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29th August, 1959



NORTHERN NIGERIA LEGISLATURE

**PARLIAMENTARY
DEBATES**
(HANSARD)

HOUSE OF CHIEFS
OFFICIAL REPORT

**THIRD SESSION OF THE SECOND PARLIAMENT
OF THE NORTHERN REGION OF NIGERIA**

SESSION 1959-60

**COMPRISING PERIOD FROM
29th AUGUST TO 2nd SEPTEMBER, 1959**

**KADUNA
GOVERNMENT PRINTER, NORTHERN REGION OF NIGERIA**

(Formed by Alhaji the Honourable Sir Ahmadu Bello, K.B.E., M.H.A., the *Sardauna of Sokoto* in December, 1956)

- The Premier, Alhaji the Honourable Sir Ahmadu Bello, K.B.E., M.H.A., *Sardauna of Sokoto*
 The Honourable Sir Abubakar, G.B.E., C.M.G., M.H.C. *Sultan of Sokoto—Minister without Portfolio*
 The Honourable Alhaji Sir Muhammadu Sa'usi, K.B.E., C.M.G., M.H.C. *Emir of Kano—Minister without Portfolio*
 The Honourable Alhaji Usman Nagogo, C.M.G., G.B.E., M.H.C., *Emir of Katsina—Minister without Portfolio*
 The Honourable Atoshi Agbumanu IV, O.B.E., M.H.C., *Aku of Wukari—Minister without Portfolio*
 The Attorney-General, the Honourable Sir H. H. Marshall, C.M.G., Q.C.
 The Minister of Finance, the Honourable Alhaji Aliyu, G.B.E., M.H.A., *Makama of Bida*
 The Minister of Education, The Honourable Alhaji Isa Kaita, O.B.E., M.H.A., *Madawaki of Katsina*
 The Minister of Trade and Industry, the Honourable M. Abba M. Habib, M.H.A.
 The Minister of Works, the Honourable Mr George U. Ohikere, M.H.A.
 The Minister of Land and Survey, the Honourable Malam Ibrahim Musa Gashash, M.H.A.
 The Minister for Local Government, the Honourable Alhaji Abdullahi Maikano Dutse, M.H.A.
 The Minister of Health, the Honourable Alhaji Ahman Pategi, M.H.A., *Galadima of Pategi*
 The Minister of Agriculture, the Honourable Alhaji Mustafa Monguno, M.H.A.
 The Minister of Animal Health and Forestry, and for Northern Cameroons Affairs, the Honourable Alhaji Abdullahi Dan Burum Jada, M.H.A., *Galadima of Jada*
 The Minister of Social Welfare and Co-operatives, the Honourable Malam Michael A. Buba, M.H.A., *Waziri of Shendam*
 The Minister of Internal Affairs, the Honourable M. Shehu Usman, M.H.A., *Galadima of Maska*

Ministers of State—The Honourable Malam Mu'azu Lamido, M.H.A.

The Honourable Alhaji Muhammadu Kabir, M.H.A., *Chiroma of Katagum*

The Honourable Mr D. A. Ogbadu, M.H.A.

The Honourable Mr Abutu Obekpa, M.H.A.

PARLIAMENTARY SECRETARIES

(do not sit in the House of Chiefs)

Premier's Department.—Mr S. A. Ajayi, M.H.A.

Ministry of Finance.—Alhaji Ahmadu Fatika, M.H.A., *Sarkin Fada, Zaria*

Ministry of Education.—Alhaji Dalhatu Bida, M.H.A.

Ministry of Trade and Industry.—Malam Tanko Yusufu, M.H.A.

Ministry of Works.—Alhaji Ibrahim Biu, M.H.A.

Ministry of Land and Survey.—Malam Sule Gaya, M.H.A.

Ministry for Local Government.—Alhaji Muhammadu Bashar, M.H.A., *Wamban Daura*

Ministry of Health.—Alhaji Ndagi Faruk, M.H.A., *Tafidan Bida*

Ministry of Agriculture.—Alhaji Usman Sulaiman, M.H.A.

Ministry of Animal Health and Forestry, and Ministry for Northern Cameroons Affairs.—Alhaji Mu'azu Gambo Nunku, M.H.A.

Ministry of Social Welfare and Co-operatives.—Mr Edmond B. Mamiso, M.H.A.

Ministry of Internal Affairs.—Alhaji Tijjani Hashim, M.H.A.

President

Alhaji the hon. Haruna, C.B.E., M.H.C., (Emir of Gwandu)

Deputy President

Alhaji the hon. Umar Ibn Ibrahim El-Kanemi, C.B.E., M.H.C., (Shehu of Dikwa)

Clerk to Regional Legislature

Alhaji Muhammadu Ladan, M.B.E.

Clerk Assistant

*Malam Abudullahi K. Muhammadu

Second Clerk Assistant:

*Malam Zubairu Abbas

Editors of Official Report (Hansard)

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Miss M. Amy

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R.S.M. Abdullahi Mango, B.E.M.

*Seconded from other Government Departments.

PARLIAMENTARY DEBATES**OFFICIAL REPORT**

IN THE SECOND MEETING OF THE THIRD SESSION OF THE SECOND PARLIAMENT OF THE NORTHERN REGION OF NIGERIA APPOINTED TO MEET AT LUGARD HALL ON TWENTY-NINTH AUGUST, 1959

THIRD SESSION**VOLUME XIII****SECOND VOLUME OF SESSION 1959-60****HOUSE OF CHIEFS
NORTHERN NIGERIA**

Saturday, 29th August, 1959

The House met at Nine o'clock

[THE PRESIDENT in the Chair]

PRAYERS**OATHS**

The following Members took and subscribed the Oath and signed the Roll:

The Emir of Ilorin, Mallam Sulu Gambari.
The Emir of Biu, Mallam Maidalla Mustafa.
The Chief of Minna, Mallam Ahmadu Kuta.
The Chief of Longuda, Mallam Yoila.
The Chief of Dass, Mallam Maleka.
The Chief of Ningi, Mallam Abdullahi,
The Chief of Takum, Mallam Audi.
The Chief of Shani, Mallam Adama.
The Chief of Shonga, Mallam Albassan.
The Chief of Ijumu, Mr Jacob.
The Chief of West Yagba, Mr Mark Dada.
The Chief of Eggon, Mallam Idirisu.
The Chief of Wushishi, Mallam Abubakar Agwai.
The Chief of Tegna, Mallam Muhammadu Abokin Mallam
The Chief of Birnin Gwari, Mallam Jibirin.

The President (Alhaji The Hon. Haruna, C.B.E., Emir of Gwandu): I am pleased to see all Members of this House who have met here today.

I welcome the Premier and the Emir of Kano whom we are all glad to see safely back with us after the long journeys abroad, and the Ministers. I welcome all of you Emirs and Chiefs who, in the most difficult time of the year at the height of rains, have made the arduous journey here.

I offer my congratulations in which I am sure all Members will join with me to those who are with us for the first time, and I pray that their years in office may be many and prosperous.

I wish also on behalf of this House and of myself to express our heartfelt sympathy to the relatives and friends of those Members of this House who have died since last we met together. May their souls rest in peace. Particularly in the sad losses of the late Emirs of Ilorin and Zaria has this House lost two respected elder counsellors and many Members two staunch friends.

I should like on your behalf to offer the congratulations of this House to our former Clerk, Alhaji Umaru Gwandu, who has become the first Nigerian Speaker of the other House, and also to congratulate the new Clerk, Alhaji Ladan.

For your information the Shehu of Bornu has sent his greetings and good wishes for success in your deliberations, so has also the Emir of Jema'a who is indisposed and also the Chief of Paiko who is now in the United Kingdom. I am sure that Members may wish me to ask the Clerk to send them suitable replies.

May God be with us and guide us in our deliberations during the coming days.

PAPERS PRESENTED

The Minister of Finance: The Northern Regional Capital Development Fund Statement for the year ended 31st March, 1957;

The Report of the Director of Audit on the Accounts of the Northern Regional Capital Development Fund for the year ended 31st March, 1957;

The Accounts of Jos Hill Station for the year 1958-59;

The Report of the Director of Audit on the Accounts of the Government of the Northern Region of Nigeria for the year ended 31st March, 1958.

Ordered that the said Papers do lie upon the Table.

Ministry of Education: The Statement of Account of the Voluntary Agencies Educational Building Loans Fund for 1956-57.

Ordered that the said Paper do lie upon the Table.

The Minister of Social Welfare and Cooperatives: The Annual Report on the Progress of Co-operation in the Northern Region of Nigeria, 1957-58.

Ordered that the said Paper do lie upon the Table.

The Minister of Works: The Annual Report on the Ministry of Works of the Northern Region of Nigeria, 1957-58.

Ordered that the said Paper do lie upon the Table.

Statutory Committees (Alhaji Umar Sulaiman, Emir of Bedde, on behalf of the Public Accounts Joint Committee)

The Report of the Public Accounts Joint Committee of the Northern Regional Legislature for the Session 1958-59.

Ordered that the said Paper do lie upon the Table.

The President: Premier.

The Premier (Alhaji Sir Ahmadu Bello, K.B.E., M.H.A. Sardauna of Sokoto): I am covered by your address, Sir.

MESSAGES ON BILLS FROM HOUSE OF ASSEMBLY

The Special Officer's Salaries (Amendment) Bill

Message from the Northern House of Assembly on Bill entitled the Special Officers' (Salaries) (Amendment) Law, 1959—read.

Motion made, and Question proposed, That the Bill be now read a First time—(The Premier)

Question put and agreed to.

Bill accordingly read the First time, to be read a Second time later in the day.

The Development Corporation (Amendment) Bill

Message from the Northern House of Assembly on Bill entitled the Development Corporation (Amendment) Law, 1959—read.

Motion made, and Question proposed, That the Bill be now read a First time—(The Premier)

Question put and agreed to.

Bill accordingly read a First time, to be read Second time later in the day.

Malam Said (Deportation and Detention) (Repeal) Bill

Message from the Northern House of Assembly on Bill entitled the Malam Said (Deportation and Detention) (Repeal) Law, 1959—read.

Motion made, and Question proposed, That the Bill, as amended, be now read a First time—(The Premier)

Question put and agreed to.

Bill accordingly read a First time, to be read a Second time later in the day.

Control and Management of Public Finances (Amendment) Bill

Message from the Northern House of Assembly on Bill entitled the Control and Management of Public Finances (Amendment No. 2) Law, 1959—read.

Motion made, and Question proposed, That the Bill be now read a First time—(The Minister of Finance).

Question put and agreed to.

Bill accordingly read a First time, to be read a Second time on Monday next.

Supplementary Appropriation Bills

Message from the Northern House of Assembly on Bill entitled the Supplementary Appropriation (1957-58) Law, 1959—read.

Motion made, and Question proposed, That the Bill be now read a First time—(The Minister of Finance).

Question put and agreed to.

Bill accordingly read a First time, to be read a Second time on Monday next.

Message from the Northern House of Assembly on Bill entitled the Supplementary Appropriation (1959-60) Law, 1959—read.

Motion made, and Question proposed, That the Bill be now read a First time—(The Minister of Finance).

Question put and agreed to.

Bill accordingly read a First time, to be read a Second time on Monday next.

Penal Code

Message from the Northern House of Assembly on Bill entitled the Penal Code Law, 1959—read.

Motion made, and Question proposed, That the Bill, as amended, be now read a First time—(The Attorney-General).

Question put and agreed to.

Bill accordingly read a First time, to be read a Second time on Tuesday next.

Waterworks Ordinance (Amendment) Bill

Message from the Northern House of Assembly on Bill entitled the Waterworks (Amendment) Law, 1959—read.

Motion made, and Question proposed, That the Bill be now read a First time—(The Minister of Works).

Question put and agreed to.

Bill accordingly read a First time, to be read a Second time on Monday next.

Goldsmiths (Amendment) Bill

Message from the Northern House of Assembly on Bill entitled the Goldsmiths (Amendment) Law, 1959—read.

Motion made, and Question proposed, That the Bill be now read a First time—(The Minister of Land and Survey).

Question put and agreed to.

Bill accordingly read a First time, to be read a Second time on Monday next.

ORDERS OF THE DAY Special Officers' (Salaries) (Amendment) Bill

Order for Second Reading, read.

Alhaji Sir Ahmadu Bello, Sardauna of Sokoto: I rise to move, That the Bill be now read a Second time.

The Bill has two purposes. Firstly, since the attainment of Regional Self-Government this year, the Constitutional Instrument lays down that the salaries of the personal staff of the Governor are to be provided by an Order made by His Excellency the Governor with the concurrence of the Premier instead of by a Law of the Region. Reference to these salaries is therefore deleted by this amending Bill from the Schedule to this Law.

Secondly, additions to the Schedule are required in consequence of the creation of the post of Director of Public Prosecutions and of the proposals to establish the Shari'a Court of Appeal which forms an important part of the Government's judicial reforms. Hon. Chiefs will, I am sure, appreciate that it is a recognised constitutional safeguard that the salaries of certain officers of the law and judiciary are not made the subject of an annual vote by the legislature. This is necessary so that the holders of the posts may be insulated from any form of political pressure or influence and free to do their duty without fear or favour.

Question put and agreed to.

Bill accordingly read the second time, and immediately considered in Committee of the whole House.

Clauses 1 and 2 agreed to.

Clause 3 agreed to.

First and Second Schedules agreed to.

