

Debates in the Eastern House of Assembly

Wednesday, 28th July, 1948

Pursuant to notice the Members of the Eastern House of
Assembly met in the Garrison Hall, Enugu, at 10 a.m.
on Wednesday, the 28th of July, 1948.

PRESENT

OFFICIAL MEMBERS

- The Chief Commissioner, Eastern Provinces,
Sir Bernard Carr, Kt., C.M.G.
- The Resident, Cameroons Province,
Mr A. F. B. Bridges.
- The Secretary, Eastern Provinces,
Commander S. E. Johnson, R.N.
- The Resident, Owerri Province,
Mr J. S. Smith.
- The Resident, Rivers Province,
Mr A. T. E. Marsh.
- The Acting Resident, Calabar Province,
Mr H. L. M. Butcher.
- The Acting Resident, Onitsha Province,
Mr E. R. Chadwick, O.B.E.
- The Acting Resident, Ogoja Province,
Mr J. G. Mackenzie.
- The Secretary (Finance), Eastern Provinces,
Mr G. B. G. Chapman.
- The Deputy Director of Medical Services, Eastern Provinces,
Dr C. Wilson.
- The Acting Deputy Director of Education, Eastern Provinces,
Mr W. E. Holt, O.B.E.
- The Deputy Director of Agriculture, Eastern Provinces,
Mr M. Park.
- The Deputy Director of Public Works, Eastern Provinces,
Captain R. Rodger.
- The Senior Crown Counsel, Eastern Provinces,
Mr S. A. McKinstry.

UNOFFICIAL MEMBERS

- The Member for Urban Areas other than Port Harcourt,
Reverend O. Efiang, O.B.E.
- The First Provincial Member for the Cameroons Province,
Mr J. Manga Williams, O.B.E.
- The Member for Professional, Salaried and Wage-earning
Classes,
Mr E. N. Egbuna.
- The Member for African Commercial Interests,
Mr G. H. H. O'Dwyer.
- The First Provincial Member for the Onitsha Province,
Mr P. E. Chukwurah.
- The First Provincial Member for the Owerri Province,
Mr M. W. Ubani.
- The Provincial Member for the Ogoja Province,
Dr F. A. Ibiam.
- The First Provincial Member for the Calabar Province,
Mr Asuquo Okon.
- The Second Provincial Member for the Cameroons Province,
Galega, Fon of Bali.
- The Second Provincial Member for the Onitsha Province,
Mr C. D. Onyeama.
- The Member for Port Harcourt,
Mr L. R. Potts-Johnson.
- The Second Provincial Member for the Owerri Province,
Mr D. N. Achara.
- The Provincial Member for the Owerri (Rivers) Province,
Mr H. Bowari Brown.
- The Member for Educational Interests,
Mr A. Ikoku.
- The Second Provincial Member for the Calabar Province,
Mr Nyong Essien.

PRAYERS

At the request of the President, the Reverend O. Efiang, O.B.E., the Member for Urban Areas other than Port Harcourt, opened the proceedings of the House with prayers.

CONFIRMATION OF MINUTES

The Minutes of the meeting held on the 22nd of December, 1947, having been printed and circulated to the Members were taken as read and confirmed.

ADMINISTRATION OF OATHS

The following new Members of the House took the oath:—

- H. L. M. Butcher, Esquire,
Acting Resident, Calabar Province.
- E. R. Chadwick, Esquire, O.B.E.
Acting Resident, Onitsha Province.
- J. G. Mackenzie, Esquire,
Acting Resident, Ogoja Province.
- W. E. Holt, Esquire, O.B.E.
Acting Deputy Director of Education, Eastern
Provinces.
- M. Park, Esquire,
Deputy Director of Agriculture, Eastern Provinces.

SPEECH BY HIS HONOUR THE CHIEF COMMISSIONER, EASTERN
PROVINCES

GENTLEMEN,

Unofficial Members will doubtless recall conversations which I have had with them on various occasions during the past months relating to three matters of major importance:—

- (a) Native Authority Reform.
- (b) The setting up of a Palm Produce Marketing and Development Board, and
- (c) The establishment of a Native Authority Loan Fund.

I am now in a position to report to you the progress which has been made in consideration of each of these projects.

To deal with (a) first — Native Authority Reform. When I addressed this House at its meeting on the 31st of July, 1947, I first referred you to paragraph 6 of Sessional Paper No. 4 of 1945 and quoted the following extract:—

“The system of Native Administration would continue its evolution precisely as at present and the progressive devolution of authority and responsibility to Native Authorities would proceed but, if the Native Authorities are to play their full part in the constitutional framework they must be prepared continually to adapt themselves to modern conditions. The system of indirect rule cannot be static. It must keep pace with the development of the country and at once find a place for the more progressive and educated men. Only in this way can the Native Authorities retain the confidence of the people as education spreads and only in this way can local administration be effectively carried on.”

I then continued by pointing out how necessary it was to carry out reforms in the system of Native Administration operating in the Eastern Provinces, especially if we were to play our full part in the constitutional framework and fulfil the needs of the

Constitution. I referred also to the "Peoples' Development Plan" which had made very little progress then and which has met with no further success since that date.

Again at our last meeting in December, I referred to the policy of Native Administration in the Eastern Provinces and stated:—

"Meanwhile, as Members are already aware, consideration of the problem of providing effective and democratic Local Government in the Eastern Provinces is not confined merely to the improvement and adjustment of Authorities within the existing Native Administration system. The whole question of Native Authorities as instruments of Local Government in the Eastern Provinces is under examination. It may well be that this examination will show the necessity for fresh legislation on the subject on Local Government lines. The fact that many Members of this House are known to favour such a measure will not be forgotten."

The existing system of Native Authorities in the Eastern Provinces has been built up during the past twenty years by a slow and laborious process of close consultation with the people in an attempt to evolve natural units operated by councils based, so far as is possible, on tradition. This has resulted in the evolution of a large number of independent units which are at least, despite their short-comings, felt by the people to be natural and which crystallize generally whatever there is of tradition. Their membership is wide and has afforded opportunity for many to take some part, however small, in the administration of local affairs; moreover, no matter how uneconomic they may be they inculcated widely some degree of financial responsibility. Experience has shown however, that broadly speaking there is no traditional authority in the Eastern Provinces having inherent jurisdiction over areas sufficiently large to provide a fully satisfactory system of Local Government and while the large number of small units, which have evolved, serve a useful purpose it is felt that they are unsuitable in character to be the superior organ of Local Government. This may be especially so, perhaps, because they have generally speaking failed to attract into their membership the really enlightened and progressive African of education and consequence in the community. Lacking these elements the councils continue to consist, for the most part of men of parochial outlook, inadequate education and very limited experience.

