such a statement was to show that the object for which the tax was put into existence was non-existent and that the revenue had more than come up to the point Government estimated, although the item from which R270,000 was expected had only yielded R4. Yet Sir Arthur Havelock calls the argument "disengenuous" and assumes as a point to be proved that the tax was so prohibitive that no oil was imported. In paragraph 9 of the Despatch

"As regards paragraph 7 of the Memorial I cannot refrain from expressing my surprise that in a document coming from such representative bodies as the Planters' Association, the Chamber of Commerce, and the Ceylon National Association, so reckless a statement would have been made as that the burden of taxation had been enormously increased since 1884—in fact by 70 per cent."

Sir, on enquiring into the matter I find that the Planters' Association, in drawing up the Memorial, made *one* mistake. The mistake was not a very unnatural one, and it was chiefly due to a change in the system in which Government accounts had been kept. The memorialists were comparing the two years 1884 and 1895, and it seemed in 1884 the Salt Revenue was classed under the heading "Sales of Government Property." That heading had been changed in 1895, and the copyist in taking out the figures for taxation, perfectly naturally, did not take out the items that were classed under the "Sales of Government Property." Therefore there had to be an addition of R800,000 made to the sum the Memorialists quoted as the revenue of 1884. That is the only mistake I can find in the statements of the Memorial, and Sir Arthur Havelock, instead of having to characterize it with such an adjective as "reckless" would now I think use a very much milder term when one points out his own glaring blunders. It is almost incredible, but he entirely omits the stamp duties in both years when comparing 1884 and 1895. Again, in 1884 which required swelling, to suit it his argument, he took in "Arrears of Revenue" from the previous year, but in 1895 which did not require swelling, he omitted all "Arrears of Revenue" from the previous year. In His Excellency's statement the revenue was R6,335,697 for 1884, against R8,382,300 for 1895,—"a difference a little less than two millions;" but if you make the necessary calculation and if you take the actual revenue you will find that revenue from taxation proper for 1884 was near 6½ million rupees, whereas the taxation revenue for 1895 was about 10½ million rupees, being 4 millions more, instead of the 2 millions Sir Arthur Havelock thought it was. In a good many of the other clauses of this despatch, sir, Sir Arthur Havelock travels into the merits of certain alleged increases of rates which the memorialists had said had been put on. The memorialists did not enter into the merits of these various increases at all: they merely quoted them as a fact that increases had been made, but I will follow one or two of Sir Arthur Havelock's statements.

"Warehouse rent was not as stated increased in 1888, but the exemption of goods from payment of rent for the first three days whilst in Government Warehouses, was withdrawn. This is simply a payment for specified service and was strongly supported at the time by both the Planting and mercantile representatives in Council."

Now, I submit that if there has been a particular exemption from time immemorial and that exemption is removed without any extra service being rendered, it is undoubtedly practically an increased payment, and in this case it was an increased charge upon imports. His Excellency also said:—

"The upset price of land has not been altered, though a few exceptional cases where there has been valuable timber on Government in waste land a special upset price has been fixed."

Sir, I can only say from my personal experience that the last three blocks I bought from the Government under Sir Arthur Havelock had not a stick of valuable timber in them and yet the upset price had been trebled, and for your Excellency's own in-

formation I would point to last Government *Gazette* and to the acreage offered for sale, whether it has got valuable timber or not in it, has got an enhanced price put upon more than half of the land advertised. In the concluding sentence of that portion of paragraph 9 of Sir Arthur Havelock's Despatch, there is a most curious misapprehension. The memorialists, in a note to their Memorial, had said :—

"... and Legislation having for its purpose the laudable one of stopping the wanton destruction of game has incidentally added to the taxes."

His Excellency says :—

"... and the memorialists can scarcely be serious when they refer to the 'additional taxation' caused by legislation for the prevention of the destruction of game. In a large number of cases the enhanced license fees of R100 in lieu of R10 for shooting elephants and for game generally are paid by visitors to the island."