House resumed

Bill reported, without amendment, from a Committee of the whole House, and read a Third time and passed.

The President: The sitting will now be suspended for 15 minutes to exchange greetings.

House resumed

Development Corporation (Amendment) Bill

Order for Second Reading read.

Alhaji Sir Ahmadu Bello, Sardauna of Sokoto: I rise to move, That the Bill be now read a Second time.

The purposes of the Bill are fully set out in the Objects and Reasons attached to it. Firstly,

[SIR AHMADU BELLO]
Government proposes that the powers and functions of the Northern Region Development Corporation should be enlarged to enable the Corporation to assist in the steps we are already taking to improve living conditions especially the promotion of Housing Estates. I am sure that all hon. Members of the House of Chiefs who have the welfare of the people at heart realise the importance of this measure and will give it full support.

Secondly, the Bill seeks to amend the Law to enable the Minister responsible for the Development Corporation to appoint a temporary Chairman when the Chairman is absent on leave within Nigeria. As the Law now stands it is not possible for anyone to exercise such of the Chairman's functions as are vested in him by law when he is on leave. This has meant that the hard-working Chairman has been unable to take his full leave and even when on leave has had to be, so to speak, on call to make the decisions which only he is permitted by law to make. This has caused much inconvenience both to the Chairman and officers of the Corporation and has made an amendment to the Law desirable.

Question put and agreed to.

Bill accordingly read the Second time, and immediately considered in Committee of the whole House.

Clauses 1 to 3 agreed to.

The House resumed

Bill reported, without amendment, from Committee of the whole House, and read a Third time and passed.

**Malam Said (Deportation and Detention)
(Repeal) Bill**

Order for Second Reading read.

Alhaji Sir Ahmadu Bello, Sardauna of Sokoto: I rise to move, That the Bill be now read a second time.

I am very pleased to have the privilege of introducing this bill to this House as I am myself a cousin of M. Said bin Hayatu

As hon. Chiefs know, M. Said bin Hayatu, since 1924, has been required to live away from his ancestral home in Sokoto, first in Buea in Southern Cameroons, and since 1945 in Kano. For some years now, the Government has constantly reviewed the position of M. Said because the Government has a great sympathy for him.

In this year of Self-Government, when the Government was discussing events of historical importance, it was considered that the M. Said (Deportation and Detention) Law should be repealed as one of the mementoes of this great achievement.

The Government has therefore decided, after consulting the Native Authorities, that there is no longer any need to limit the freedom of movement of Malam Said and the purpose of this Bill is to free him from all remaining restrictions in the Northern Region.

Question put and agreed to.

Bill accordingly read the Second time, and immediately considered in Committee of the whole House.

Clauses 1 and 2 agreed to.

The House resumed.

Bill reported, without amendment, from Committee of the whole House, and read the Third time and passed.

BUSINESS OF THE HOUSE

The Emir of Katsina (Alhaji the Hon. Usman Nagogo, C.M.G., C.B.E., M.H.C.): I am sure hon. Members will like to know what business it is proposed to be put before them during this sitting.

On MONDAY, after prayers, the Minister of Finance will move a motion to amend the Directions for the Operation of the Water Supply Undertakings and the Wood-working Workshops Renewals Fund. Another motion will also be moved by the Minister of Internal Affairs asking for authority to write-off sums—totalling £50,000 advanced by way of loan by the Regional Government to NORLA. After these motions have been dealt with, we will then proceed to take the Second Reading of the following Bills:—

- (a) The Control and Management of Public Finances (Amendment No. 2) Law, 1959.
- (b) The Waterworks (Amendment) Law 1959.
- (c) The Goldsmiths (Amendment) Law, 1959.
- (d) The Supplementary Appropriation (1957-58) Law, 1959.
- (e) The Supplementary Appropriation (1959-60) Law, 1959.

On TUESDAY, 1st SEPTEMBER, we will resume the adjourned debate on the Second Reading of the Supplementary Appropriation 1957-58 Bill and the Supplementary Appropriation 1959-60 Bill which will be followed by the Second Reading of the Penal Code Law.

On WEDNESDAY, 2nd SEPTEMBER, we will continue with the debate on the Penal Code Law if it has not been completed on the previous day and, should time permit, we will start consideration of that Bill in Committee.

On THURSDAY, 3rd SEPTEMBER, which it is hoped to be the last day of this sitting, after the usual business motion to adjourn the House *sine die* at the end of its business on that day, we will go into Committee of the whole House to consider the Penal Code Law.

ADJOURNMENT

Motion made, and Question proposed, That the House do now adjourn. (The Emir of Katsina)

Question put and agreed to.

Adjourned accordingly at Ten minutes to Eleven o'clock.

HOUSE OF CHIEFS NORTHERN NIGERIA

Monday, 31st August, 1959
The House met at Ten o'Clock
(THE PRESIDENT in the Chair)

PRAYERS

OATHS

The following Members took and subscribed the Oath and signed the Roll:—

The Emir of Zaria, Alhaji Muhammadu Aminu.

The Chief of West Tangale-Waja, Malam Iliyasu.

The Chief of Jaba, Malam Ishaya Andrew.

The President: The appointment of the new Emir of Zaria has coincided with the meeting of the House, and I should like on your behalf and myself to congratulate him and pray for his long life and peace and prosperity in his Emirate and the Region as a whole.

MOTIONS

Water Supply Undertakings and Woodworking Workshops Renewals Funds

The Minister of Finance (Alhaji Aliyu, Makama of Bida): I rise to move the Motion standing in my name,

That this House approves that the directions for the operation of:—

(a) the Ministry of Works Water Supplies Renewals Funds; and

(b) the Ministry of Works Mechanical and Woodworking Machinery Renewals Fund, be amended by the adding thereto the following new paragraph:—

"7. Disbursements from the Funds may be made on the authority of a warrant under the hand of the Governor or the Minister of Finance".

Members will recall that last August this House approved the Directions for the Operation of the Funds listed in the First and Third Parts of the First Schedule of the Control and Management of Public Finances Law, 1958. It has now been discovered that the directions for the operation of the Ministry of Works Water Supplies Renewals Funds and the Mechanical and Woodworking Machinery Renewals Fund do not provide, as do the directions for the other Funds, as to who should authorise withdrawals from these Funds. The amendment now proposed is to correct the omission.

Question proposed.

Question put and agreed to.

Resolved;

That this House approves that directions for the operation of—

(a) The Ministry of Works Water Supplies Renewals Fund; and

(b) The Ministry of Works Mechanical and Woodworking Machinery Renewals Fund, be amended by adding thereto the following new paragraph:—

"7. Disbursements from the Funds may be made on the authority of a warrant under the hand of the Governor or the Minister of Finance".

AUTHORITY TO WRITE OFF NORLA LOAN

The Minister of Internal Affairs (Malam Shehu Usman, Galadiman Maska): I beg leave to move,

That this House authorises and approves the write-off of sums totalling £50,000 and advanced by way of loan by the Northern Regional Government to the Northern Regional Literature Agency in respect of its "Publishing Fund" and "Distribution Account" in the financial year, 1954-55 under the authority of Special Warrant No. J.1/1954-55 and not repaid.

This loan of £50,000 arose in the following way. When the Northern Region Literature Agency was established in 1954, the sum of £50,000 was paid to it from Regional funds as a loan for a "Publishing Fund" and for "Distribution Accounts": in the event of the Agency becoming independent of Government a formal loan agreement was to be negotiated. However, the Agency did not become independent of Government and the loan has remained unpaid.

From the outset the Literature Agency has cost Government considerable sums of money to meet losses incurred on many of its publications. It was recognised, of course, that such losses were inevitable in the early stages if a reading public were to be built up and literature provided for the numerous products of the adult literacy campaign. By the end of 1957, however, it appeared to be time to take stock and Government appointed a Board of Enquiry to advise it on the future of the Agency. Following the recommendations of the Board, Government decided that the Agency should be dissolved and that some of its functions should be taken over by the Gaskiya Corporation.

[M. SHEHU USMAN]

This has been done and the Gaskiya Corporation has now taken over such functions and enterprises of the defunct Agency as are, or can be made to be, profitable. It is not, however, considered fair that the Corporation should be asked to take over also the burden of this loan of £50,000 that had been incurred by the Agency five years previously and approval is now sought, therefore, for writing it off.

Question proposed.

Question put and agreed to.

Resolved:

That this House authorises and approves the write-off of sums totalling £50,000 and advanced by way of loan by the Northern Regional Government to the Northern Regional Literature Agency in respect of its "Publishing Fund" and "Distribution Account" in the financial year 1954-55 under the authority of Special Warrant No. J.1/1954-55 and not repaid.

ORDERS OF THE DAY

Control and Management of Public Finances (Amendment No. 2) Bill

Order for Second Reading read.

Alhaji Aliyu, Makama of Bida: I rise to move, That the Bill be now read a Second time.

This year Ramadan is expected to commence in March. During this period it would be most inconvenient to hold a meeting of the Legislative Houses. This Bill therefore seeks permission for the Control and Management of Public Finances Law to be amended so that the annual Estimates may be presented to the Legislative Houses by the 1st day of June instead of, as at present, by the 1st day of April.

During the short period between 1st April, 1960 and your approval of the 1960-61 Appropriation Bill, I shall exercise the powers conferred on me by section 13 of the principal Law. These powers will enable me to authorise expenditure needed to maintain normal Government business. I will not be able of course to authorise expenditure on any new proposals included in the draft 1960-61 Estimates until they have been passed by you.

Question proposed.

Question put and agreed to.

Bill accordingly read the Second time and immediately considered in Committee of the whole House.

Clauses 1 and 2 agreed to.

The House resumed

Bill reported, without amendment, from Committee of the whole House, and read a Third time and passed.

The President: The House will be suspended for twenty minutes.

The House resumed

Waterworks Ordinance (Amendment) Bill

Order for Second Reading read.

The Minister of Works (Mr G. U. Ohikere): I rise to move, That the Bill be now read a Second time.

Orders imposing rates for water supplies by a waterworks undertaking are made under section 9 of the Waterworks Ordinance. There is no provision in this section, however, to prescribe that payment of rates should be made monthly in arrears. There are many practical reasons why monthly payments should be allowed. I am sure that hon. Chiefs will

agree that it is often found easier to collect small sums of money at regular and frequent intervals than a large sum of money once a year, or even once every six months. In almost all urban or semi-urban areas there is a considerable floating population—people who stay in a town for a month or two and then move on elsewhere—and it is only fair that these people should pay their contribution for the water they have used during their stay. But, unless the prescribed authority is empowered to collect the rates monthly, it will be unable to make these people pay. Another consideration is that where the native authority is the prescribed authority, monthly payments of water rates will produce a regular monthly contribution to the general revenue and working capital of the Native Treasury.

Clause 2 of the Bill therefore seeks to amend section 9 of the Ordinance to allow prescribed authorities to provide that rates should be payable monthly in arrears.

There are, however, some ten orders at present in operation which unauthorisedly provide that rates shall be paid monthly in arrears, and Clause 3 of the Bill is designed to validate any action which may have been taken under such orders by prescribed authorities in the past to collect a monthly rate.

At the same time, the opportunity has been taken to validate actions under another order which contains an unlawful provision—that of making the rate for a private supply additional to the general rate on persons. In this case the prescribed authority has already been advised to revoke the offending order and replace it with another.

Question proposed.

Question put and agreed to.

Bill accordingly read the second time, and immediately considered in Committee of the whole House.

The Chairman: For the information of Members they may ask questions on the Bill or seek information from the Minister.

Clauses 1-3 agreed to.

The House resumed.

Bill reported, without amendment, from Committee of the whole House, and read the Third time and passed.

The Goldsmiths (Amendment) Bill

Order for Second Reading read.

The Minister of Land and Survey (Malam Ibrahim Musa Gashash): I rise to move, That the Bill be now read a Second time.

Members will recall that at the meeting of this House last December, a Bill was introduced for a Law to control and regulate the business of goldsmiths. This law came into force on the 1st April, 1959, and it was intended that it should provide for the licensing authority to exercise discretion in granting or refusing a licence.

By an oversight this discretionary power was omitted. Instead, specific provision was made to prohibit granting of a licence to a person who had been convicted in the previous two years of an offence involving dishonesty or of an offence under the Goldsmiths Law. I am advised that, as a result, licensing authorities cannot refuse an application for a licence except on these specific grounds.

One of the main objects of the Goldsmiths Law, 1958, was to reduce gold stealing by limiting the number of goldsmiths operating in areas where stealing is prevalent. Denying licensing authorities the discretion to refuse a licence would defeat this object.

The purpose of this Bill is to amend the Goldsmiths Law, therefore, is to grant to licensing authorities the discretion which it was originally intended that they should possess. This is achieved by amending section 3 of the main Law and providing an opportunity for a person who has been refused a licence or the renewal of a licence to appeal to the High Court.

Question put and agreed to.

Bill accordingly read the Second time, and immediately considered in Committee of the whole House.

Clauses 1 and 2 agreed to.

The House resumed

Bill reported, without amendment, from Committee of the whole House, and read the Third time and passed.

The Northern Region 1957-58 Supplementary Appropriation Bill

Order for adjourned Debate on Second Reading read.

Alhaji Aliyu, Makama of Bida: I rise to move, That the Bill be now read a Second time.