It may be argued that by a process of gradual evolution the existing councils will achieve the higher degree of efficiency demanded by modern conditions, but it is felt that the urgency of progress and the many vital problems facing the people of the Eastern Provinces will not permit of such a slow process. In other words, it is considered essential to evolve as early as possible a system of Local Government which will be both effective and efficient. To bring this about it is considered that:—

- (a) the major units of Local Government must be big enough to dispose of adequate funds, to afford competent staff and to attract the services in council of the best educated Africans available;
- (b) they must have below them and maintain close connection with subordinate councils recognised by the people and whenever possible rooted in their traditions;
- (c) they must have an adequate and competent permanent executive whether provided by traditional or elected leaders or by paid staff;
- (d) there must be drive from above as well as suggestion from below and it must be quite clear that when a Local Government body is inefficient the Central Government will not hesitate to remove it and make alternative arrangements for the discharge of its functions;
- (e) elective principles must be evolved and practised.

In order that these matters may receive immediate attention His Excellency has approved that I should set up a Select Committee from the Unofficial Members of this House to consider and to make recommendations for future Local Government in the Eastern Provinces. In regard to the composition of the Select Committee and its precise terms of reference I propose to seek your advice and wishes at a later stage in this meeting. I would, however, suggest for your consideration the following terms of reference:—

“To review the existing system of Local Government in the Eastern Provinces and to formulate general principles for the reform of that system.”

Certain official documents will be placed at the disposal of the Committee and among these there will be a report compiled by Brigadier E. J. Gibbons, C.B.E., following a visit that he paid to Kenya and Uganda in April and May of this year to study systems of Local Government in those countries. I trust that you will find this report of value in your deliberations. In spite, however, of these documents, I would emphasise that the initiative still lies with the Unofficial Members of this House and I trust that they will not hesitate to express their own candid opinions as to the form of future Local Government for the Eastern Provinces. If the Select Committee observes the candour which is such a refreshing feature of the House I do not think that I need be apprehensive. The deliberations of the Committee coupled with the examination of the documents to be placed before it will take time and I do not wish to hurry matters. I suggest, however, that the Committee should inform me when it is likely to be ready to submit its report and that I should then summon an Extraordinary Meeting of the House in accordance with Standing Rule No. 2 (7) in order that the report may be laid upon the Table or be otherwise dealt with as the House may direct in accordance with Standing Rule No. 34 (2).

- A Bill for an Ordinance to provide for the Establishment of a Provisional Council to be known as the Provisional Council of the University College, Ibadan, and for matters ancillary thereto.
- A Bill for an Ordinance to make provision for regulating the planting and growing of agricultural crops, for the control of plant diseases and pests, and for the preparation, marketing, storage, transport, shipping and export of agricultural produce, and for purposes incidental to the above.
- A Bill for an Ordinance to make provision for the Constitution of and the Appointment and Election of the Members of the Port Harcourt Town Council and to empower the Council to levy Rates for Township purposes.
- A Bill for an Ordinance to make better provisions in regard to Education in Nigeria.
- A Bill for an Ordinance to make further provision for the Administration of Justice in Criminal Matters by Native Courts.
- A Bill for an Ordinance to preclude the hearing and determination of chieftaincy disputes from certain courts both in original and appellate jurisdictions.

The Secretary (Finance), Eastern Provinces:

Your Honour, I beg to lay on the table the following paper:—
Report of the Standing Committee on Finance for the period December, 1947, to July, 1948.

His Honour the Chief Commissioner:

The question is "That the report of the Standing Committee on Finance be adopted". Will those in favour say "Aye" and those to the contrary, "No". The "Ayes" have it.

QUESTIONS

NOTE.—Replies to Questions Nos. 2, 3, 4 and 6 by the Provincial Member for the Owerri (Rivers) Province; Nos. 8-10, 13, 16-18 by the Provincial Member for the Ogoja Province, and Nos. 19-22 by the Member for Educational Interests, are not yet ready.

The Provincial Member for the Owerri (Rivers) Province (Mr H. Bowari Brown):

1. To ask the Secretary, Eastern Provinces:—

(a) How many Overseas Scholarships have been awarded to each of the six Provinces of the Eastern Region during the past four years?

(b) Does Government consider the proportion just and adequate compared with awards made to the other Regions during the same periods?

(c) If the answer to (b) is in the negative, what steps does Government propose, to give more opportunities to youths of the

Eastern Provinces generally to study Overseas for the benefit and progress, etc., of the Eastern Region?

Answer—

The Secretary, Eastern Provinces:

(a) Overseas Scholarships are awarded on a Nigerian and not on a Provincial or even Regional basis, and there are no records available to state from which Provinces each of the successful candidates has come.

(b) and (c) do not arise.

The Provincial Member for the Owerri (Rivers) Province (Mr H. Bowari Brown):

5. Disallowed.

The Provincial Member for the Ogoja Province (Dr F. A. Ibiam):

7. To ask the Secretary, Eastern Provinces:—

(a) What is the personnel (it is not necessary to state names) of the staff in the following Post Offices:—

Abakaliki, Afikpo, Ikom, Obubra, Obudu, and Ogoja?

(b) In the opinion of the Secretary, does he consider that the staff in each of these offices is adequate, especially with regard to Afikpo and Ogoja Post Offices?

Answer—

The Secretary, Eastern Provinces:

(a) Abakaliki—One Postmaster, two assistants.

Afikpo—One Postmaster, one assistant.

Ikom—One Postmaster.

Obubra—One Postmaster.

Ogoja—One Postmaster, one assistant.

One messenger is also employed at each office.

Obudu is a Postal Agency.

(b) Yes, Sir.

The Provincial Member for the Ogoja Province (Dr F. A. Ibiam):

11. To ask the Secretary, Eastern Provinces:

(a) Are there any Supreme Courts established in the Ogoja Province?

(b) If none, when is it proposed to build or set up any?

(c) How many times during the year 1947 did a Puisne Judge visit the following Divisions in the Ogoja Province:

Abakaliki, Afikpo, Ikom, Obubra, Obudu and Ogoja?

(d) What facilities have the people of Ogoja Province to have their wrongs redressed in the Supreme Court?

Medical Services; the Director of Medical Services lives mostly in Lagos and as you will see in the footnote to the Bill it is considered desirable that his time should not be wasted in appending his signature all day long to documents. Therefore, Sir, this amendment to this Bill is introduced in order (a) to save the Director of Medical Services much work which is really unnecessary for him, and (b) to facilitate and speed up the issue of such licences to people who are recommended and attested for by medical practitioners.

The Provincial Member for the Ogoja Province (Dr F. A. Ibiam):

Sir, I beg to second.

His Honour the Chief Commissioner:

Does any Member wish to address the House?

The question is that this House do advise His Excellency the Governor that a Bill entitled "An Ordinance to amend the Medical Practitioners and Dentists Ordinance, 1934" is acceptable in principle. Will those in favour say "Aye" and those to the contrary "No". The "Ayes" have it.