But, sir, who could possibly, knowing anything about the tax or the Ordinance in view think that the memorialists were referring to the small increase in the game licenses. Of course, they were referring to the Ordinance which Sir Arthur Havelock ought to have known about, imposing an export duty on hides and horns. Paragraph 10 again refers to the question as to whether the tax on kerosine oil is prohibitive or not. I already pointed out that His Excellency's misunderstood what was meant by "prohibitive." In paragraph 11 His Excellency refers to the reduction of railway rates, which the memorialists did not enter into as they do not come under the taxation proper heading ; but the reduction of rates was not always for the benefit of those who contribute the freight, but to benefit the railway by attracting traffic that would otherwise pass by it. As regards "a large reduction of postal and telegraph rates"—that might be a matter of opinion. It is not my opinion that the adjective "large" is rightly applied. In paragraph 12 His Excellency says there was still hanging over the Colony that question of the Military Contribution. That has now been shelved; we know the worst ; and, therefore, the uncertainty which this caused and which was one of the small reasons for declining to grant a reduction in taxation, no longer exists. I think I have traversed the special points of this despatch and I would only like to say a few words on the general question. Sir Arthur Havelock here and there diverges into the general question at one point or another. There is, of course, very considerable difference between increased revenue which has come about by increased rates having been put on, and increased revenue which is due to the old rates having become more productive from one reason or another, in the case of Ceylon, due to the return of prosperity; but in the end the burden is undoubtedly increased. Sir Arthur Havelock will see, if you read his despatch, argued that because the Colony is now wealthy we can afford to pay; but, I submit that is no argument at all. Indeed it is an axiom in such matters that taxation is in inverse ratio to the ability of the people to pay it. When Sir Arthur Gordon, now Lord Stanmore, had to increase taxation in 1884 it was quite impossible for him to adopt the argument of Sir Arthur Havelock. Taxpayers were never less able to bear taxation, but he quite admitted it and said it was cruel irony which made it necessary. Those were hard times, but now when we have come into prosperous times, it is no argument to say "You are able to pay it." If that is an argument when we were prosperous, the reverse must hold when we are not prosperous. In any country, if a reduction of taxes is to take place, it must take place when the country is prosperous and if increased taxes are to be imposed it must done when the country is not prosperous. Greece and Turkey are, I suppose, the least prosperous countries in Europe. In Greece, of which we know most, the taxation is highest. In Britain which, I suppose, is the most prosperous, it is lowest. If the Government put on extra taxation at the time Ceylon was unprosperous, when the revenue had shrunk and more revenue must be got, surely it is only common fairness to ask when we are prosperous again that it should be removed. If you refer to the Despatch and the letter of Lord Knutsford, the Secretary of State, you will find it distinctly stated that if these taxes were found unnecessary they would be remitted. Sir Arthur Havelock, when introduced this tax, distinctly stated it was to a certain, anticipated by himself, a fall in revenue, consequent upon the remission of the Paddy Tax. It was especially for this purpose; and in the other Despatch I am referring to, he refers to it as a special tax. It was proposed in this Council as a special tax for a special purpose. Events have shown it was not necessary and I consider that the tax-payers of the country, as represented by the Unofficial Members of this Council, have a right now to demand that the promise of Government be fulfilled—not necessarily a written promise, not necessarily a specified promise, but an implied promise, on the strength of which this tax was agreed to by this Council when it was proposed. The revenue to be derived from it then was only R270,000, whereas now it is yielding probably R450,00, putting an end to the plea for the R270,000 which were necessary. If these pledges, the direct one of Sir Arthur Gordon, the direct one of Secretary Knutsford, the more or less direct one of Sir Arthur Havelock, when this Ordinance was introduced and, certainly, the implied ones of Government, are not given effect to, then for ever let us say good-bye to all faith in those sort of promises of the Ceylon Government. There is another argument in favour of my contention, quite apart from the merits of the tax—be it a good or a bad one—that you find all sections of the community are against it, there has seldom been a case in which there has been greater unanimity. Your Excellency knows how easy it is upon the least disputatious motions that come before this Council, for one leading man to be more or less set up against another leading man, and one section of the community set up against another. It is very seldom you find unanimity amongst all the different unofficial members of Council, the circumstances of whose constituents are so very different and who view matters from so varying standpoints. On a matter in which no abstract principle of right or wrong is concerned, but merely whether a particular tax should or should not be continued; when the remission of that tax would not embarrass Government, and would not prevent the Queen's Government from being carried on ; then I say, sir, apart from the merits of that tax, it is the duty of Government to remit it and it ought to commend itself to the Secretary of State, at least, if his original politics have any hold of him now. I can quite understand, so far as Your Excellency is concerned, the position you are in, without one Continuity of policy is broken. But if you look into the