The purpose of this Bill and the way in which the Estimates volume supporting it are set out require some explanation from me, Sir, as they are unusual. They will, in fact, not be repeated. Before the Control and Management of Public Finances Law was passed last year, the Finance Committee considered requests for the additional sums Ministries asked for during the year. Later,

[A. ALIYU, MAKAMA]

after the accounts for the year had closed, a Bill was presented to the Legislature appropriating the additional sums actually spent under each Head. These Bills were not supported by volumes of Estimates. The figures shown in the Bills represented expenditure authorised by the Finance Committee, and then approved by both Houses when the Committee's Reports were adopted.

The Finance Committee could not legally meet once the present Constitution had begun to operate. But we still had to deal with a number of requests for additional expenditure which arose after the Committee ceased to function. These are the items shown in detail in the dark blue volume of the 1957-58 Supplementary Estimates now before you. You are, one might say, being put in the position of the old Finance Committee in respect of these items. Therefore, we have two types of additional expenditure to consider in the Schedule to this Bill. One, that which has already been approved by the Finance Committee of this House which is shown in here. These are the Finance Committee Reports for the year which were laid on the Table and adopted by the House and are now bound up in one volume for permanent record. Second is the expenditure which could not be placed before the Finance Committee before it had to stop working, and this expenditure, is shown in here. Now both these types of expenditure were estimates under subheads. But we, in the Bill, only have to appropriate what was actually spent under the Heads. On some items there were savings. Under others there were excesses. That is why some Heads do not require any money appropriated and do not have to appear on the Bill, although they appear in the Supplementary Estimates for your information.

This is regrettably complicated, but as I have said before, will not have to be repeated now that we have an established system of regular Supplementary Appropriation Bills and volumes of Estimates. This arises solely from the change-over to the new arrangements.

The President: In accordance with Standing Order 65 the Debate will be deferred and will take place tomorrow.

**The Northern Region 1959-60
Supplementary Appropriation Bill**

Order for the Second Reading read.

Alhaji Aliyu, Makama of Bida: I rise to move, That the Bill be now read a Second time.

This is a straightforward Supplementary Appropriation Law of the type to which Chiefs have become accustomed since the new law controlling our public finances came into operation in August of last year. Here there are not the complications which affected the 1957-58 Supplementary Appropriation Law about which I spoke to you before.

At the opening of the current financial year our estimated recurrent revenue surplus was £322,050. But, as I mentioned in my last Budget Address, this figure did not take into account the additional revenue that we might expect as a result of certain of the increases in the rates of indirect taxation imposed by the Federal Government last January because any forecast then of the additional revenue was likely to be unreliable. On the basis of the figures for the last few months we can now safely assume that some £262,000 will in fact come to us this year from this source. This will increase our initial estimated Recurrent Budget surplus to some £584,000. But Chiefs will note that the Recurrent Estimates before them provide for total supplementary provision of £560,102 which will reduce the surplus to just under £24,000. If expenditure does in fact continue at the rate budgeted for in the Estimates this small surplus will leave us with little room for further requests for additional expenditure. This fact, and the consequent imperative need for economy, has been impressed upon all Ministries.

The biggest item of additional expenditure in these Supplementary Estimates is the one for Education Grants. It reflects the ever-mounting rate of educational expansion in this Region. It was not possible to include it in the Annual Estimates because sufficient information was not available at the time those Estimates were prepared.

It is hoped that in future with the co-operation of the Voluntary Agencies earlier information as to plans for expansion may be received and a more accurate estimate may consequently be made of the grants.

My colleagues will, of course, give any further explanation that is necessary as their own portions of the Estimates are discussed in Committee of Supply.

Chiefs will have read with interest a recent statement that the British Government proposes to lend Nigeria £15,000,000 to help the country's development. Our need for capital is imperative if we are to continue our own development programme. The results of what has been done so far are plain for all to

see in the many new roads, schools, hospitals, water supplies and so on. Every corner of the North has received its fair share. More, much more, remains to be done. For our main source of funds for further progress, we shall increasingly have to depend on loans. We cannot attract such loans unless we maintain a stable economy backed by a sound financial policy. Our efforts have always been directed to that end and I am sure that you will all continue to support them.

The President: In accordance with Standing Order 65 the Debate will be deferred and will take place tomorrow.

Adjournment

Resolved,

That the House do now adjourn.—(*The Minister of Land and Survey, Malam I. M. Gashash.*)

Adjourned accordingly at half past Eleven o'clock.

HOUSE OF CHIEFS NORTHERN NIGERIA

Tuesday, 1st September, 1959
The House met at Ten o'clock
(THE PRESIDENT in the Chair)

PRAYERS

The Northern Region 1957-58 Supplementary Appropriation Bill

Order for resumption of adjourned Debate on Second Reading (*Monday, 31st August*) read.

Question proposed.

The Shehu of Dikwa (Alhaji the hon. Umar Ibn El-Kanemi): I rise with the intention of supporting this Bill and before doing so I should like to make a few points. Everyone knows that the money provided in the Estimates is intended for certain types of work. With the achievement of self-government much money will be required. I should like therefore to advise the Government that, although the Minister has already said that much has been done, there is still more to be done and we must look for every possible way in order to get more funds; and we can only do this through our natural resources. Everyone knows that this country is an agricultural country and the wealth of the country depends largely on its natural resources. Therefore more research should be made with a view to increasing the production of the industries and every effort should be made to introduce crops that will make good in our country. I support the Bill.

Question put and agreed to.

Bill accordingly read the Second time and committed to a Committee of Supply of the whole House.

Head 221—The Governor

Question proposed, That the sum previously voted for Head 221—The Governor—be increased by £1,628.

£1,628 for Head 221—The Governor—agreed to.

Head 222—Premier's Office

Question proposed, That the sum previously voted for Head 222—Premier's Office be increased by £39,011.

The Chief of Nassarawa-Eggon: There is something which I want to ask about, and that is the maintenance of Park at Nassarawa. To my mind the amount is very small. I wonder if this amount can be increased for the maintenance

of this Park. What I mean is that according to the increase I have seen down here.

The Chairman: You are quoting the saving,

The Chief of Nassarawa-Eggon: No, Sir. I am talking about the one which has been approved.

The Chairman: The hon. Member does not understand the meaning. Could the Minister of Finance please explain to him?

Alhaji Aliyu, Makama of Bida: The figure to which the hon. Chief has referred is a saving. The original amount voted for the maintenance of this Park in Nassarawa was not all spent, and I mean the £360 approved in 1957-58. Out of that £294 was spent and the figure £66 is the saving. The park is in front of Nassarawa Ministers' quarters, but I hear that he is talking about tarring of this place. It is not a road—it is an open place in front of the Ministers' houses and the money is used for paying the labourers who are maintaining it.

The Chairman: I think the hon. Member has now got a clear explanation.

The Chief of Nassarawa-Eggon: Yes, Sir. £39,011 for Head 222—Premier's Office—agreed to.

The Chairman: Head 225 is just for information.

Head 226—Public Service Commission

Question proposed, That the sum previously voted for Head 226—Public Service Commission be increased by £3,810.

£3,810 for Head 226—Public Service Commission—agreed to.

The Chairman: Head 230 is for information.

Head 231—Moslem Court of Appeal

Question proposed, That the sum previously voted for Head 231—Moslem Court of Appeal—be increased by £416.

£416 for Head 231—Moslem Court of Appeal—agreed to.

The Atta of Igala: I cannot find where it is in my Estimates.

The Chairman: I think the Minister explained the reason for that yesterday.

Head 233—Police

Question proposed, That the sum previously voted for Head 233—Police—be increased by £62,917.

£62,917 for Head 233—Police—agreed to.

The Chairman: Head 235 is for information only, and so is Head 236.

Head 238—Treasury

Question proposed, That the sum previously voted for Head 238—Treasury—be increased by £10,614.
£10,614 for Head 238—Treasury—agreed to.

Head 239—Ministry of Health

Question proposed, That the sum previously voted for Head 239—Ministry of Health—be increased by £2,396.
£2,396 for Head 239—Ministry of Health—agreed to.

Head 242—Ministry of Land and Survey

Question proposed, That the sum previously voted for Head 242—Ministry of Land and Survey—be increased by £4,136.
£4,136 for Head 242—Ministry of Land and Survey—agreed to.

The Chairman: Heads 243 and 247 are for information only.

Head 258—Ministry of Works

Question proposed, That the sum previously voted for Head 258—Ministry of Works—be increased by £1,886.

The Emir of Pategi: I should like to ask the Minister of Works one question. About three years ago, a survey team was sent and they surveyed the road to Egbe but since then nothing has been done. I should also like to remind the Minister that the Iloria-Pategi-Lafiagi road is being finished and I would like to know from the Minister whether he can give the exact time when it will be tarred. That is all I want to ask.

The Chairman: I am sorry to tell the hon. Member that this is not the time for such a question.

£1,886 for Head 258—Ministry of Works—agreed to.

Head 261—Works Recurrent—Maintenance Services

Question proposed, That the sum previously voted for Head 261—Works Recurrent—Maintenance Services—be increased by £45,528.

£45,528 for Head 261—Works Recurrent—agreed to.

Head 264—Miscellaneous

Question proposed, That the sum previously voted for Head 264—Miscellaneous—be increased by £475,751.

£475,751 for Head 264—Miscellaneous—agreed to.

Head 267—Governor's Office

Question proposed, That the sum previously voted for Head 267—Governor's Office—be increased by £9,822.
£9,822 for Head 267—Governor's Office—agreed to.

Head 268—Office of the Executive Council

Question proposed, That the sum previously voted for Head 268—Office of the Executive Council—be increased by £26,479.
£26,479 for Head 268—Office of the Executive Council—agreed to.

Head 269—Ministry of Finance

Question proposed, That the sum previously voted for Head 269—Ministry of Finance—be increased by £38,197.
£38,197 for Head 269—Ministry of Finance—agreed to.

Head 270—Ministry of Internal Affairs

Question proposed, That the sum previously voted for Head 270—Ministry of Internal Affairs—be increased by £11,676.
£11,676 for Head 270—Ministry of Internal Affairs—agreed to.

Head 271—Ministry for Local Government

Question proposed, That the sum previously voted for Head 271—Ministry for Local Government—be increased by £15,706.
£15,706 for Head 271—Ministry for Local Government—agreed to.

Head 272—Ministry of Animal Health and Forestry

Question proposed, That the sum previously voted for Head 272—Ministry of Animal Health and Forestry—be increased by £6,939.
£6,939 for Head 272—Ministry of Animal Health and Forestry—agreed to.

Clauses 1 and 2 agreed to.

Schedule agreed to.

Preamble agreed to.

Question put and agreed to, That progress be reported.

The House resumed

Bill reported, without amendment, from a Committee of Supply of the whole House, and read a Third time and passed.

The Northern Region 1959-60 Supplementary Appropriation Bill

Order for resumption of adjourned Debate on Second Reading (Monday, 31st August)—read.

Question proposed.

Question put and agreed to.

Bill accordingly read the Second time and committed to a Committee of Supply of the whole House.

Head 223—Premier's Office

Question proposed, That the sum previously voted for Head 223—Premier's Office—be increased by £96,800.
£96,800 for Head 223—Premier's Office—agreed to.

Head 225—Administration

Question proposed, That the sum previously voted for Head 225—Administration—be increased by £2,725.
£2,725 for Head 225—Administration—agreed to.

Head 226—Commissioner in the United Kingdom

Question proposed, That the sum previously voted for Head 226—Commissioner in the United Kingdom—be increased by £20,441.

The Chairman: Have you got a question?

The Chief of Nassarawa Eggon: My question is on Item 18. I see the provision is too small, I would like an explanation.

The Minister of Finance: The provision here is a token figure.

The Chairman: In future Members should not wait until I put the question.

£20,441 for Head 226—Commissioner in the United Kingdom—agreed to.

Head 227—Legislature

Question proposed, That the sum previously voted for Head 227—Legislature—be increased by £34,715.

£34,715 for Head 227—Legislature—agreed to.

Head 228—Judicial

Question proposed, That the sum previously voted for Head 228—Judicial—be increased by £1,500.

£1,500 for Head 228—Judicial—agreed to.

Head 229—Public Service Commission

Question proposed, That the sum previously voted for Head 229—Public Service Commission—be increased by £141.

£141 for Head 229—Public Service Commission—agreed to.

Head 231—Ministry of Agriculture

Question proposed, That the sum previously

voted for Head 231—Ministry of Agriculture—be increased by £3,000.

£3,000 for Head 231—Ministry of Agriculture—agreed to.

Head 232—Ministry of Animal Health and Forestry

Question proposed, That the sum previously voted for Head 232—Ministry of Animal Health and Forestry—be increased by £110.

£110 for Head 232—Ministry of Animal Health and Forestry—agreed to.

Head 233—Ministry of Education

Question proposed, That the sum previously voted for Head 233—Ministry of Education—be increased by £274,320.

£274,320 for Head 233—Ministry of Education—agreed to.

Head 234—Ministry of Finance

Question proposed, That the sum previously voted for Head 234—Ministry of Finance—be increased by £33,650.

£33,650 for Head 234—Ministry of Finance—agreed to.

Head 236—Payment to Capital Development Fund

Question proposed, That the sum previously voted for Head 236—Payments to Capital Development Fund—be increased by £25,000.

£25,000 for Head 236—Payments to Capital Development Fund—agreed to.

Head 239—Ministry of Health

Question proposed, That the sum previously voted for Head 239—Ministry of Health—be increased by £3,473.