House in Committee.

Title.

Clause 1.

Clause 2.

House resumed.

The Deputy Director of Medical Services, Eastern Provinces:

Sir, I beg to report that the Bill for an Ordinance to amend the Medical Practitioners and Dentists Ordinance, 1934, passed through Committee without amendment.

His Honour the Chief Commissioner:

The question is that this House do advise His Excellency the Governor that the Bill entitled "An Ordinance to amend the Medical Practitioners and Dentists Ordinance, 1934" is acceptable. Will those in favour say "Aye" and those to the contrary "No". The "Ayes" have it.

A BILL FOR AN ORDINANCE FURTHER TO AMEND THE
PRISONS ORDINANCE

The Acting Resident, Calabar Province:

Sir, I beg to move the following:—

"Be it resolved:

That this House do advise His Excellency the Governor that the Bill entitled 'An Ordinance further to amend the Prisons Ordinance' is acceptable in principle."

This is not a long Bill, Sir, and I do not think it will become controversial. It is the practice in nearly every other Colony that in addition to the persons who are now *ex officio* Prison Visitors the list should include Members of Executive Council and Legislative Council. This is not yet the case in Nigeria and it is the intention of this Bill to cure that defect. Secondly, the opportunity has been taken in proposing this Bill to change the former official titles as set out in the old Ordinance to the titles now in use, which is in accordance, Sir, with the provisions of "The Change of Titles Ordinance", No. 9 of 1930. I do not think, Sir, it is necessary to say more on this Bill which is largely formal in character.

The Acting Deputy Director of Education, Eastern Provinces:

Sir, I beg to second.

His Honour the Chief Commissioner:

Does any Member wish to address the House?

The question is that this House do advise His Excellency the Governor that a Bill entitled "An Ordinance further to amend the Prisons Ordinance" is acceptable in principle. Will those in favour say "Aye" and those to the contrary, "No". The "Ayes" have it.

House in Committee.

Title.

Clause 1.

Clause 2.

House resumed.

The Acting Resident, Calabar Province:

Sir, I beg to report that the Bill entitled "An Ordinance further to amend the Prisons Ordinance" passed through Committee with no amendment.

His Honour the Chief Commissioner:

The question is that this House do advise His Excellency the Governor that the Bill entitled "An Ordinance further to amend the Prisons Ordinance" is acceptable to this House. Will those in favour say "Aye" and those to the contrary, "No". The "Ayes" have it.

A BILL FOR AN ORDINANCE TO AMEND THE BILLS OF SALE
ORDINANCE

The Senior Crown Counsel, Eastern Provinces:

Sir, I beg to move the following resolution:—

"Be it resolved:

That this House do advise His Excellency the Governor that the Bill entitled 'An Ordinance to amend the Bills of Sale Ordinance' is acceptable in principle."

What assurance is there to show that the same officer who heard the case on appeal in the court below will not hear it when the power of a Resident is invested on him and the case comes before the Resident's Court of Appeal.

The office of a Resident is a distinct one with its definite functions and should not be mixed up with that of an Administrative Officer of lower rank. If the Resident goes on leave or engages in other duties a provision should be made whereby another Resident should be appointed to act.

I cannot understand the amount of work which the Resident in charge of a Province cannot handle by way of appeals and reviews.

We are afraid of abuse of authority by young and inexperienced officers and I want the following assurances to be given:—

- (a) that an Administrative Officer will not hear or have cause to influence the case which he has heard on appeal in the court below;
- (b) that the period during which the Administrative Officer will act under this delegation of powers should be specifically stated in each case;
- (c) that only experienced and Senior Administrative Officers will be given such powers; and
- (d) that this delegation of powers will be only for native court appeals and reviews.

His Honour the Chief Commissioner:

Does the Member wish to move an amendment, because before doing so, I would like to give him an assurance that no Administrative Officer who has heard a case in any capacity will hear it again in any circumstances whatsoever.

The First Provincial Member for the Owerri Province (Mr M. W. Ubani):

With Your Honour's assurance, Sir, if that assurance as announced in the House is forthcoming, then I would agree that I would not move any further amendment, and the Bill be given a trial but if not I oppose it.

The Secretary, Eastern Provinces:

I would like to give the assurance to the First Provincial Member of the Owerri Province that only very experienced Officers would have the powers so delegated to them.

The First Provincial Member for the Owerri Province (Mr M. W. Ubani):

I do not know whether that assurance is in addition to what His Honour has told us. We still require that. There can be no question of a man hearing an appeal in a case over which he has previously sat in judgment.

His Honour the Chief Commissioner:

I have already given it.

The First Provincial Member for the Owerri Province (Mr M. W. Ubani):

Thank you very much.

The Second Provincial Member for the Onitsha Province (Mr C. D. Onyeama):

I do not know whether the assurance given by the Secretary, Eastern Provinces, is sufficient, because not only do we wish to be assured that only experienced officer would have this power but we also require the further assurance that there would be no question of a person hearing an appeal from his own judgment.

His Honour the Chief Commissioner:

I have already given the House this assurance.

The Provincial Member for the Ogoja Province (Dr F. A. Ibiam):

I do not know whether the Member for the Owerri Province wants this assurance for the Owerri Province alone. It should apply to all Provinces in the Eastern Provinces.

His Honour the Chief Commissioner:

Yes indeed.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

Your Honour, the speech of the Government side does clearly indicate as we all know, that the work in the Native Courts is far too much for the courts concerned. In the first place it would appear that the jurisdiction is unusually high in certain areas and rights of appeal to the District Officer exercisable in a large number of cases. To the legal fraternity a proper solution will be the removal of some duties which will enable him to deal with matters which apply to legal questions. In submitting this amendment I do so with the feeling that it is only a short-term policy and that when the new Local Government comes into force all these powers of Administrative Officers in connection with court matters will have to be reviewed. In considering the Residents' duties nobody seems to have thought about the onerous burden which devolves on Your Honour, especially in connection with the appeals from the whole of the Eastern Provinces. We say the time has come when the Native Courts should be scrapped entirely. There are those who think they should only be modified; they certainly should be modified from time to time. I support this amendment and hope that the views expressed will be considered.

His Honour the Chief Commissioner:

Does any other Member wish to address the House?

The question is that this House do advise His Excellency the Governor that a Bill entitled "An Ordinance to amend the Native

Courts Ordinance, 1933" is acceptable in principle. Will those in favour say "Aye" and those to the contrary say "No". The "Ayes" have it.

House in Committee.

Title.

Clause 1.

The Member for Educational Interests (Mr A. Ikoku):

With your permission I should like to suggest an amendment in the first line of the proposed new Clause reading—

"Resident includes an Administrative Officer appointed in writing by a Chief Commissioner to exercise all or any of the powers of a Resident under this Ordinance".