case, Your Excellency will find that Sir Arthur Havelock's policy was that it was a special tax for a special purpose, to be abolished when no longer necessary. I quite admit it would never do that we should have the policy of Government constantly chopping and changing with the changes of our rulers, but there is a limit to that; and I think if Your Excellency will study the origin of the tax and its present position, you will come to a conclusion very much the same as is held by most of the people of this country official and unofficial. [illegible] can quite understand Your Excellency [illegible] to administer a [illegible] more the requisi[illegible] [illegible] time. But [illegible] wish [illegible] abolished [illegible] and I [illegible] if [illegible] will be [illegible] even if [illegible] and to [illegible] ever [illegible] present [illegible] could be [illegible]

[illegible] should be abolished. [illegible] such as oil being [illegible] It would be very much [illegible] gallon tax [illegible] half per cent.

The Hon. the [illegible]—Sir, I beg to move a motion [illegible] Council.—

H. E. the GOVERNOR.—I am afraid the hon. member is out of order. Until a motion is seconded, it is not before Council.

The Hon. the ATTORNEY-GENERAL.—I understand the hon. member is to move an adjournment

The Hon. the TAMIL MEMBER.—That can be done at any time.

H. E. the GOVERNOR.—Until the motion is seconded, no one can speak to it.

The Hon. the MERCANTILE MEMBER.—In seconding the motion, sir, I shall not traverse the ground which has been so ably and so fully gone over by the hon. mover, but will rather confine myself more to the events which led to the imposition of the tax and its existence since then. Previous to 31st December 1892 the tax on Kerosine Oil was at the rate of 6½ per cent *ad valorem*. That amounted to something like 3 cents per gallon. On the abolition of the Paddy Tax, (the Bill abolishing it was passed, on 26th April 1892, to which I was strongly opposed) additional duties were imposed under Ordinance No. 5 1892, on tobacco, kerosine oil, and spirits. The abolition of the Paddy Tax was expected to involve a loss of something like R900,000, although it would not have been so great if certain recommendations of the Select Committee on the tax had been carried out. The additional duties were expected to make up this, Kerosine Oil contributing something like R270,000. I protested against the passing of the Bill; and on referring to *Hansard* under the date of June 1st 1892, a copy of my protest will be found in which I said :—

"On the second reading of the Bill I alluded to the fact that the Secretary of State [illegible] in his despatch that it was well worthy the consideration of the Legislative Council whether any addition to the taxes should now be proposed."

I further went on to say :—

"that the fresh taxation is unnecessary in the present state of the revenue which shows an increase of R501,536·12½ in the quarter ending, 31st March 1892, as compared with the same quarter in 1891, and that the burden of the new duties will fall largely upon the European community. The enormous increase in the duty on Kerosine Oil will be keenly felt as a hardship throughout the island, and it will discourage industries by preventing the use of it as fuel, which will deprive very many of light, and consequently tend towards the destruction of what is in itself a check upon crime. Rangoon Oil [illegible] and Mineral Oil are largely used as lubricants and although pressed to omit these no distinction has been conceded by Government."

My protest was sent home to the Secretary of State in due course, and on 28th August I was favoured with a reply from the Ceylon Government as follows :—

"Colonial Secretary's Office, Colombo, 26th August 1892. Sir.—With reference to the protest presented by you against the passing of Ordinance No. 5 of 1892, I am directed to inform you that the Governor has received a Despatch from the Secretary of State as desiring H.E. to inform you that whilst Lord Knutsford regards additional taxation as a safeguard against the deficit which may possibly result from the abolition of the Paddy Tax, His Lordship fully recognises that, if hereafter, the revenue more than suffices for the demands made upon it, it will be the duty of the Government to consider whether the tax in question should not be reduced or repealed. I am, Sir, your obedient servant, H. W. GREEN, for Colonial Secretary."