£3,473 for Head 239—Ministry of Health—agreed to.

Head 240—Ministry of Internal Affairs

Question proposed, That the sum previously voted for Head 240—Ministry of Internal Affairs—be increased by £22,063.

£22,063 for Head 240—Ministry of Internal Affairs—agreed to.

Head 242—Legal and Commissioner for Native Courts

Question proposed, That the sum previously voted for Head 242—Legal and Commissioner for Native Courts—be increased by £230.

AN HON MEMBER: rose—

The Chairman: Too late. As soon as I call a Head any hon. Member who wishes to speak must stand up and I will sit down.

£230 for Head 242—Legal and Commissioner for Native Courts—agreed to.

Head 243—Moslem Court of Appeal

Question proposed, That the sum previously voted for Head 243—Moslem Court of Appeal—be increased by £1,600.

£1,600 for Head 243—Moslem Court of Appeal—agreed to.

Head 244—Ministry for Local Government

Question proposed, That the sum previously voted for Head 244—Ministry for Local Government—be increased by £10,913.

£10,913 for Head 244—Ministry for Local Government—agreed to.

Head 248—Ministry of Trade and Industry

Question proposed, That the sum previously voted for Head 248—Ministry of Trade and Industry—be increased by £18,558.

£18,558 for Head 248—Ministry of Trade and Industry—agreed to.

Head 252—Works Extraordinary

Question proposed, That the sum previously voted for Head 252—Works Extraordinary—be increased by £10,480.

Alhaji Aliyu, Makama of Bida: I rise to move. That consideration of Head 252—Works Extraordinary—do include the examination of the Capital Estimates and the approval of the sums to be appropriated to the various Heads, as listed in the Motion.

Rule 7 of the Rules for the Operation of the Capital Development Fund requires that all expenditure from the fund additional to that contained in the main Estimates must be submitted to the votes of the Regional Legislative Houses by means of such a motion seeking to authorise the additional expenditure under appropriate Heads for the several services required.

I think that Members will agree with me that it is most appropriate for us to consider this expenditure under Head 252, after all the other Heads of the Supplementary Recurrent Estimates have been taken.

The Chairman: The question is as in the words of the motion moved by the Minister of Finance—Works Extraordinary—“that consideration of Head 252—Works Extraordinary—do include the examination of the Capital Estimates and approval of the following Heads of Capital Expenditure:—

Head 281—Buildings Ministry of Works	£	82,695
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Head 286—Loan Expenditure ...	20,000
Head 287—Other Capital Expenditure	249,983
and the total being—	£352,678

Question put and agreed to.

Main Question, That the sum previously voted for Head 252—Works Extraordinary—be increased by £10,480—agreed to.

£10,480 for Head 252—Works Extraordinary—agreed to.

Head 253—Other Services

Question proposed, That the sum previously voted for Head 253—Other Services—be increased by £383.

£383 for Head 253—Other Services—agreed to.

Schedule agreed to.

Clauses 1 and 2 agreed to.

Preamble agreed to.

The House resumed

Bill reported, without amendment, and read a Third time and passed.

Penal Code Bill 1959

Order for Second Reading read.

The Attorney-General (Mr H. H. Marshall): I beg to move, That a Bill for a Law to establish a Penal Code for the Northern Region of Nigeria be now read a Second time.

The House will recall that last year Government determined that with the approach of Regional self-government in early 1959 the whole structure of the legal and judicial systems in the Northern Region should be examined in order that there might be established a system for the administration of justice which would be capable of winning international acceptance after the Northern Region had begun to manage its own affairs and after the Federation of Nigeria had emerged as an independent nation within the Commonwealth. In order to ascertain the sort of changes and reforms that would be desirable, the Government sent delegations to Libya, Pakistan and the Sudan, all of them Moslem countries which have recently emerged from a similar state of development to that in which the Northern Region now finds itself. The House will be aware of the terms of reference of these delegations, and I need not repeat them here. The three delegations duly visited the countries named and on their return made their report to the Regional Government. As a result of these, the Panel of Jurists paid their visit to the Region about this time last year, and considered the reports of the visiting missions, took evidence

at various sittings and in a commendably short space of time presented their report which was summarised in the Government's White Paper entitled “Statement by the Government of the Northern Region of Nigeria on the Reorganisation of the Legal and Judicial Systems of the Northern Region”. Here again, I need not remind the House of the contents of this report because it was debated and approved by this House and the House of Assembly in the early part of this year.

To implement the report in full there will have to be about six separate Bills to deal with substantive criminal law, criminal procedure, the Sharia Court of Appeal, changes in the native courts system, the establishment of provincial courts, and the adaptation of the whole body of Northern legislation to fit in with the changes in the penal system. It is the first of these Bills that I have the honour to present to this House today. It deals solely with the criminal law and touches hardly at all on procedure or the structure of the courts. The Bills dealing with these matters will, it is hoped, be introduced at the next meeting of this House in April, 1960. It was, however, considered desirable to introduce this particular Bill as soon as possible as a witness of Government's good faith and determination to implement the reforms which it had promised to carry out. The Bill, when passed into law will not, however, be brought into force until the middle of next year when it is hoped that the other legislation that I have referred to will also be ready to be brought into force. The new system will thus be introduced as a whole and not piece meal.

Any different arrangement would cause confusion and misunderstanding, particularly to the alkalai and native courts judges whose duty it will be to assist in working the new system.

Here I might point out that between now and the coming into force of all this legislation to which I have referred, courses are being arranged at the Institute of Administration at Zaria for the instruction of Alkalai and Native Court judges and others who will be called upon to carry out the reforms and work the new system in their courts.

As many hon. Members will already know, after the first draft of the Bill was submitted to Executive Council in January of this year, Council thought it desirable that the Chiefs and the leaders of the Moslem community should have an opportunity of considering the detailed provisions of the Bill before it was considered at a full Council meeting. It was, of course, realised that everybody appreciated that the

Bill was based on the Sudan Penal Code which was in turn based on the Indian Penal Code which had been prepared as long ago as 1837 and brought into force in India in 1859. I explained to the House early this year that this Code had proved acceptable to Hindus, Moslem Christians and pagans alike in the many countries which had adopted its provisions, and it was appreciated that many of its provisions would differ from the provisions of Maliki Law as well as from those of English law. It was however, felt that the Chiefs and Moslem people of the Region should have an opportunity of examining the Bill in detail and satisfying themselves, by a comparison of its terms with the principles of their own law, that the Bill was in fact in no way contrary in any of its details to the Moslem religion. Accordingly, a Committee of Moslem Jurists was requested to undertake this task of examination and reassurance. It consisted of the Waziri of Sokoto, Malam Junaidu, Member of the House of Chiefs, the Wali of Katsina, Alhaji Muhammadu Bello, the Chief Alkali of Bida, Malam Musa, the Magatakarda of Kano, Malam Jibir Daura, Member of the House of Assembly, the Junior Alkali of Kano, Malam Muhammadu Sani, the Junior Alkali of Katsina, Alhaji Muhammadu Dodo, Member of the House of Assembly, the Alkali Babba Kura, Member of the House of Assembly, and Malam Haliru Biji. These gentlemen assembled in Kaduna on 17th January, 1959, and had the advantage of the attendance of Mr S. S. Richardson, Commissioner for Native Courts, throughout their deliberations. These deliberations continued on and off until 27th January, 1959, during which time the whole of the Penal Code Bill was examined clause by clause. The bulk of it was understood and accepted, and it was gratifying and remarkable to note how closely many of the main provisions of the Bill compared not only with the commonsense provisions of English law, but with the commonsense provisions of Maliki law also. There were, however, a number of points on which the jurists required further explanation and reassurance. These were set out in the Report made by the jurists to Executive Council and considered by Executive Council on 4th February. Executive Council decided that it should meet the jurists informally in the Premier's Conference Room on 11th February for a preliminary discussion on the Report. This meeting was duly held. Most of the member of Executive Council, including the Emir of Kano and myself, were present, and Mr Richardson was again in attendance. Many

[MR MARSHALL]
of the outstanding points were cleared up, in some cases by compromise concessions to the Moslems; but there still remained certain tough outstanding questions upon which it appeared that there would be some difficulty in securing agreement. I would mention in particular the considerable difficulties which remained concerning the law of homicide in its relation to provocation. It was decided, therefore, to convene the committee of jurists again and obtain the presence and assistance of Moslems expert in systems of law other than the Maliki law in order to try and reconcile outstanding difficulties. Three further meetings of the jurists were accordingly held, at which were present a few members of Executive Council and over which I presided. Sheikh Awad of the Kano School of Arabic Studies came at short notice, and without any consideration for his own comfort and convenience, to explain to all of us the position of Hanafi law and its relation to the Sudan Penal Code. As a result of his explanations, all the other difficulties disappeared except one, namely, the question of *diyya* to which I shall refer later. As to the law of homicide, it appeared that in Hanafi law there are various degrees of homicide and these are punished according to the circumstances in which the homicide is committed. These rules approximate to English law and to the proposed Code. Much of the difficulty which had arisen over the vexed subject of homicide and its punishment sprang from the fact that both the English and the Moslem systems had several different names for homicide according to the several degrees of its heinousness, the circumstances under which it was committed, including the presence or absence of the elements of self-defence or provocation, and nature of its punishment. A further difficulty confused us all, namely, that the ground which these various crimes covered in one system did not coincide with the ground which they covered in the other. It was therefore decided to describe all forms of criminal killing as "culpable homicide" and then go on to provide that culpable homicide should be punished, as Hanafi law says, according to the circumstances in which it is committed, reserving, for the worst kind only, the death penalty. This proposal found universal acceptance and we English lawyers made a great concession to the Moslem jurists by remodelling and redrafting the whole of the homicide portion of the Bill to give effect to this compromise. Difficulties as to the exact place on the ladder of homicide at which we should fix the death penalty were also

resolved. So far we had achieved a compromise agreement which we could submit to Executive Council. The important stage had been reached at which the Moslem jurists had agreed that, providing the proposed Code did not offend against the injunctions of the Holy Quran and Sunna, it was immaterial whether the detailed provisions were consistent with the Maliki or Hanafi or other Schools of Moslem law.

Amendments to the Bill to give effect to these concessions and compromises were prepared for submission to Council with one point only outstanding, and that was on the subject of *diyya*. The amendments were referred back to Executive Council and I reported progress. It was decided that the Bill should be considered at a full meeting of the Council, including the Chiefs. Consideration of the matter by Executive Council was deferred until 20th May. But on 17th May advantage was taken of the presence in Kaduna for the Self-Government celebrations of the Emir of Kano, the Chief Justice of the Sudan, (who had been a member of the Panel of Jurists who visited Kaduna in 1958) and of the Mufti of the Sudan, so that we might have a further informal conference with them and with certain members of Executive Council, including the Minister of Finance, Alhaji Aliyu, Makama of Bida, the Minister of Education, Alhaji Isa Kaita, Madawakin Katsina, and myself. At this conference the Emir was asked if he had any outstanding points and he raised several, including the questions of provocation and of *diyya*. I am pleased to say that the Mufti of the Sudan, who I believe is an old friend of the Emir's, was able to satisfy him, by reference to the Sunna, that Moslem, and even Maliki, law recognised provocation in certain circumstances as an element which would justify the reduction of the degree of culpability in homicide so that it would be punishable not by death but by a lesser punishment such as imprisonment. He was also able to reassure the Emir on the subject of *diyya* by referring to those passages in the Koran and Sunna and the works of the Moslem jurists which treat of the power of the Imam to use his *Siyasa* power to punish a wrongdoer in the interests of public security.

When this Bill was before the House of Assembly M. Jibir Daura, the Magatakarda of Kano, raised, as he was entitled to, the subject of his own religious scruples on the subject of *diyya*. Government gave thought to the action that they should take to meet M. Jibir Daura's points and, as a result, a statement was made, by the Minister of Education, Alhaji Isa Kaita,

Madawakin Katsina, that in Moslem law the Imam, or head of state, has the right and duty to supplement the Sharia by passing a heavier sentence in the interests of the public at large, which is known as the *Siyasa* power of the ruler, and he pointed out that some Emirs have always, and correctly, maintained that this power in Moslem law extended to the passing of a death sentence on a murderer if public security demanded it, irrespective of the wishes of the blood relatives. Alhaji Isa Kaita went on to propose, however, that in order that the wishes of the blood relatives could continue to receive full consideration before a death sentence is actually carried out, Government would be willing to make provision in the Procedure Code now being drafted whereby the wishes of the blood relatives should always be recorded in the court proceedings, and subsequently taken into consideration by the Committee which advises the Governor as to the exercise of the prerogative of mercy. This would mean that, although a court would always pass a sentence of death in the case of murder, the sentence would not be carried out until the wishes of the blood relatives had been given full consideration by the Committee on the exercise of the prerogative of mercy. This met the wishes of M. Jibir Daura completely, and no objection was raised to the Government's proposals.

Now that all doubts and differences are reconciled all sides can be congratulated on the good sense and good temper with which these enormously difficult negotiations were carried out. In particular, our debt of gratitude can never be repaid to those famous Sudanese, the Chief Justice of the Sudan, the Mufti of the Sudan, and Sheikh Awad, without whose mediating influence and brilliant exposition of the Moslem law we should never have been able to see things straight. It was singularly fortunate that the President of the Panel of Jurists who had initiated these reforms should have been in Kaduna again at the crucial time when explanations on the details of the Bill itself were needed.