The first line, third word, the word "an" be deleted and the words "a senior" be substituted therefor.

The Senior Crown Counsel, Eastern Provinces:

I think that might be a mistake because we might have a junior officer with legal qualifications and I think the limitation on a particular type of Administrative Officer is not altogether desirable. Your Honour will only appoint an officer who will be suitable to deal with the work he has to do.

The Secretary, Eastern Provinces:

The words "Senior Administrative Officer" do not crystallize what is required: there are District Officers and Senior District Officers but the words "Senior Administrative Officer" leave us just where we were before.

The Provincial Member for the Owerri (Rivers) Province (Mr H. Bowari Brown):

Might I suggest that instead of "senior" we have "experienced Administrative Officer"

His Honour the Chief Commissioner:

I suggest you might have a little confidence in the Chief Commissioner that he would not select anyone who is not suitable. This is proper.

The Member for Educational Interests (Mr A. Ikoku):

I was throwing it out for discussion. I would not press it.

The Second Provincial Member for the Calabar Province (Mr Nyong Essien):

I wish to suggest an amendment. The words "all or any" in the second line are too general a term. If this appointment refers to dealing only with Native Courts I am suggesting that the words "some or certain powers" be substituted for "all or any", because, if the powers of a Resident be conferred on a District Officer, certain areas which might qualify to get a Resident of their own would be deprived of such a right or privilege. I am thinking

of areas such as Uyo, where, some time ago, a Resident, who was appointed and located there was transferred to Ogoja Province; and it seems that the new Residency there has also been transferred.

His Honour the Chief Commissioner:

I would be prepared to consider an amendment dealing with reviews and appeals.

The Senior Crown Counsel, Eastern Provinces:

I think I remember saying that the powers not only of dealing with appeals and reviews but also the reorganisation of the Constitution of Native Courts might well be vested in a judicial Resident who would do nothing but work with Native Courts and if we are going to limit it we might find ourselves in difficulties later on. It would be possible to limit these powers but I cannot help feeling that this House must have sufficient confidence in our Chief Commissioners to realise that Residents will only be given powers for some sufficient reason and to specially qualified persons who can deal with appeals and reviews in Native Courts.

The Second Provincial Member for the Calabar Province (Mr Nyong Essien):

Will Your Honour give us assurance that these powers will not restrict the privilege or the right of a people for getting their Resident.

His Honour the Chief Commissioner:

I do not quite follow. What assurance do you want me to give?

The Second Provincial Member for the Calabar Province (Mr Nyong Essien):

I am of opinion that these powers are given in general. Will Your Honour give us assurance as you did before, so that such an appointment might not apply to areas such as Uyo where we once had a Resident appointed and stationed there.

The Secretary, Eastern Provinces:

May I make it clear, Sir, that there has never been such a thing as the "Uyo Province". There is the Calabar Province. A Resident was stationed at Uyo for a period but he was not then a Resident in charge of a Province.

His Honour the Chief Commissioner:

As the Member knows the Resident was acting as District Officer.

The Second Provincial Member for the Calabar Province (Mr Nyong Essien):

He was a Resident in charge of a Division and not of Uyo Province.

**The Member for Urban Areas other than Port Harcourt
(Reverend O. Efiang, O.B.E.):**

I am satisfied that the powers intended in this Bill are limited definitely to Native Court appeals and not to any other functions and with that satisfaction I have to say I approve this Bill in principle.

**The First Provincial Member for the Owerri Province (Mr
M. W. Uban):**

I disagree with the last speaker because the question here is the exercise of "all or any of the powers of the Resident" which does not specifically mention that it limits the powers to appeals and reviews of Native Courts. The point is an important one and we want a proper explanation of it, except it is understood that, when framing this amendment only some specific powers of the Residents would be delegated to the District Officers. I feel, Sir, that these powers should be specifically mentioned.

His Honour the Chief Commissioner:

It would be at the discretion of the Chief Commissioner what powers are exercised and I think it is implied that he would not delegate powers save of review and appeal.

The Secretary (Finance), Eastern Provinces:

The Member has chosen to read a number of words. He has not read them all. Only the powers of a Resident under the Native Courts Ordinance can be delegated; no other powers can possibly be delegated.

**The Member for Urban Areas other than Port Harcourt
(Reverend O. Efiang, O.B.E.):**

That is why I said I was satisfied.

The Secretary, Eastern Provinces:

I think we have lost sight of the fact that the idea is that where the Resident cannot find time to deal with all the cases another Officer will be delegated powers to help him out and that the Resident can still carry on his powers under the Native Courts Ordinance. There is no question that the Resident will not hear reviews and appeals.

**The Second Provincial Member for the Onitsha Province (Mr
C. D. Onyeama):**

We are considering the powers of the Resident under the Ordinance. The Resident has power to dismiss members of the Native Court or to suspend them; so, apart from hearing appeals and reviews he has supervisory powers and although we might stress the aspect of reviews and appeals we also have to bear in mind that there is also this further power which is imposed in the Ordinance and the whole thing must boil down to whether or not

we have confidence in the Chief Commissioner as such. There is always the overriding right of the Chief Commissioner, Eastern Provinces, so I do not query the amendment but can only reiterate my hope that the assurance that has been given will be very closely observed.

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

I suggest that it would be better if in the third line of the clause after the words " Powers of a Resident " the words " in sections 25 and 28 " be inserted, because it is stated in the objects of the Bill that reference is made to sections 25 and 28, and I think these sections should be incorporated in the clause. The line should then read " The Powers of a Resident under clauses 25 and 28 of this Ordinance ".

The Secretary (Finance), Eastern Provinces:

In the Objects and Reasons he has forgotten the words " for examples ".

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

We must accept the assurance which Your Honour has given us but the amount of discussion over this little issue does in fact show there is more in it than meets the eye.

His Honour the Chief Commissioner:

I am quite prepared to accept that amendment if it is the wish of the House. Would you frame the amendment, Mr Senior Crown Counsel?

The Senior Crown Counsel, Eastern Provinces:

I think the better way to do it would be to put a clause in sections 25 and 28 to the effect that the powers conferred by sections 25 and 28 may be delegated to an Administrative Officer. It needs a certain amount of thought and perhaps we might let it stand over till tomorrow morning and by that time a suitable draft could be prepared, but if the House prefers I will do my best now.

His Honour the Chief Commissioner:

Would it be agreeable to the House to hold the matter over until tomorrow when Senior Crown Counsel will have had a chance to frame an amendment suitable to limit the delegation of powers to appeals and reviews. Will those in favour say " Aye " and those to the contrary say " No ". The " Ayes " have it. The matter will be deferred till tomorrow.