In 1892, as a matter of fact, the revenue amounted to R18,509,187 and the expenditure to R17,762,466, showing a surplus of R746,721 in that year. At the very time they were proposing to impose fresh taxation, there was a surplus even without these new duties being imposed at all. On the 10th May 1895 the hon. the then Planting Member asked Government if they would reduce the duty and he was met with a refusal, and the bogey of the abolition of the Cotton Duties was put forward. I do not think that could well be brought forward now, after the action of the Imperial Government with regard to the Cotton Duties in India. Our contention is that it is an inequitable tax, that it was imposed as a safeguard against conditions that *might* prevail but which did not come about, and that the necessity for such a high duty no longer exists. We do not ask for the abolition of the tax but for its reduction. The rates of taxation on Kerosine oil in other countries have been brought up and paraded for purposes of comparison; but look at the rate of duty in India, a country with which we would most naturally compare Ceylon. There it is one anna per gallon and here 25 cents per gallon or [illegible] times as much. A rate of 25 cents per gallon means equal to 36 per cent on the gross price, which, [illegible] I may put down at R5·60 per case, of 8 gallons landed and duty paid, or equal to [illegible] per [illegible] the price in Colombo Harbour which without paying duty or, in mercantile parlance, cost and freight, would be R3·60 for 8 gallons. If the duty were reduced the quantity used would be much greater and oil engines now prohibited would use it and the revenue derived from it would not be diminished or much affected. In the circumstances, I hope Government will entertain the motion for the reduction of the duty. I am sure all my Unofficial colleagues will vote for the resolution. With regard to those who are absent, I am in a position to say that the Hon. the Burgher Member is with his brother Unofficials and the Hon. the Kandyan Member is also willing to support this motion. I can

answer for the Hon. the European Member, who, if he had been here would likewise have voted for the motion.