I would like to turn now to the clauses of the Bill itself, but will content myself with drawing attention to one or two of the outstanding principles which will be of interest to the House.

This Bill only deals with those matters which are within the power of a Regional Legislature to enact. We have asked the Federal Government to pass a Bill containing, as a supplement to this Code, provisions which relate to offences

affecting Federal matters such as offences against the State of Nigeria, sedition, offences relating to the Nigeria police, military forces, railways, docks and ports, coinage and currency, revenue and postage, weights and measures, copyrights and customs duties, and other similar matters which fall within the Federal domain.

There are certain crimes that it was impossible to make applicable to all inhabitants of Nigeria alike; and, since Moslems and others were unwilling to see them go, we had to make special provision for them. Instances of these are contained in clauses 387 and 388 which make adultery by a man or by a woman who is subject to any native law and custom an offence if adultery is recognised as a criminal offence according to that native law and custom. Drunkenness is dealt with in clauses 401, 402 and 403. Drunkenness in a public place and drunkenness accompanied by disorderly conduct in a private place is punishable by whomsoever it is committed under clauses 401 and 402. Clause 403, on the other hand, applies only to people of the Moslem faith and makes for them only the mere drinking of alcoholic drink, except for a medicinal purpose, an offence. In this connection, *Haddi* lashing will in future be administered only to Moslems for those specific offences which at Moslem law were punishable in that way.

Whipping, as we know it in English law, is prescribed for males only for certain limited classes of offences. In accordance with up-to-date Commonwealth practice, this whipping is now described as "caning" because in fact this form of chastisement is administered with a light rattan cane.

I think it unnecessary to go into further detail on the specific clauses of this Bill, but if any Honourable Member has any questions to raise I shall be glad if he will raise them in the course of debate or in the Committee of the House when we are considering the separate clauses and I shall be very pleased to answer them in my reply to the debate.

Finally, Mr President, I commend this Bill to the House in the hope and confidence that it will receive the support of Members of all sides and to whatever religion they may belong. We welcome it because it will have the effect of abolishing now and for all time to come the conflict which undoubtedly existed in the past between the two systems of law in the Region, which in turn led to misunderstandings between the various and diverse communities of the Region, and perpetuated those differences which in other spheres we are steadily eliminating.

The President: The House will now be suspended for fifteen minutes.

House resumed

Question proposed.

The Ohinoi of Igbirra: I believe this Bill is a welcome news to all the tribes and various communities of this Region. In the first place the Government in general, and the Attorney-General and members of the staff of his Department in particular, deserve congratulations for working so laboriously and studiously to make the presentation of this Bill possible at such a nick of time and within so short a period after the Government's adoption of the recommendations of the panel of expert jurists.

The British administration in Nigeria which brought us into contact with Western civilisation has resulted in our adoption of new habit and ways of life. In many ways the impact modified or obliterated our time-honoured customs and in others tended to kill our native laws and customs. A nation under this circumstances gets frustrated and moral degeneration inevitably follows.

This Bill as I see it provides for a code of conduct of the highest moral standard which, if independent Nigeria, emerging from British rule, is to stand united and endure, must form the pillars of our strength.

I strongly support the Bill and commend it to this hon. House. But as I read through it one peculiar feature of it struck my mind. It appears that every offence under this Code is punishable by imprisonment or fine or both, and this aspect of the Bill which bears sharp contrast with the existing laws of the country needs consideration by the Government. I know that it is not an easy job to undertake but I am sure the Government, bearing full interest of its people at heart, may find time to reconsider, reviewing this with great care and sympathy. I am not at all suggesting that the punishments are all excessive. In fact I have noted offences against one section of the provisions for which punishment is inadequate.

The point I am trying to make is that I do not consider that we will achieve our purpose of raising the moral conduct of our people to a highest level by making every offence under the Code punishable with imprisonment. The purpose of punishment is double-fold. Firstly, it is inflicted to make the offender feel or realise that he has done a wrongful act and, secondly, it serves as a warning against the future. Taken from this angle it is as punitive as it is corrective. Imprisonment is an effective

deterrent, but it at times destroys conduct rather than corrects. I agree that certain crimes must be punished with imprisonment, but there are others in which option of fine ought to be given precedence.

I commend this to the Government for sympathetic consideration, and I beg to support the Bill.

The Emir of Lapai (in Hausa): I wish to support this Bill which seeks to standardise the legal system of this country. We have been told that there are at least 200 different tribes with various customs and traditions in this country, and there are others who are non-conformists. This Bill will remedy the situation in which many people find themselves when they go before a court to which they are not accustomed. I am therefore most grateful to the Government for introducing it and I wish to advise them to translate it into *Hausa* for the use of those who are going to administer it.

I should express my gratitude to the hon. Attorney-General for taking the trouble to prepare and introduce such a Bill which is the most comprehensive he has ever brought before this House. I should also thank him for his efforts to introduce useful Bills to the House and for his full explanation of its complicated provisions.

In the Attorney-General's speech he said that this Bill would not come into force before ten months time. I am very pleased with this as it will give the native authorities every opportunity of reading and understanding the Bill and also explaining it to their people, more especially to those who are not Moslems. I therefore support the Bill and hope that its implementation will not be unduly delayed.

The Emir of Borgu (in Hausa): I rise to support this Bill,

The President: Will the hon. Member please speak louder?

The Emir of Borgu: As I was saying, I fully support the Bill because I know that members of the panel of jurists made a good job of it. I also want to impress the importance of the execution of a convicted person in the area in which he has committed the crime so that it may serve as a deterrent to others.

My second point is that I am under a misapprehension regarding the provision in the Bill on alcoholic drinks. I understand that if someone is drunk and behaves disorderly in a public place he will be punished, but not in a private place. I do not think this is proper as someone can get drunk in his house and become

a nuisance to the public and one can also get drunk in a public place and conduct himself peacefully. I should suggest that those who are drunk and behaves disorderly even in private place should also be punished.

Mai Bedde: I rise to support this Bill with all the emphasis I can muster. It was not my intention to speak because I thought to keep quiet would mean consent. But when I thought and considered the importance of this Bill, I found it necessary to speak because anything pertaining to religion is a very important matter in this Region. To introduce such a Bill and make it acceptable to the whole Region is a very difficult thing and I think the Government has found a solution to the problem.

The Government has done a lot in this Region which will never be forgotten in our history and this Bill is one of the historical things which will never be forgotten. Many people tried to bring confusion in this Region but when they failed they tried one way or other through our religion and custom. They go from one place to another frightening people and as a result of that so many people were really frightened and afraid. The truth is that it is the duty of those who administer justice to punish anybody who commits a crime no matter what religion, custom or tribe the offender belongs to. There are many confusionists who try to use religion and custom in order to cause trouble. I have scrutinised this Bill but I have not found anything to criticise and if there were any, the hon. the Attorney-General would have answered the points in his speech introducing the Bill.

The Atta of Igala: I rise to make some remarks on my appreciation for the work done by the team of experts who have worked selflessly to codify some of our important laws into the form of this Penal Code.

The production of this has taken us a little further in the development of our civilisation. I hope that by the production of this work, all men and women will be equal before the law. By this I mean to say that the exclusion of Syrians and Europeans from appearing before native courts is automatically lifted, more so as this Region has attained its Self-Government.

Referring to the training necessary before the Penal Code could be satisfactorily used to advantage, I hope that sight is not lost of the need to give our Police adequate training in the correct use of this Code, for my belief is that a policeman prefers a wrong charge against a

culprit, the case is sure to be lost and the offender goes scot-free to the disappointment of observers.

May I enlarge on the mention made by the Attorney-General's remarks on the culpability of the offence of adultery. Adultery, in most of the civilised world today is treated as civil matter. It will seem proper if a clear explanation is given to that clause, I would suggest the words "optional" be inserted in brackets after the penalty and so also may the rest of similar controversial ones be treated, so that possible doubts which may exist in the minds of our millions of people may disappear.

It is my wish, to ask that our thanks be extended to the Attorney-General for producing this Penal Code and we would wish him still to bring about the remaining complementary parts which will augment the Penal Code such as a pamphlet on the Law of Evidence which will serve as a handbook to the Penal Code.

I emphasise that the need for this codified Law of Evidence is a necessity if only a complainant who has lost his suit will readily see why he has lost his case, then, the number of appeals in this Region will greatly reduce and money which would have been used in the cause of appeal is used for a better purpose.

I wish also to point out that in the next issues to come, a provision should be made whereby someone who undertakes upon himself to do a civic duty is protected. Example, if A and B combined to fight with C, and D happens to be nearby and renders necessary help to separate A and B from fighting, it is my wish that D should be protected from A and B suing him. We know that the work of drafting laws is tedious and costly but what is worth doing is worth doing well.

This Region should be proud for being able to provide such an acceptable Penal Code, a work which is the combination of other laws in use in other parts of the world and our own criminal laws combined into one—this Penal Code.

Since this Penal Code is subject to further amendment I now do not hesitate to support its passing into Law.

The President: It is not my intention to stop hon. Members from speaking, but we are now on the Second Reading of the Penal Code Bill. The hon. Member should speak on what is before the House and he should also speak louder.

The Emir of Yauri (in Hausa): I rise to support the Bill and to ask two questions. My first question is that, the House of Assembly has passed the Bill and it has so far got the unanimous support of the Chiefs who have already spoken; but I have heard a couple of days ago that some politicians intend to file an action in a court of law against the Regional Government for introducing this Bill. May I know from the Attorney-General whether there are any grounds on which such a step can be taken?

My second point is on drunkenness. I have seen that provision has been made in Clauses 401 and 402 of the Bill, but there are some people who are accustomed to drinking and whose native law and custom will be in conflict with these provisions. Another thing is in Clause 403 where provision has been made for Moslems only. I do not fully understand how this will coincide with the provision for *Haddi* in Moslem Law as explained by the Attorney-General, and I do not think this provision will deter Moslems from drinking the number of whom is always increasing.

The Chief of Kagoro (in Hausa): I rise to support this Bill and express my gratitude to the Government for introducing such a welcome measure which is in keeping with the times. The reason why I am full of praise for the Government is that they are moving slowly but surely and they are also, doing all they can not to interfere with peoples' customs and traditions but only modifying them to keep up with the times. This will be quite a convenient system in place of the confused method we now have in which various laws and customs are being administered.

It is praiseworthy that people who are learned have been sent overseas to study other systems and come back to help us. I am grateful to those panel of experts who came here to make these recommendations. I am also grateful to the Attorney-General for drafting the Bill and I am pleased to hear from him that our Alkalai will be trained in order to acquaint themselves with the new Law.

This Bill is framed in such a way that it will please everybody and this clearly indicates the intention of the Regional Government to promote a spirit of unity and understanding between the different tribes of the Region.

I have only one question and that is on Clause 202 which, with the indulgence of the Chair, I should like to read:

"Whoever sells or distributes, imports or prints or makes for sale or hire or wilfully exhibits to public

view any obscene book, pamphlet, paper, gramophone record or similar article, drawing, painting, representation or figure or attempts or offers so to do or has in his possession any such obscene book or other thing for the purpose of sale, distribution or public exhibition, shall be punished with imprisonment for a term which may extend to two years or with fine or with both".

My question is that do such publications include certain religious books? The word "obscene" may mean anything. It may be that someone has a book which I may consider to be obscene but he does not. That is all I want to know about this Bill which I support.

Alhaji Sir Ahmadu Bello, Sardauna of Sokoto: I should like to reply to the point raised by the Emir of Yauri about what we all heard on the radio that the Government would be sued in a court of law to testify the validity of the Penal Code. This was in fact announced by an Action Group Minister in the Western Region who based his argument on Clause 403 where the mere drinking of alcohol is made on offence for those of the Moslem faith.

In the other House, a Member of the Opposition, an Action Grouper, said that the Government was illegalising things which were known to be legal. He asked us why we should make it an offence for Moslems to drink. I pointed out to him that by making such a provision we only embodied what was provided for Moslems by Almighty God in the Holy Quran. He however said that he himself was asked by some Moslems why they should be prohibited to drink alcohol. I wonder whether devout Moslems could ask such a question, and I believe that his questioners were the type who only answer to be Moslems by name and not by practice.

As long as my Government remains in power, we will never legalise what God has forbidden. We are not biased against those whose customs and religions do not prohibit them from drinking alcohol. You can see this in that we ourselves buy refreshments and serve such people in our own houses whenever we invite them. But these people will not offer us alcoholic drinks when we visit them in their own houses because they know that we should not drink alcohol. It is for these reasons that I told the hon. Member in the other House that we await to receive their summons to any court and I do not know what they are doing about it.

The Chief of Minna who was received with cheers (in Hausa): In supporting this Bill, I have about seven questions to ask. My first question is,

Alhaji Sir Ahmadu Bello: I think it would be better for the questions to be put during the Committee stage.

The President: Usually detailed questions are asked when the House is in Committee.

The Chief of Washishi who was also received with cheers (in Hausa): I wish to support this Bill whole-heartedly and to thank all those who had to do with its preparation especially our Attorney-General. I have not got much to say on it but to advise the Government to do all it can to implement its provisions in time and to keep an eye on any loop-holes which may require amendment from time to time.