The Secretary, Eastern Provinces:

Sir, I beg to move the following:

" Be it resolved:

That this House do advise His Excellency the Governor that a Bill entitled ' An Ordinance to amend the Survey Ordinance ' is acceptable in principle."

I do not think, Sir, that there will be any suggestion other than that this Bill is a very welcome one. I think and probably the Unofficial Members will be with me when I say that the surveying profession in this country is sadly in need of expansion by recruitment of suitable persons and hitherto such recruitment has been somewhat restricted by this Ordinance. The Bill now before you seeks to broaden the avenues of recruitment into the surveying profession. The first amendment deals with pupil surveyors and you will see that the present entry is extended to those who have obtained the London University Matriculation or certificate accepted by the Board of its equivalent thereto. It does open the avenue for recruitment. The next amendment also widens the field of admittance to licensed surveyors. The existing Ordinance lays down that no person should be examined for a licence to practise surveying unless he has had at least three years service as a Government Surveyor or three years apprenticeship under a licensed surveyor and is still employed as a surveyor on the date on which the examination is taken. The previous Ordinance laid down that no person should be a licensed surveyor unless they had had at least three years service as a Government Surveyor, and to have served regularly and faithfully as a Government Surveyor. The amendment alters the words "as a Government Surveyor" to the new words "under the Director of Surveys" and this should allow the further category of surveyor assistant to take the examination to practise as licensed surveyors. The later amendment should further widen the field where people have qualified themselves in other technical subjects which include surveying duties. The final amendment, Sir, is one which I think I know every Administrative Officer has been praying for many years and is the provision that in the case of a survey which implements the judgment of an Order of the Court — that is a Magistrates Court or High Court — that a copy shall be sent to the Director of Surveys for record purposes. You will see in the Objects and Reasons for this Bill that it is for the purpose of supplying survey plans to Administrative Officers for the purposes of record in land disputes. Many a time a case has arisen where a land dispute has originated in the Native Courts and there has been endless trouble in ascertaining whether or not the very same dispute has already been dealt with by the Supreme Court. The amendments to the Schedule which follow are amendments envisaged in the Bill. There is only one thing I would like to explain and that is in the Schedule you will see the words "Government surveys" have been changed to the words "Government survey duties". It is an entirely different thing. Government survey refers to survey where land is to be publicly acquired or surveys of Crown Lands: Government survey duties implies surveys where a Government Surveyor has been employed outside Crown Land. I commend this Bill to the House.

The Acting Resident, Calabar Province:

Sir, I beg to second.

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

Your Honour I should like to seek some information on clause 2 (e) (ii), which reads — “ Persons formerly employed as surveyors for not less than five years by the Government of Nigeria if certified by the Director of Surveys as having faithfully and efficiently performed their duties and if application is made to take the examination to practise surveying within two years of relinquishment of the applicant's appointment as Government Surveyor and if the applicant is made to take the examination within two years of relinquishment of his appointment as a Government Surveyor ”. I do not know what is the reason why a person who is certified as a Government Surveyor should be required to take a further examination.

The Secretary, Eastern Provinces:

I rise on a point of explanation. As Members know people get rusty in their professions if they do not practise and it is a very necessary proviso especially in the surveying profession.

His Honour the Chief Commissioner:

Does any other Member wish to address the House? The question is that this House do advise His Excellency the Governor that a Bill entitled “ An Ordinance to amend the Survey Ordinance ” is acceptable in principle. Will those in favour say “ Aye ” and those to the contrary say “ No ”. The “ Ayes ” have it.

House in Committee.

Title.

Clause 1.

Clause 2.

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

I wish to make an amendment, Sir, on clause 2 (e) (ii) and at the moment I cannot think of a satisfactory form which the amendment should take but I want something to go in there to show that the section does not apply to everybody because it might be that a person terminated his appointment with the Government and immediately thereafter obtained another employment as a surveyor. Then I think it should not be necessary for an examination to be set for him, because according to the explanation which has been given that people become rusty, it would not appear that such a person would become rusty at all, because no appreciable length of time has elapsed between the time he was in Government service and the time he commenced to practise as private surveyor.

The Secretary, Eastern Provinces:

May I point out, Sir, that it does not necessarily follow that if a surveyor has been employed by Government he is a licensed

surveyor and if he wishes to become a licensed surveyor he must take the examination.

The Senior Crown Counsel, Eastern Provinces:

May I support my friend and amplify his statement. Under the Survey Ordinance there are two types of surveyors — a licensed surveyor who has passed an examination and a surveyor envisaged here. He is a man who has not yet qualified as a surveyor but is employed by the Survey Department on practical work in the field. Years might elapse between his practical work in the field and his taking of the examination and I think that explains the requirements why if he is going to sit for the examination he must do so within two years of ceasing employment with the Director of Surveys. This does not stop anyone from becoming a qualified surveyor if he likes to pass the examination.

His Honour the Chief Commissioner:

Does the speaker wish to press the amendment?

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

No, Sir.

Clause 2.

Clause 3.

Clause 4.

House resumed.

The Secretary, Eastern Provinces:

Sir, I beg to report that a Bill entitled "An Ordinance to amend the Survey Ordinance" passed through Committee with no amendment.

His Honour the Chief Commissioner:

The question is that this House do advise His Excellency the Governor that the Bill entitled "An Ordinance to amend the Survey Ordinance" is acceptable. Will those in favour say "Aye" and those to the contrary, "No". The "Ayes" have it.

A BILL FOR AN ORDINANCE FURTHER TO AMEND THE WIDOWS' AND ORPHANS' PENSION ORDINANCE

The Secretary (Finance), Eastern Provinces:

Sir, I beg to move the following:—

"Be it resolved:

That this House do advise His Excellency the Governor that the Bill entitled 'An Ordinance further to amend the Widows' and Orphans' Pension Ordinance' is acceptable in principle."

The amendment that is proposed is a very simple one, Sir, and it is explained in the objects and reasons. There is a defect in the

law which does not provide for the refund of contributions to a person who is transferred from this country and who subsequently becomes a widower. I do not think that this really calls for any detailed or lengthy explanation. It is the principle of the Bill that when a man becomes a widower with no children who could benefit from this pension scheme, he is treated as a bachelor and under certain conditions he is entitled to refund of contributions. In the original Bill no provision for the return of contributions was made for an officer who became a widower after such transfer. The amendment seeks to rectify this position by providing for a refund of contributions in such cases.

The Deputy Director of Medical Services, Eastern Provinces:

Sir, I beg to second.

His Honour the Chief Commissioner:

Does any Member wish to address the House?

The question is that this House do advise His Excellency the Governor that a Bill entitled "An Ordinance further to amend the Widows' and Orphans' Pensions Ordinance" is acceptable in principle. Will those in favour say "Aye" and those to the contrary say "No". The "Ayes" have it.

House in Committee.

Title.

Clause 1.

Clause 2.

House resumed.