The Hon. the TAMIL MEMBER :—I may say, sir, at the outset that I am opposed to this motion. If the terms of the motion were different, perhaps, I should support it. As it is I am opposed to it, and, I believe, one other Unofficial member is also opposed to the terms of the motions,—one of the Unofficials present here today. If this motion is to be put, I should like to explain the reason for the way in which I am obliged to vote. The objection seems to be not to the tax itself, but to its being excessive, but who objects I don't know. It has been said that the National Association has objected to it. I have the honour of being a member of that Association, but I have heard no objections to it. It has been said that the Chamber of Commerce and the Planter's Association also objected to it. Do they speak on behalf of the people? I suppose I am as competent to speak about the wants of the people as any other Unofficial member. I don't think this tax is at all oppressive. Of course, it is a very good thing to take away all taxation, but what I mean to say is that poor people do not feel this particular tax. I have made careful inquiry about it and I have gone into figures. I have consulted, not the richer class but the poorer class, because I had notice some weeks ago that this subject was to be discussed. When I speak of the poor I mean families whose bread-winners earn about R20 per month; and if the information that has been given me by people of that class is not false, I may claim to state here that the oppressiveness of this tax has not been shown to me at all. I go beyond that other question namely that this being a special tax for a special purpose, and that purpose being over, therefore the tax should be abolished. If that were the motion it would be a different thing. But the motion is to reduce the tax, because it is excessive; and it is on that ground that I oppose it. The poorer classes do not buy their oil in tins or cases; they go to the boutiques for the quantity they want, night by night. One bottle of Kerosene Oil is sold at the ordinary boutiques at the rate of 14 cents and one bottle fills exactly seven *Eau-de-Cologne* bottles—the lamps used by poor people are *Eau-de-Cologne* bottles filled with oil and with a piece of tin over the top to hold the wick. Poor people cannot have more than one or two lights in the house. They do not burn lights over cards or wine, but they simply ate their meals and go to bed and if there was moonlight, perhaps sit outside. Oil for two *Eau-de-Cologne* bottles cost only 4 cents a night at the price I have quoted. Now a reduction was asked—to benefit whom? The mover and the seconder have been very careful not to say whom; though I think I heard the mover say "for the people." I suppose he is interested in doing good to the poorer classes first. These poor people spending at the outside 4 cents a night for two lamps—will they be benefited by the reduction of this tax? The tax was 25 cents per gallon which was equal to six bottles. If Government accede to the wishes of this resolution and reduce it even by half, the tax would be about 12½ cents, or about 2 cents a bottle. What fraction of a cent will be represented on account of two *Eau-de-Cologne* bottles of oil? Who gets the benefit? The benefit will be realized by rich and powerful Companies trading here. One is the Bulk Petroleum Oil Company and the two German merchants used to do a trade in kerosine by importing oil in tins, but I hear have ceased to do so because of this rich Company which is backed up by Government—and I say so advisedly—because I read the words of Sir Noel Walker; and the result is we are in the hands of one powerful Company and they may do what they like with us. Whatever benefit there may be from the reduction of duty it will go to the Company and not to the poor people. Indeed I may say that the only people after all who will benefit by the reduction of this tax will be th richer class and the wealthy planter. In fact when this Ordinance No. 5 of 1892, by which the present taxation was imposed, was under discussion before the Legislative Council, my hon. friend opposite representing the Mercantile community and also the hon. Mr. Kelly, representing the Planters [illegible] that it would largely affect the plan[illegible] classes and also those [illegible] planters can well afford to pay th[illegible] But whether they can afford it or no[illegible] time to consider the reduction of [illegible] however, when I say Your Excelle[illegible] ment has or ought to have under con[illegible] important schemes of publi[illegible] as the Rail-way Extensio[illegible] Extension to the Kelani V[illegible] the Extension [illegible] other important [illegible] Excellency's con[illegible] Excellency's [illegible] matters are to be [illegible] them carried o[illegible] and reduce the revenue. Surely this is a time for the reduction of taxes which I deny, I say [illegible] duced is not [illegible] does not weigh heavily on the poor, but the taxes that really oppress people and weigh heavily on them should be first removed. Take the iniquitous Poll Tax which [illegible] whether he is a poor cooly earning only R10 a month or a rich merchant making thousands to stump up R2. That is a tax which ought to be reduced or abolished. Take the tax on rice which every man eats especially the planters' coolies. That ought to be re[illegible] it cannot be abolished. Take the monopoly of Salt which Government sells at high prices. Why should this Kerosine Oil Tax be attacked now? We have heard the idea expressed frequently of late even in England that protective duties are good ones and that home produce should be protected against foreign competition. Why should Kerosine Oil, which is a foreign import and a formidable rival to Coconut Oil, not be heavily taxed? For these reasons I would oppose this motion. A fair and open discussion can only take place when the Budget is made up, and when the Unofficials can have the benefit of the experience and knowledge of Government members on the subject. I move under Rule 34 of Council that the debate be adjourned *sine die*, and that an opportunity be given to the mover of this resolution to bring it forward again and have a full discussion.

The Hon. the MOHAMMADAN MEMBER :—I beg to second. The hon. gentleman then proceeded to enter into the general question of Customs duties when he was called to order by H.E. the Governor.

The debate was then adjourned *sine die*.

THE MARRIAGE REGISTRATION ORDINANCE.

The ATTORNEY-GENERAL :—It is not my intention, sir, to move at this sitting that

Committee resume consideration of "An Ordinance to amend 'The Marriage Registration Ordinance, 1895.'" As hon. members are aware, I was absent when the Sub-Committee sat on the Bill and the report has only been put into my hands within the last few days, and I desire time to consider the suggested amendments. With Your Excellency's permission I move to lay on the table the report of the Sub-Committee, that the same be read, and that consideration be deferred.

Sub-Committee's Report read and consideration deferred.

H. E. the GOVERNOR:—The sessions stands prorogued.

Council meets again on 14th October.