The Emir of Pategi: I support this Bill and wish to give my praise to the Government for the noble step it has taken to implement the recommendations of the panel of jurists. I am also grateful to the Attorney-General for drafting the Bill. I have no adverse comment to make on the Bill; I am only waiting to hear when it will come into force.

The Chief of Donga (in Hausa): I rise to support the Bill which I read and understood thoroughly before I left my home for this meeting. This Bill clearly shows that we have also made progress in the field of the administration of justice. People from certain parts of this country used to describe our judicial system as backward. Although we have many different tribes with different customs and religions in this country, I am sure that this Bill will be useful in that it has embodied everybody's native laws and customs.

The Government's effort is praiseworthy because it invited many experts from here and abroad who gave us the benefit of their invaluable knowledge. It will be advisable now, as one of the Chiefs has already suggested, to train our Alkalai in how to administer the provisions of the Penal Code. This Bill is another step forward towards promoting unity and friendship between the different peoples of this Region. My other point is that this Bill should be translated into *Hausa* so that many of our people can understand it.

Mr Marshall: I am very grateful to the hon. Chiefs for their kind words to the Government and to my staff and myself, for our work in the production of this Bill. As I said on a previous occasion, this is very much an example of team work, many people have contributed to it and, as far as I am concerned, my own personal contribution has been small. In addition to the great help we have had from the

Moslem fraternity, both in other countries and within the Northern Region, I ought to make it clear that there has been considerable consultation with the Christian elements; and the Chief of Kagoro and Mr Peter Achimugu and other eminent people in the non-Moslem world have been consulted and their views taken. The contributions which chiefs like the Atta of Igala were able to make were of course from the point of view of their coming from the Riverain areas where there are Moslems, Christians and Pagans and their views as to the reactions of those people were of the greatest help. Some of the points which the Atta raised I will deal with later on if I may.

I would like to give my thanks to those members of my staff who have been concerned with the production of this Bill and specially to the Legal Draughtsman and the Commissioner for Native Courts who have done the bulk of the detailed and complicated spade work of the drafting and putting together of the various clauses.

I would now like to deal with some of the questions raised by the hon. Chiefs during the debate. The Ohinoy of Igbirra was concerned lest under the Code imprisonment must be imposed in every case and that there would be no option of a fine and lest probation would not be permitted. I would like to re-assert and point out that nearly all of the clauses of this Bill provide for punishment either by fine or imprisonment; and of course, under the Probation of Offenders Law, probation can be applied to any of such offences. There are only a few clauses which prescribe imprisonment and nothing else; such as 171, 384 and 390. That is because these offences are regarded as particularly serious and meriting imprisonment. It should be pointed out however that in special cases where mercy is the guiding factor imprisonment can be of short duration—possibly only a matter of days.

The Emir of Lapai and some others asked if a Hausa translation would be prepared. The Government has made special arrangements to have this Code translated into Hausa by the best experts obtainable and for this reason it is going to be done at the School of Oriental and African Studies in London by African Hausa students who are in training there and they will be supervised by their Professors and also by those who have a knowledge of English Law. The Emir of Yauri will be able to reassure the House, as he probably knows from his own experience, that that is the best form

[MR MARSHALL]
of translation that can be obtained because there we can get a combination of local vernacular and an accurate translation of technical terms.

The Emir of Borgu raised the question about the place of execution of a convicted person. The answer to that is that Government has undertaken arrangements whereby execution shall be carried out where necessary in a provincial centre in the province from which the murdered person comes so that the relatives of the murdered person can know that the criminal has been executed and that this has been done in their own country.

The President: *Rose*—

Mr Marshall: I will not take up the time of the hon. House very much longer, if the House could give me two or three minutes, I think I can finish before the adjournment.

The President: Do the hon. Members agree? (*Assent*).

Mr Marshall: The Emir of Borgu also asked what will happen to a man who drinks secretly in a house but disturbs others and whether he will be punished. The answer is yes, he will be punished. Clause 402 says

"Whoever being drunk in any private place conducts himself in a disorderly manner to the annoyance of any person having a right to exclude him from such place or fails to leave such place when requested to do so by such person, shall be punished with imprisonment for a term which may extend to one month or with fine which may extend to three pounds or with both."

Then in addition we have Clause 401 which says

"Whoever is found drunk in a public place or in any place by entering which he committed a trespass, shall be punished—(a) with imprisonment for a term which may extend to seven days or with fine which may extend to one pound or with both; and (b) if the person so found conducts himself in such place in a disorderly manner or is incapable of taking care of himself, with imprisonment for a term of one month or with fine of three pounds or with both."

I hope this meets the question asked by the Emir.

The Atta of Igala suggested two points, one was about the training of the Police in this Code. I am pleased to inform the House that the Commissioner of Police for the Northern Region has already approached me and arrangements have been put in hand for one or other of the lawyers in my Department to lecture to the Police and to instruct them either formally or informally in the way they are to carry out their duties under this Code.

But detailed arrangements have not yet been worked out. The second point is about evidence and I am grateful to him for having raised that. He suggested that there must be a Code of evidence that everyone will understand and that will be acceptable in courts. I agree with him and that is what we intend to have. For the present we hope to use the Evidence Ordinance of Nigeria. This, however, is a very complicated and technical document. Therefore, during the period when the courts are being "guided" by this Code and the Criminal Procedure Code, they will also be "guided" by the Evidence Ordinance so that mistakes which a court makes will not necessarily result in a reversal of its decision but the decision will be revised and corrected by the appeal court.

It was also suggested by one hon. Chief that the Penal Code should be amended and brought up to date from time to time. With respect, I agree that that is a very sensible suggestion. We will watch this Bill as we have watched every other Bill that we have passed in this House, and we will not hesitate to bring to this House any amending Bill from time to time that public opinion and the circumstances require.

The Chief of Kagoro was concerned by Clause 202 which deals with obscene books, and was anxious to be reassured that this clause did not in any case interfere with the publication of religious books if they contain some matter which might be considered under that head. Obscene in this case means indecent or immoral or something which tends to corrupt or deprave those who read it in the book or look at it. It is almost impossible to give an answer to a hypothetical question where one has not the actual book or the actual photograph or whatever it is before one, but I think I can assure the hon. Member that if such a book were a genuine religious book published with the intention of instructing a person in his faith, any incidental indecency which might be in it would not be in any way the subject of prosecution under this law.

Finally, I thank the hon. Members of this House for their attention and interest in this debate and for the useful suggestions which they have made. This Bill is a very great step forward and I know for a fact that it has been a great wrench for English lawyers and Moslem lawyers alike to give up their old ways and to compromise and to agree to this Bill in the form which it now takes. But everyone has taken a courageous step forward without in any way compromising their

principles or their consciences. The adoption of this Bill has been a great surprise to those who do not understand us but it is a great tribute to those two rather conservative races the British and the people of the Northern Region (*loud applause*) that they have both been able to agree upon this big step forward which we hope will be of advantage to the Region in the future.

Adjournment

Resolved,

That this House do now adjourn. (*The Emir of Katsina*).

Adjourned accordingly at 1.15 p.m.

WRITTEN ANSWERS TO QUESTIONS

Tuesday, 1st September, 1959

Causes of Motor Accidents

W1. Malam Garbosa II (Chief of Donga) asked the Minister of Trade and Industry that, in view of the fact that most motor accidents are caused by driving at high speed, will the Regional Government ask the Federal Government to send to all motor vehicle manufacturers who have dealings in Nigeria to limit readings on motor speedometers.

The Minister of Trade and Industry (Malam Abba Habib): I am not quite sure what the hon. Member means but I am afraid that limiting speedometer readings would have no effect on how fast vehicles travelled. If the hon. Member means that all vehicle engines should be governed down to a maximum speed, I do not think this would be practicable either, because it is not difficult for a driver to alter the governor's setting after it had been set. It is common experience that no mechanical device can replace careful driving.

Telecommunications between Yola and Wukari

W3. Malam Garbosa II (Chief of Donga) asked the Premier whether the Government of the Region will consider asking the Government of the Federation to provide a Trunk Call Service between Yola in Adamawa and Wukari, along the new Yola-Donga-Takum-Wukari Road now under construction with a view to providing telecommunication facilities for the people living in the remote areas.

The Acting Premier (Alhaji Aliyu, Makama of Bida): No, Sir. It would not be economic to use a land line, which costs at least £400 a mile, on a route over 300 miles long. Action is in hand to provide Jalingo with a temporary wireless link to Yola. Yola itself will be connected with the national trunk system in the present telecommunications programme due for completion in 1962.

A link to Jalingo via Lau and a link between Makurdi, Wukari and Takum have already been suggested to the Federal Government for inclusion in the next programme.

Girls Senior Primary Schools

W4. Malam Garbosa II (Chief of Donga) asked the Minister of Education whether it will be possible to increase the number of Girls' Senior Primary Schools in order to make available a large number of educated girls for the services of the Region.

The Minister of Education (Alhaji Isa Kaita, Madawaki of Katsina): Yes. The number of Girls' Senior Primary Schools run by Voluntary Agencies increases every year. As regards N.A. Girls' Senior Primary Schools, it is hoped that a new one will be opened in Bauchi next year and plans are in hand to open one in Zaria. As the hon. Member is well aware, in many areas in the North the main obstacle to development of girls' education is not lack of schools but the unwillingness of parents to send their daughters for training as teachers, thus making it difficult to open new schools for girls.

Tarring of Pategi—Ilorin Road

W5. Alhaji Umaru (Etsu of Pategi) asked the Minister of Works that as the road, Pategi-Ilorin, is now in constant use, when will the Minister consider tarring the road.

The Minister of Works (Mr G. U. Ohikere): The Ilorin-Share section of this Road, which is part of Trunk Road A.1, is already tarred. I do not intend, at present, to tar the section Share-Pategi since the volume of traffic does not justify it.

Pategi-Yagba Road

W6. Alhaji Umaru (Etsu of Pategi) asked the Minister of Works whether he is aware of his people's anxiety to have a good road from Pategi to Yagba. If so, when will the construction of a road commence.

Mr G. U. Ohikere: Yes, Sir. A survey of the road has been carried out and contract documents prepared. Construction can begin by contract whenever funds are made available.

Ferry Service across the River Niger Bida-Pategi

W7. Alhaji Umaru (Etsu of Pategi) asked the Minister of Works whether, in view of the fact that it is now two years since a survey was carried out by some engineers with a view to providing a ferry (Pategi-Bida) across the River Niger at Egbon similar to that at Wuya, he might know what the Minister is doing about it.

Mr G. U. Ohikere: I think the hon. Chief refers to a preliminary investigation of the crossing, which was carried out as part of a general survey in progress to ascertain the best possible route for a proposed new Regional road. This road is intended to form an additional link between the North and South, lying between

the Federal Trunk Road A1, crossing the River Niger at Jebba, and the Federal Trunk Road A3, crossing the River Benue at Makurdi.

A final decision has not yet been taken on which route is the best, but, as soon as it has

been and funds have been made available for the project, an announcement will be made. This cannot however be expected earlier than 1960 as no funds remain available for new road projects under the present Development Plan.

HOUSE OF CHIEFS NORTHERN NIGERIA

Wednesday, 2nd September, 1959

The House met at Ten o'clock

[THE DEPUTY PRESIDENT in the Chair]

PRAYERS

BUSINESS MOTION

Adjournment *sine die*

Resolved,

That this House at its rising this day do adjourn *sine die*. [The Premier, Alhaji Sir Ahmadu Bello, Sardauna of Sokoto].

ORDER OF THE DAY

The Penal Code Bill

Order for resumption of adjourned Debate on Second Reading (Tuesday, 1st September)—read.

Question again proposed.

Question put and agreed to.

Bill accordingly read a Second time and immediately considered in a Committee of the whole House.

Clauses 1-7 agreed to.

Schedule.

Clauses 1-5 agreed to.

Clauses 6-8 agreed to.

Clause 9 agreed to.

Clause 10 agreed to.

Clauses 11-18 agreed to.

Clauses 19-25 agreed to.

Clauses 26-36 agreed to.

Clauses 27-40 agreed to.

Clauses 41-47.

The Chief of Minna (in Hausa): Mr Chairman, Sir.

The Deputy Chairman (Alhaji Umar Ibn Ibrahim El-kanemi, C.B.E., Emir of Dikwa): Would the hon. Member say to which Clause he is referring?

The Chief of Minna: Clause 44. Sir, I support this Clause because somebody who has the intention of committing an offence,

The Deputy Chairman: Would the hon. Member stop so that the translation can be made.

The Chief of Minna: but is either afraid or ashamed, will wait until when he is drunk, when he has no shame nor fear. I support

this Clause because it is provided that an intoxicated person is presumed to be in knowledge of the offence which he is committing.

My one question is this. I want to know the difference between Clause 44 and Clause 52. The words in Clause 52 provide that the person "is, by reason of intoxication caused by something administered to him without his knowledge or against his will, incapable of knowing the nature of the act, or that he is doing what is either wrong, or contrary to law". That is my question.