The Secretary (Finance), Eastern Provinces:

Sir, I beg to report that a Bill entitled "An Ordinance further to amend the Widows' and Orphans' Pensions Ordinance" passed through Committee without amendment.

His Honour the Chief Commissioner:

The question is that this House do advise His Excellency the Governor that a Bill entitled "An Ordinance further to amend the Widows' and Orphans' Pensions Ordinance" is acceptable. Will those in favour say "Aye" and those to the contrary, "No". The "Ayes" have it.

A BILL FOR AN ORDINANCE TO AMEND THE MINERALS ORDINANCE, 1945

The Resident, Cameroons Province:

Sir, I beg to move the following:—

"Be it resolved:

That this House do advise His Excellency the Governor that the Bill entitled 'An Ordinance to amend the Minerals Ordinance, 1945' is acceptable in principle."

It has been found that the powers and duties placed on the Chief Commissioner under the principal Minerals Ordinance has led to

considerable delay, and it is advisable in the interests of the public to avoid such delays and that these powers should be delegated. The Sections in the principal Ordinance to which these amendments refer are Section 18 (1) Proviso (ii) provides that the holder of a Prospecting Right shall not prospect in a Forest Reserve without the consent of the Chief Commissioner.

Section 36 concerns the giving of notice of surrender of a Mining Lease, and the deposit to be paid for the survey.

Section 50 relates to the Chief Commissioner's powers under an Order of the Governor to order restoration of river banks which have been interfered with in mining operations.

Section 82 forbids the construction of roads over native lands or over the Mining Lease or Mining Right of another without the permission of the Chief Commissioner.

The Regulations concerned are numbers 46 and 65. Regulation No. 46 makes the Chief Commissioner the final authority in the case of an appeal against a refusal to approve, or revocation of approval of an accredited agent of a holder of a Mining Right or lessee of a Mining Lease.

Regulation No. 65 empowers the Chief Commissioner to remit the whole or part of any penalty due for late payment of rent. These are the sections of the principal Ordinance and Regulations thereunder which are affected by this Bill.

The Acting Resident, Ogoja Province:

Sir, I beg to second.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

Your Honour, as all we are concerned about here is the principle of this I think one might be excused if we make a frank statement. There is no doubt, Sir, but that the Chief Commissioner, Eastern Provinces, and all the other Chief Commissioners are very busy and overburdened with work and that it would simplify matters to delegate some of their powers to Residents and other subordinate officers, but it seems to me that in regard to certain matters like the acquisition of land and minerals that it is the duty of the Government, to ensure that all discussions and all considerations that affect any legislation shall be at the highest level. People feel rightly or wrongly that it is not sufficient for them in regard to the very vital matters to deal solely with the District Officer or the Senior District Officer or the Resident, no matter how sympathetic that particular officer may feel. They consider that as long as they can deal with, or can write to the Chief Commissioner, their interests are safeguarded. We do wish, that in such matters that give rise to quite a lot of trouble in this community and lead to protest among the people, the delegation of powers should be restricted as much as possible. People feel very strongly about it, and I do think, in view of the fact that even Residents are

already alleged overburdened with work without being delegated with the powers of the Chief Commissioner, the power should not be conferred.

His Honour the Chief Commissioner:

Does any other Member wish to address the House before I call upon the mover to reply?

The Second Provincial Member for the Calabar Province (Mr Nyong Essien):

I am in sympathy with the last speaker, Sir. If the Chief Commissioner is so busy and has no time to deal with certain duties, instead of delegating powers to a Resident, I suggest that an Assistant or Deputy Chief Commissioner be appointed to do the necessary duties (Laughter).

The Second Provincial Member for the Owerri Province (Mr D. N. Achara):

At a meeting we had a few weeks ago, the question of minerals came up, because we read in the papers that some company is working in our Province at the moment looking for oil. I know the feelings of our people when that matter came up so that all that I will say will be in support of what the last speaker had spoken. The question of minerals touches the very life of our people. Each time we hear that some speculating company has come out to look for this or that, all eyes turn to Enugu, for it is coal that makes it what it is. As the discovery of coal has gone a long way to make Enugu what it is, people in our Province are anxious about what will happen to what is in our soil.

I say again that this matter touches the very life of our people: it is very important and I feel that any decision regarding it should be entrusted to the officer whom everybody trusts. I am not trying to discredit anybody, but the very fact that the Chief Commissioner is there and the fact that we believe that he is a very capable man, Sir, otherwise he would not have risen to such a post, the very fact that such a man is there gives us a measure of confidence that delicate matters touching the minerals will be dealt with fairly. To say that it should be handed over to another officer because the Chief Commissioner has no time to attend to it is a suggestion that will not meet with the approval of the people whom we represent. If there is anything that affects the people it ought to be handled properly, not minding what it may cost in money and time.

To solve the problem we may have people to assist the Chief Commissioner in other aspects of his work but not in matters affecting minerals. So far as I am concerned I do not support delegating the powers to any other officer.

The Member for Urban Areas other than Port Harcourt (Reverend O. Efiog, O.B.E.):

This apprehension has been sufficiently ventilated and if the officer to whom powers have been delegated makes regulations and

people affected can appeal before you; then the point is clarified, and the fear is removed.

The First Provincial Member for the Owerri Province (Mr M. W. Ubani):

Your Honour, I feel rather apprehensive more particularly on the point of saying that this delegation of powers is sought on the grounds of the plea that your responsibilities are so many that delays are being experienced. I should think, Sir, that if there is anything that requires delay it should be the question that refers to land. Land is everything in the life of my people and Members of this House are aware of considerable difficulties and troubles in dealing with anything that affects land, and as such, considerable care should be exercised in handling the matter in supporting an amendment which refers to land.

The Second Provincial Member for the Onitsha Province (Mr C. D. Onyeama):

Your Honour, in considering the propriety of the delegation of powers it is necessary to remember that under the Minerals Ordinance all rights, titles, interest in or over minerals, mineral oils, etc., are vested in the Crown. Now that means that all rights that have to be given with respect to mining no longer become the concern of the ordinary owner of the land: they now become the concern of the Government directly. That means that the ordinary people have no right to protest or to make any representations at all. The Government has, therefore, assumed the role of protector of the rights of the people and under this Ordinance as it now stands the Government saw fit to repose in the Chief Commissioners all rights to approve of Mining Leases, etc. It is now sought to delegate all these powers to Residents. Has the Chief Commissioner by writing power to delegate all or any of his powers? I think, Sir, that there can be no excuse for this state of affairs. The Chief Commissioner is a very busy man but I think that if he has time to deal with any matters at all in this country, he certainly should consider that minerals constitute such a very important source of revenue that they deserve his own personal attention and they do not constitute matters which should be delegated to Residents. They are as important in the life of the country as any other aspect or political activities. Therefore I oppose the Motion.