The Attorney-General (Mr H. H. Marshall): Clause 44, as the hon. Chief has pointed out, creates the presumption that an intoxicated person has the same knowledge that he would have had if he had not been intoxicated, and it follows that there is a presumption that a man, although intoxicated, is responsible for the crime which he commits when in that condition. This presumption can be destroyed by evidence to the contrary and one of the circumstances in which that evidence can be given is set out in clause 52, that is to say where the person who is intoxicated and commits a crime shows that the intoxicating liquor was administered to him by someone against his will, or without his knowing it, for instance, if somebody dropped some intoxicating liquor into a harmless drink, as a result of which the drinker became incapable of knowing what he was doing. It may be that an evil-intentioned person would wish to make someone intoxicated so that the latter could carry out a crime and be an instrument in the hands of the person who made him drunk. It is in these circumstances that it is considered unfair that such a person should be held responsible for his own actions. I would like to make clear to the hon. Member, however, that this would not protect a person who deliberately made himself drunk so that he was incapable of knowing what he was about. It has to be an act of someone else with whom he is not in agreement or collusion.

Clauses 41-47 agreed to.

Clauses 48 and 49 agreed to.

Clauses 50-54.

The Chief of Minna: I rise to support the provision under Clause 50 where it is provided,

The Deputy Chairman: Is the hon. Member supporting or asking a question.

The Chief of Minna (in Hausa): It is a question. My question is that I have seen that this provision is directed to juveniles and may I know whether it affects old people? There are some people who are old and destitute whose mentality is no better than that of juveniles. May I know whether this Clause will affect them also?

Mr Marshall: Clause 50 deals with childhood and not second childhood; that is to say the incapacity of a young child and not someone who is made childish by old age. Older people would be covered by clause 51 if they come within the terms of its provisions. That is to say, if a person is so old or so senile that the mind has given way they would come within the provision as would a person whose mind is unsound and who is not responsible for his acts.

Clauses 50-54 agreed to.
Clauses 55-59 agreed to.
Clauses 60-64 agreed to.
Clauses 65-68 agreed to.
Clauses 69-74.

The Ohinoi of Igbirra: I should like to ask whether a boy of fourteen can be sent to prison.

The Deputy Chairman: Would the hon. Member please speak louder and say which Clause he is referring to.

The Ohinoi of Igbirra: Clause 69, Sir.

Mr Marshall: This Clause only deals with persons under fourteen years of age. Anybody of fourteen years or above can be sentenced.

The Ohinoi of Igbirra: I would like to know whether if somebody who is sentenced to life imprisonment and has served twenty years can be released?

Mr Marshall: When a person is sentenced to life imprisonment it is the practice of the Government to review his sentence at first, every five years, and later yearly. As the hon. Member knows there exists provision for what is known as earned remission, and that is to say if a man is of good behaviour he gets a proportion of his sentence remitted. Also these are offences the punishment for which is graduated according to other offences. For instance a man who abets another person's offence receives a proportion of the sentence which can be given as a maximum for the main offence. Where the main offence is punishable with life imprisonment and you want to calculate the proportion that can be awarded to the person assisting the offence, it is quite obvious that you cannot calculate an

unknown period of someone's life so you treat life imprisonment as twenty years. An example of this can be seen in clause 92 sub-clause (2) where it refers to an offence punishable with imprisonment "If the abettor is a public servant whose duty it is to prevent the commission of such offence, he shall be punished with imprisonment for a term which may extend to one-half of the longest term provided for that offence or with such fine as is provided for that offence or with both". So if the main offence is punishable with life imprisonment the abettor is punished with one-half which is ten years.

Clauses 69-74 agreed to.
Clauses 75-77.

The Emir of Nassarawa-Eggon: Mr Deputy Chairman, Sir,

The Deputy Chairman: Which Clause are you referring to.

The Chief of Nassarawa-Eggon: I rise to support the provision in Clause 75 where it is said that "where a fine or any part thereof remains unpaid the offender or his estate, if he is dead, is not discharged from liability to pay the fine or the unpaid part thereof notwithstanding that he has served a term of imprisonment in default of payment of the fine.

My question on this is that if the person fined is dead and he has left nothing and he has no known relatives, how can the fine be recovered?

Mr Marshall: If there is no money, no money can be recovered for the fine. There is a proverb which says "You cannot get blood out of a stone". In any case the fine would not be payable by the man's relatives unless he has personally left sufficient money to pay, either of his own money or his own goods. This Clause will not make his fine payable to his relatives out of their own money.

The Ohinoi of Igbirra: The same clause 75. I would like to know whether, if for instance a man who was fined £5 failed to pay and as a result he was imprisoned. After serving the term of imprisonment, would he still be asked to pay the fine?

Mr Marshall: Yes. If he had the money all the time and refused to pay, his imprisonment would only be for his contempt of Court for refusing to pay the money. It would be an intolerable position if a man had £5 in his pocket and was sentenced to pay a £5 fine and refused to pay and then was imprisoned for a few days and came out triumphantly waving

the £5 in the face of the Judge saying "You have not got your £5 after all". To some people a little term of imprisonment is far less painful than parting with a sum of money.

The Atta of Igala: We are pleased with the explanation made by the Attorney-General; and I would be pleased if it would be possible to recover what was stolen from my Native Treasury. I hope this Clause will be in our favour if we apply it.

Mr Marshall: If you can find the money!

The Emir of Lapai: Clause 77. I would like to know if the Government is going to introduce a standard cane?

Mr Marshall: All native courts, magistrates courts and the High Court will be administering the same law. Therefore there will have to be standard canes which will be used by all. The Executive Council will have to make rules regarding this matter. I would like to emphasise, however, so far as *Haddi* lashing is concerned that the traditional implement that is now used will continue to be used for those *Haddi* offences. They are not covered by this clause but by Clause 68.

The Deputy Chairman: I should like to remind the hon. Members that when they are referring to the Chair, they should address the Chair as Mr Chairman or Deputy Chairman when the House is in Committee.

Clauses 75-77 agreed to.
Clauses 78-81.

The Chief of Minna: I should like to ask a question on Clause 79 where it is provided that when a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone. Will the court confirm that these people have committed a criminal act? Will the punishment be equal or different for each one of them according to the grounds on which they have committed the offence?

Mr Marshall: This clause is intended to cover acts committed by persons jointly. For instance if two men go off with the intention of murdering another man and one holds him down while the other knifes him in the chest, the man who holds him down is equally guilty of murder although he did not kill the man with the knife. That is the case in English Law and I believe in Moslem Law as well.

The Adviser on Moslem Law: Yes, it is the same in Moslem Law.

Clauses 78-81 agreed to.
Clauses 82-84 agreed to.
Clauses 85-87 agreed to.

The Deputy Chairman: When I call the Clauses any hon. Member who wishes to speak should stand up and I will then sit down. Do not hesitate because I am standing up.

Clauses 88-91 agreed to.
Clauses 92-95 agreed to.
Clauses 96-98 agreed to.
Clauses 99-103.

The Chief of Minna: I rise to ask a question in connection with Clause 100, where it provides that "an assembly of five or more persons is designated an unlawful assembly if the common object of the persons composing that assembly is" *et cetera*. The explanation in my opinion is that it is possible sometimes that persons numbering less than five could commit such an offence but here what surprises me is that this clause only provides for five persons and does not provide for less than that. If three persons committed such an offence would it mean that they would not be punished under this Law?

Mr Marshall: They are certainly not punishable under this Law because it is not considered that less than five persons would be able to overawe by criminal force or show of criminal force the Government of the Federation or any Government of Nigeria or any public servant in the exercise of his lawful powers, *et cetera*; but they may be punishable under some other sections, for instance section 106. If any of these people is found committing a riot they will be punishable here. Also if you will look at the very useful provision in Clause 109, you will see that anyone who promotes or does any act with intent to assist the promotion of an unlawful assembly shall be punishable as a member of such an unlawful assembly and for any offence which may be committed by any member thereof in the same manner as if he had himself been a member of such unlawful assembly. So you might find that the three people to which the hon. Chief referred were running about trying to start an unlawful assembly and were accordingly guilty under this clause. Then of course if the hon. Member will look at Clause 113 he will see that this provides that these people might be dealt with for disturbing the public peace. I think the hon. Member may rest assured that one of the benefits of this comprehensive Bill is that if you cannot get an offender under one clause you can get him under another.

Clauses 99-103 agreed to.

Clauses 104-111 agreed to.

Clauses 112-115 agreed to.

Clauses 116-121 agreed to.

Clauses 122-126 agreed to.

Clauses 127-130 agreed to.

Clauses 131 to 135.

The Ohinoi of Igbirra: Clause 131. I should be grateful if the hon. the Attorney-General would give us an example of the circumstances under which public servants can be prevented from buying property.

Mr Marshall: Examples are bailiffs and other officers of the courts who are selling up the property of a debtor in order to satisfy a judgment debt. If a court gives judgment in favour of a man against another for say £20 and the debtor refuses to pay, the court may direct his property to be sold to pay the debt. It would be improper for an officer of the court who has a duty to supervise the selling of that property to be able to bid for it because there might be corruption or collusion if, by arrangement, too small a price could be paid. So to avoid all questions arising out of such transaction the Bill makes it a criminal offence for such a person to bid for the property at all.

The Atta of Igala: If a court orders something to be sold at a public auction and a member of the court who wishes to buy it goes there and employs the services of a licensed auctioneer, will he be allowed to bid?

Mr Marshall: He is still not allowed to bid because he might have an arrangement with the auctioneer to knock it down to him at first bid.

The Chief of Minna (in Hausa): I rise to ask a question in connection with clause 133 which deals with wearing dresses similar to those used by public servants. If a person, with the intention to impersonate a public servant, dresses a group of people, but not necessarily resubling any clothes worn by public servants, can the leader of these people be arrested under the provision of this law because in England there has been an organisation formed by people who were black shirts.

Mr Marshall: They would not be punished under this clause which deals solely with the impersonation of public servants but they might be punished under the Public Order Law which the House passed last year to put a stop to the wearing of political uniforms.

Clauses 131-135 agreed to.

Clauses 136-138 agreed to.

Clauses 139-140 agreed to.

Clauses 141-146 agreed to.

Clauses 147 to 152

The Chief of Zinna: Clause 147. I rise to support the clause, but it is not quite clear to me. I should be grateful for an explanation from the Attorney-General.

Mr Marshall: This is a complementary provision to the one we last considered. Here a person who bids for a person commits an offence.

Clauses 147-152 agreed to.

Clauses 153-156 agreed to.

Clauses 157-158 agreed to.

Clauses 159-164 agreed to.

Clauses 165-167 agreed to.

Clauses 168 to 170

The Ohinoi of Igbirra: Clause 168 (2). I do not understand this section at all.

Mr Marshall: This relates to the device which exists in the new Law making it lawful for a person who has suffered as a result of a crime to compound that crime. It is illegal in English law to agree with the criminal not to prosecute him. If a robbery has occurred and your money has been taken away in the robbery it is illegal to announce that, provided the money is returned, the criminal will not be prosecuted or brought before the court. That is called compounding. In English law it is thought more important that a criminal should be brought to justice than that the victim should get his money back, though both courses are desirable. But in the Sudan Penal Code and I believe in certain circumstances in Moslem Law, it is permissible for certain crimes to be compounded, that is for the sufferer to come to an agreement with the person who has offended him. We have provided in this Bill as part of our compromise that it shall be lawful to compound certain offences. This clause which makes it an offence to offer gratification in consideration of an offender does not apply to those offences which it is lawful to compound.

Clauses 168-170 agreed to.

Clauses 171-178.

The Ohinoi of Igbirra: Clause 174. I have no idea of what can be regarded in this section as incorporeal.

Mr Marshall: Incorporeal means something you cannot actually touch or which has

no physical existence such as a share in a company or the right to take fish from a stream. The right to go and take fish from a stream is a very different piece of property from the actual fish that you take out because once you have eaten the fish that property has disappeared but your right to go to the stream goes on for ever.

Clauses 171-178 agreed to.

Clauses 179-188 agreed to.

Clauses 189-201.

The Chief of Minna (in Hausa): I rise to ask a question in connection with Clause 201. My question is that if a house is built not with the intention to use it as a brothel and the landlord lets the house to prostitutes and other evil people, can such a house be considered as a brothel or as an ordinary house? Does this provision affect the house or is there any other provision which affects such a house?

Mr Marshall: A house is a brothel or not according to what goes inside it and it does not matter what a house is built for but for what purpose it is used. You can call a brothel a post office but that will not make it different from what it is. It is the person who keeps or manages a brothel who is punishable here, not the innocent party who do not know what is going on inside. A trader might let his house to a friend and go to Lagos for six months' trading, and while he was away the friend might manage that house as a brothel without the knowledge of the owner who is in Lagos. The man who is managing the brothel would be liable under this clause; the owner who is in Lagos would not.

Clauses 189-201 agreed to.

Clauses 202-207.

The Chief of Kagoro: The reason why I rise to speak is because I would like to ask question in connection with Clause 202. I want to appeal in connection with Clause 202.

The Deputy Chairman: The hon. Member is only allowed to ask a question.

The Chief of Kagoro: Would the Deputy Chairman allow me to ask a question?

The Deputy Chairman: Yes, you may.

The Chief of Kagoro: My question is that, according to the explanation given by the Attorney-General, such books should not include.

The Deputy-Chairman: This is an amendment, not a question.

The Chief of Kagoro: Thank you, Mr Deputy Chairman.

Clauses 202-207 agreed to.

Clauses 208-216 agreed to.

Clauses 217-221.

The Chief of Nassarawa-Eggon: I would like to raise a question in connection with the provisions of Clause 217 where it is provided that "whoever knowingly has in his possession any fetish or charm which is pretended or reputed to possess power to protect a person in the committing of any offence shall be punished with imprisonment which may extend to five years or with fine or with both". I support this good provision; but I would like to ask a question. Which kind of charm is meant here?