The Senior Crown Counsel, Eastern Provinces:

I rise to support this resolution. It seems to me that the whole object of this amendment is for the convenience of the public and I think that if Members will go through the Ordinance carefully they will see that the major powers in the Ordinance are in fact vested in the Governor and some of the minor powers have in fact been delegated to the Residents. I have been in the Eastern Provinces long enough to know that no Resident ever takes it upon himself to grant any leases or licences.

They all come up through the Eastern Secretariat here and if the Chief Commissioner delegates any of his powers he does not divest himself of these powers. If you delegate it does not prevent you from doing things yourself if you think fit, and you must have confidence in the Resident. Only where it is a matter for the convenience of the public would the Resident sign, shall we say, some unimportant document. The power of deciding whether a lease or exploration licence should be granted to a person to search for or dig or win minerals is not one of the powers that can be delegated. It seems to me that the whole object of this is to study the convenience of the public. I am somewhat amazed that my friends should oppose in principle this delegation.

If they will look up the Public Notices concerned—they run into several hundreds—they will see all the delegations which have been made. Certain delegations are essential or His Honour would spend all his time signing documents, and he has to delegate the least important of his powers. I do not think the apprehension of the Unofficial side is really justifiable.

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

I do not wish to add anything to what my friends have said, Sir, save only to emphasize the point that I oppose the amendment that is being sought.

The Resident, Cameroons Province:

My friend, the Senior Crown Counsel, has said all I wish to say. I therefore have nothing further to say.

His Honour the Chief Commissioner:

The question is that this House do advise His Excellency the Governor that a Bill entitled "An Ordinance to amend the Minerals Ordinance, 1945" is acceptable to the House in principle.

Will those in favour say "Aye" and those to the contrary, "No".

The Second Provincial Member for the Onitsha Province (Mr C. D. Onyeama):

May I suggest a division, Your Honour?

His Honour the Chief Commissioner:

I am willing to accept that the "Noes" have it that this Bill is not acceptable in principle. There is no further action to take.

The Member for Educational Interests (Mr A. Ikoku):

Your Honour, before we consider the next item on the agenda may I say one thing?

It is a question of the amendments we have been going through this morning. With your permission, Sir, I suggest it would be more intelligible to Members, at least to Non-official Members, if

So much for the Provisional Council, the governing Council of the College.

With regard to the Academic Board this, as its name implies, and as clause 10 shows, is a council composed mainly of teaching staff. Under clause 12 it will have authority in academic matters, discipline and research.

You will expect me, Sir, to point out the reason for the creation of the Provisional Council and the Academic Board. It is simply to make the University College self-governing, autonomous, free to grow. The Asquith Commission regards freedom of teaching and research as essential in a University such as Ibadan aims to become. It is for this reason that the membership of the Provisional Council is, as Honourable Members will have observed, so balanced that no one organisation or institution shall have a majority representation on the Council. This balancing will ensure that the University College shall not be the creature of any outside organisation but shall be an institution devoted totally to the advancement of higher education, learning and research.

Finally, Sir, I wish to say that the Council proposed in this Bill will be provisional for a period during which the College will be moving towards full and independent University status and the power to grant its own degrees: during this period of development the College will have the invaluable guidance of the Inter-University Council representatives who will be on the Provisional Council proposed in this Bill. The Constitutional arrangements proposed in this Bill, Sir, are therefore necessary for the proper development of Ibadan University College and are in the highest interests of education not only in Nigeria but in the whole of West Africa.

The Member for Educational Interests (Mr A. Ikoku):

Sir, I beg to second.

His Honour the Chief Commissioner:

Does any Member wish to address the House?

The question is that this House do advise His Excellency the Governor that a Bill entitled "An Ordinance to provide for the Establishment of a Provisional Council to be known as the Provisional Council of the University College, Ibadan, and for matters ancillary thereto" is acceptable in principle.

Will those in favour say "Aye" and those to the contrary, "No". The "Ayes" have it.

The Provincial Member for the Ogoja Province (Dr F. A. Ibiam):

I was going to speak, Your Honour.

His Honour the Chief Commissioner:

I am afraid the question has been put. The House is now in Committee.

House in Committee.

Title.

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move deletion of the second letter "i" in the word "ancilliary" in the third line.

Title as amended.

His Honour the Chief Commissioner:

The question is that the preamble to a Bill entitled "An Ordinance to provide for the Establishment of a Provisional Council to be known as the Provisional Council of the University College, Ibadan, and for matters ancillary thereto" is acceptable to the House.

Will those in favour say "Aye" and those to the contrary "No". The "Ayes" have it.

Clause 1.

Clause 2.

Clause 3.

Clause 4.

Clause 5.

Clause 6.

Clause 7.

Clause 8.

Clause 9.

Clause 10.

Clause 11.

Clause 12.

Clause 13.

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the deletion of the second "i" in the word "ancilliary" in the second line.

Clause as amended.

Clause 14.

House resumed.

The Acting Deputy Director of Education, Eastern Provinces:

Sir, I beg to report that a Bill entitled "An Ordinance to provide for the Establishment of a Provisional Council to be known as the Provisional Council of the University College, Ibadan, and for matters ancillary thereto" passed through Committee with two amendments.

His Honour the Chief Commissioner:

The question is that this House do advise His Excellency the Governor that a Bill entitled "An Ordinance to provide for the Establishment of a Provisional Council to be known as the Provisional Council of the University College, Ibadan, and for matters ancillary thereto" is acceptable to this House. Will those in favour say "Aye" and those to the contrary, "No". The "Ayes" have it.

ADJOURNMENT

The House will now adjourn till 10 a.m. tomorrow.

Debates in the Eastern House of Assembly

Thursday, 29th July, 1948

Pursuant to notice the Members of the Eastern House of
Assembly met in the Garrison Hall, Enugu, at 10 a.m.
on Thursday, the 29th of July, 1948.

PRESENT

OFFICIAL MEMBERS

- The Chief Commissioner, Eastern Provinces,
Sir Bernard Carr, Kt., C.M.G.
- The Resident, Cameroons Province,
Mr A. F. B. Bridges.
- The Secretary, Eastern Provinces,
Commander S. E. Johnson, R.N.
- The Resident, Owerri Province,
Mr J. S. Smith.
- The Resident, Rivers Province,
Mr A. T. E. Marsh.
- The Acting Resident, Calabar Province,
Mr H. L. M. Butcher.
- The Acting Resident, Onitsha Province,
Mr E. R. Chadwick, O.B.E.
- The Acting Resident, Ogoja Province,
Mr J. G. Mackenzie.
- The Secretary (Finance), Eastern Provinces,
Mr G. B. G. Chapman.
- The Deputy Director of Medical Services, Eastern Provinces,
Dr C. Wilson.
- The Acting Deputy Director of Education, Eastern Provinces,
Mr W. E. Holt, O.B.E.
- The Deputy Director of Agriculture, Eastern Provinces,
Mr M. Park.
- The Deputy Director of Public Works, Eastern Provinces,
Captain R. Rodger.
- The Senior Crown Counsel, Eastern Provinces,
Mr S. A. McKinstry.