Mr Marshall: Any fetish or charm which is reputed to protect. This is based on section 213 of the existing Criminal Code. In drafting this Bill we made sure that in taking over the Sudan Code we did not lose anything which had been specially enacted to suit the needs of Nigeria in the past, and this is one of the clauses we took over *en bloc* from the old Criminal Code.

The Ohinoi of Igbirra: Clause 219. I do not understand the purpose of the limitation to six months which appears in the second line of the Clause. If, for instance, a man was found to be in possession of a skull, and it happened that he had that skull a year before, would he be said to have committed an offence?

Mr Marshall: This provision comes straight out of the existing Criminal Code. I am not entirely clear why the period of six months was inserted, but I think it is for the following reason. It is very difficult to prove after the lapse of six months whether a head has been lawfully or unlawfully come by. It might well be that a dead body had been dug up and the skull used as a juju, whereas what this clause is directed against is the actual killing of a person in order to obtain his head for the purpose of juju, and the hon. Member will appreciate how difficult it would be after six months to prove how a particular skull was obtained, and where it came from.

The Ohinoi of Igbirra: A supplementary question, Sir. In these circumstances, would it not be better to prohibit it entirely?

The Deputy Chairman: The hon. Member is suggesting an amendment, for which he should have given proper notice.

Clauses 217-221 agreed to.

Committee suspended for fifteen minutes.

The Committee resumed.

(MR CHAIRMAN in the Chair)

Clauses 222-226 agreed to.

Clauses 227-235 agreed to.

Clauses 236-245 agreed to.

Clauses 246-254 agreed to.

Clauses 255-262 agreed to.

Clauses 263-272 agreed to.

Clauses 273-285.

The Chief of Nassarawa Eggon: I have a question to ask in connection with Clause 273 which provides that

"whoever kidnaps or abducts any person shall be punished with imprisonment for a term which may extend to ten years and shall also be liable to fine." My question is: should he pay the fine after serving the term of imprisonment or before he goes to prison.

Mr Marshall: I do not think that the question really arises under this clause. This is a general provision as to the punishment which applies to all clauses where there is imprisonment as well as a fine prescribed. The answer is, of course, he goes to prison straight away and pays the fine when they can get it out of him. In the case of a rich man he would pay the fine straight away and then serve his term of imprisonment. In the case of a poor man they would probably have to wait a very long time before they got their money.

The Ohinoi of Igbirra: Clause 285. The provision provides that

"a consent given by a person below the age of sixteen years to such an act when done by his teacher, guardian or any person entrusted with his care of education shall not be deemed to be a consent within the meaning of this section."

Is the teacher, guardian or person so entrusted with the case of a minor not guilty of an offence.

Mr Marshall: Yes, that is the whole point of the clause. The whole purpose of this clause is that a person under the age of sixteen is considered to be insufficiently mature to be able to understand what is going on and to be unable to give his consent as a mature person would. If two persons of the age of thirty are involved in an indecent offence it is perfectly appropriate to say that they are both capable of understanding what is going on and of giving their consent to what is going on but if a person of thirty and a person of twelve are involved in an indecent offence it is unfair for the person of thirty to be able to say that the child consented, because the child probably does not understand what was going on.

Therefore the person of thirty is not permitted to say that the child consented because that child is incapable of giving consent. The proviso is designed to protect people of immature age.

Clauses 273-285 agreed to.

Clauses 286 and 287.

The Emir of Zaria (Alhaji Aminu) who was received with cheers (in Hausa): In supporting this Bill, I should like to ask a question on Clause 286, Illustration (b) where it is provided that "A puts a bait for dogs in his pocket and thus induces Z's dog to follow him. Here, if A's intention is dishonestly to take the dog out of Z's possession without Z's consent, A has committed theft as soon as Z's dog has begun to follow A".

I am somewhat confused. I do not know how it can be established that A has a dishonest intention? I am not sure how it can be proved. I can see this being abused by people who have some sort of misunderstanding between them. A dog owner may try to implicate a rival who may have meat in his possession. If for instance, this dog owner has some disagreement with the man who may have meat in his possession, it will be easy for the dog owner to shout for help if he sees his dog following his rival who does not even know that the dog is following him because he has meat in his possession. How can you find out whether the dog owner is not being malicious?

Mr Marshall: The hon. Member is really putting to me a hypothetical court case and asking me to try it! The success of the prosecution always depends on the facts of the case and the evidence which is brought, and no person could be convicted under this clause unless there were sufficient evidence to show that he deliberately intended to lure away the dog and did not have the meat in his pocket for his own lawful purposes. This might be difficult but there might be surrounding facts which would make the crime easier to prove. For instance, if the man had been seen attempting to lure the dog away by other methods and had failed and had then put meat in his pocket the Court would be entitled to come to the conclusion that the meat was put there deliberately. But the variety of facts that exist in this world and the extent of human ingenuity are limitless and there might be many other factors which would be covered by this clause.

The Ohinoi of Igbirra: Clause 286, Illustration (m)—

"A is the paramour of Z's wife. She gives a valuable property, which A knows to belong to the husband Z and to be such property as she has no authority from Z to give. If A takes the property dishonestly, he commits theft."

Is the wife also not chargeable for theft under this section.

Mr Marshall: It is generally thought that a wife cannot steal from her husband while they are living together. Life would be intolerable if in a household a wife was liable to be charged with theft because she happened to be holding some of her husband's property in her hand; so it is usually said that a wife cannot steal from her husband unless she is actually leaving him and going away with the property.

Clauses 286 and 287 agreed to.

Clauses 288-296.

The Chief of Minna: My question is in connection with Clause 290. If thieves enter a man's house with the intention of stealing and threaten him with dangerous weapons, is it permitted under this law for him to defend himself against the thieves with a deadly weapon.

Mr Marshall: This question does not really arise under this Clause but it is dealt with comprehensively in Clauses 59, 60 and 62 where the rights of a person to protect himself and his property are set out in detail.

Clauses 288-296 agreed to.

Clauses 297-307 agreed to.

Clauses 308-311.

The Ohinoi of Igbirra: Clause 308, illustration (c) where it provided that

"A and B being joint owners of a horse, A takes the horse out of B's possession intending to use it. Here, as A has a right to use the horse, he does not dishonestly misappropriate it. But if A sells the horse and appropriates the whole proceeds to his own use, he is guilty of criminal misappropriation."

Now, here if A knows that if he sells the horse it will be to the disadvantage of B though he pays B his due share of the proceeds, does A not commit an offence?

Mr Marshall: Probably not. In the circumstances outlined by the hon. Member, I think, it would be a purely civil matter between the two parties, amounting to little more than a breach of contract. I think it would be a purely civil matter.

Clauses 308-311 agreed to.

Clauses 312-320.

The Ohinoi of Igbirra: Clause 316—the last three lines where it says

"but if such property subsequently comes into the possession of a person legally entitled to the possession thereof it then ceases to be stolen property."

I want to know in what way. Does it mean that after the trial in the court the court returns the property to the owner or he himself regains the property?

Mr Marshall: If a man stole the hon. Member's horse and passed it on to a third party, and the hon. Member was passing the third party's compound later and recognised his horse and took it away to his own home, the horse would be back in the possession of its rightful owner and would not be regarded as stolen property any more. It is to prevent the ridiculous situation of the hon. Member being charged with receiving his own horse.

The Chief of Minna: I would like to raise a question on Clause 317. If somebody unknowingly bought stolen goods and later afterwards that they are stolen goods, and later returned them to the authorities, will that person be charged with buying stolen property?

Mr Marshall: It all depends upon the facts of the particular case and on the evidence which is brought to prove such facts.

The Emir of Ilorin (who was received with cheers): I wholeheartedly support Clauses 317 and 318, especially the punishment prescribed for these two sections. But may I know why the punishment prescribed for Clause 319 is so small compared to the other two Clauses? I wish to know the reason for that.

Mr Marshall: The reason for the difference of these two punishments is that Clause 318 punishes the receiver of stolen goods, who makes a habit of accepting stolen property from thieves. Clause 319 deals with the milder offence of assisting. The hon. Member can rest assured that the police will use Clause 318 whenever they can, and 319 will be used for comparatively milder cases. The punishments are taken from the Sudan Penal Code.

The Ohinoi of Igbirra: Clause 320, Illustration (g)

"A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of cotton which A does not intend to deliver and thereby dishonestly induces Z to advance money upon the faith of such delivery. A cheats; but if A at the time of obtaining the money intends to deliver the cotton and afterwards breaks his contract and does not deliver it, he does not cheat but is liable only to a civil action for breach of contract."

My question is will A's case of a breach of contract succeed in the court, if A fails to deliver the cotton as a result of accident?

Mr Marshall: This is another hypothetical case. All I can say is that a man is not liable for a criminal offence if what he does amounts to a mere breach of contract under this clause.

The Chief of Minna: I have a question on Clause 320, Illustration (h). In a case where it occurs that Z really knows that A did not complete the contract and knowingly gave him money, in such a case does it mean that Z does not commit an offence also?

Mr Marshall: I am afraid I do not understand the question. This example intends to punish one person who is trying to cheat another person. If A agrees with B that A shall deliver a bale of cotton in Lagos and on doing so will receive payment in Zaria from B, and A tells B that the cotton is waiting for him at Lagos whereupon B gives A the money, A is cheating B if in fact there is no cotton in Lagos.

Clauses 312-320 agreed to.

Clauses 321-331 agreed to.

Mr Marshall: I beg to move, That Standing Order 4 (1) be suspended to enable this House to sit after one o'clock until such time as all the Clauses of this Bill have been dealt with and the House has resumed in order to pass the Bill through its remaining stages today.

Question put and agreed to.

Standing Order 4 (1) accordingly suspended.

Clauses 332-338.

The Ohinoi of Igbirra: Clause 335, My point is, take for instance, Malam Musa is a village head in a district, and in his capacity as a village head orders that certain land-mark be placed at a certain point, afterwards when he goes back to his house, still as the village head, orders that in his own name not as a village head, for certain land mark to be placed at a certain point. Well is there no difference in his actions as a village head and in his action in his own name? Because as the Clause stands, it is possible for a village head to think or assume that he has the right at any time, he can just pass an order.

Mr Marshall: There are a certain number of acts a village head can do lawfully. If he carries them out properly and any person commits a mischief whereby a mark lawfully placed by a village head is rendered "less useful," then that person will be punished. But if the village head did something which he had no authority to do, it would be a defence to the accused person to show that the village head had no authority. This clause is not intended to be a charter to village heads to do what they like.

Clauses 332-338 agreed to.

Clauses 339-345 agreed to.

Clauses 346-353 agreed to.

Clauses 354-361.

The Ohinoi of Igbirra: Clause 356—I want only to know whether lurking house trespass by night with the intent to commit an offence is equivalent to burglary?

Mr Marshall: No, lurking house trespass is different from burglary.

Clauses 354-361 agreed to.

Clauses 362-363.

The Ohinoi of Igbirra: Clause 363—
Illustration (c):

"A picks up a cheque on a banker signed by B payable to bearer but without any sum having been inserted in the cheque. A fraudulently fills up the cheque by inserting the sum of fifty pounds. A commits forgery."

What I want to know is has A not committed an offence of personation?

Mr Marshall: No, he cannot commit personation by signing a document. Personation is declaring yourself to be some person other than the person you are, not by signing some other person's name.

Clauses 362-363 agreed to.

Clauses 364-371 agreed to.

Clauses 372-381 agreed to.

Clauses 382-391.

The Ohinoi of Igbirra: Clause 384. May I know whether this Clause applies to people who are entitled by their customs or religions to marry more than one wife?

Mr Marshall: No, Sir.

Clauses 382-391 agreed to.

Clauses 392-394 agreed to.

Clauses 395-405 agreed to.

Clauses 406-409 agreed to.

Schedule agreed to.

Question, That the Schedule be the Schedule to the Bill, put and agreed to.

Question, That progress be reported, put and agreed to.

The House resumed.

Bill reported without amendment.

Motion made, and Question proposed.

That the Bill be now read a Third-time and passed. [Mr Marshall.]

Question put and agreed to.

Bill accordingly read the Third time and passed.

ADJOURNMENT

LAW AND ORDER DURING ELECTIONEERING CAMPAIGN

The Premier (Alhaji Sir Ahmadu Bello, Sardauna of Sokoto) (in Hausa): I beg to move, That this House do now adjourn *sine die*.

In moving this motion, I should like to seize this opportunity to inform the House that there will not be another meeting of the Legislature until after the Federal Elections. As the Chiefs are aware, many politicians are now extensively touring the country in order to campaign for their parties. You know that this is a time when people are apt to be less tactful and this leads to disturbances. I feel certain that it is neither the wish of the Chiefs nor that of the Government to see these disturbances occur. The Chiefs are the fathers of all their people, and in the North the

maintenance of law and order is the responsibility of the Chiefs. I therefore appeal to all the Chiefs to help the Government so that the campaign and the Elections can be carried out in a peaceful manner.

The President: Hon. Chiefs, this brings us to the end of our business for this meeting. May God guide you safely back to your homes and people.

Resolved,

That this House do now adjourn *sine die* [Alhaji Sir Ahmadu Bello].

Accordingly adjourned sine die at a quarter past One o'clock.

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Hon.	Honourable
M.	Mallam
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2R	Second Reading
Com. S.	Committee Stage
3R	Third Reading

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