UNOFFICIAL MEMBERS

- The Member for Urban Areas other than Port Harcourt,
Reverend O. Efiog, O.B.E.
- The First Provincial Member for the Cameroons Province,
Mr J. Manga Williams, O.B.E.
- The Member for Professional, Salaried and Wage-earning
Classes,
Mr E. N. Egbuna.
- The Member for African Commercial Interests,
Mr G. H. H. O'Dwyer.
- The First Provincial Member for the Onitsha Province,
Mr P. E. Chukwurah.
- The First Provincial Member for the Owerri Province,
Mr M. W. Ubani.
- The Provincial Member for the Ogoja Province,
Dr F. A. Ibiam.
- The First Provincial Member for the Calabar Province,
Mr Asuquo Okon.
- The Second Provincial Member for the Cameroons Province,
Galega, Fon of Bali.
- The Second Provincial Member for the Onitsha Province,
Mr C. D. Onyeama.
- The Member for Port Harcourt,
Mr L. R. Potts-Johnson.
- The Second Provincial Member for the Owerri Province,
Mr D. N. Achara.
- The Provincial Member for the Owerri (Rivers) Province,
Mr H. Bowari Brown.
- The Member for Educational Interests,
Mr A. Ikoku.
- The Second Provincial Member for the Calabar Province,
Mr Nyong Essien.

PRAYERS

At the request of the President, Mr L. R. Potts-Johnson, the Member for Port Harcourt, opened the proceedings of the House with prayers.

CONFIRMATION OF MINUTES

The Minutes of the meeting held on the 28th of July, 1948, having been printed and circulated to the Members, were taken as read and confirmed.

ANNOUNCEMENTS

His Honour the Chief Commissioner:

GENTLEMEN, in response to the matter concerning the Select Committee which I mentioned in my speech yesterday, I understand that it is the wish of the Unofficial Members that all Unofficial Members shall form the Select Committee. I am quite prepared to agree to that, but before the actual opening of the Select Committee I should be glad if you would give me your advice regarding the Chairman of that Committee. I understand that you are considering appointing your own Chairman when the Committee meets, but that I am afraid is contrary to the Standing Rules and Orders and the Chairman of a Select Committee must be appointed by the President of the House. I am quite willing to receive your advice, and on receipt of your advice I will consider it and then definitely appoint a Chairman.

The Member for Urban Areas other than Port Harcourt (Reverend O. Efiang, O.B.E.):

Sir, I should like to express our thanks.

QUESTIONS

NOTE.—Replies to Questions Nos. 2, 3, 6 and 23 by the Provincial Member for the Owerri (Rivers) Province; Nos. 8, 13, 16 and 18 by the Provincial Member for the Ogoja Province, and Nos. 20 and 22 by the Member for Educational Interests, are not yet ready.

The Provincial Member for the Owerri (Rivers) Province (Mr H. Bowari Brown):

4. To ask the Secretary, Eastern Provinces:—

What plans and arrangements have been made for the touring of Rivers Province with a Mobile Cinema for the education of the peoples of this and other Provinces particularly our school children?

Answer—

The Secretary, Eastern Provinces:

There is now one Mobile Cinema Van allocated for the exclusive use of the Eastern Region and it commenced its initial tour of the Calabar Province on the 1st of April, 1948. It is being allocated to other Provinces in rotation but, owing to the absence of roads in the Degema and Brass Divisions, it will, while in the Rivers Province only be able to visit the Ahoada and Ogoni Divisions and Port Harcourt Township.

The Provincial Member for the Ogoja Province (Dr F. A. Ibiam):

9. To ask the Secretary, Eastern Provinces:—

(a) When does Government intend to run a passenger launch

service on the Cross River, especially during the rainy season, from Itu to Ikom, if not further up the River?

(b) Does Government realise the considerable inconvenience caused particularly to the people of the Cross River, and more generally to other travellers in this area because of lack of a regular launch transport from Itu upwards?

Answer—

The Secretary, Eastern Provinces:

(a) It is not intended at present on account of the difficulty in obtaining suitable craft, to inaugurate a Government passenger service on the Cross River.

(b) The inconvenience is appreciated but it is impossible to improve communications on the Cross River until the more urgent demands in other areas have been satisfied.

The Provincial Member for the Ogoja Province (Dr F. A. Ibiam):

10. To ask the Secretary, Eastern Provinces:—

(a) How many Magistrates Grade I are located in the Ogoja Province?

(b) How many arrears of (i) Civil Cases, and (ii) Criminal Cases were there in the year 1947 in the following Divisions:—

Abakaliki, Afkpo, Ikom, Obubra, Obudu and Ogoja?

Answer—

The Secretary, Eastern Provinces:

(a) One

(b) At the end of 1947 the following arrears were outstanding:—

				<i>Civil Cases</i>	<i>Criminal Cases</i>
Abakaliki	...	...	...	20	39
Afkpo	...	...	...	6	Nil
Ikom	...	...	...	1	5
Obubra	...	...	...	2	2
Ogoja	...	...	...	8	8

The Ogoja Division includes the Obudu District.

The Provincial Member for the Ogoja Province (Dr F. A. Ibiam):

17. To ask the Secretary, Eastern Provinces:—

(a) How many Warders of the following categories are located in each of the Divisional Prisons in the Ogoja Province:—

Chief Warder, Assistant Chief Warder, First Class Warder, Second Class Warder, and Third Class Warder?

(b) How many of these are female Warders?

Answer—

The Secretary, Eastern Provinces:

(a) Prison	Chief Warders	Assistant Chief Warders	Senior Warders	First Class Warders	Second Class Warders	Third Class Warders
Ogoja ...	—	1	—	2	4	7
Abakaliki ...	—	1	—	1	5	12
Afikpo ...	—	1	—	—	3	9
Obudu ...	—	—	—	1	3	2
Obubra ..	—	—	1	1	4	6
Ikom ...	—	—	—	1	2	5

(b) None, Sir, but a third class Wardress is stationed at each of these prisons, with the exception of Obudu.

The Member for Educational Interests (Mr A. Ikoku):

19. To ask the Secretary, Eastern Provinces:—

(a) Is the Government aware of the fact that there are a number of Aro settlements dating back several generations scattered all over the Eastern Provinces and forming part and parcel of the people among whom they have settled and paying their tax into their various Native Treasuries.

(b) Is Government aware of the fact that in recent years there has been a move to deny these "Settlers" some such political rights as representation in Court or Council?

(c) Will Government make a statement of policy on this undesirable state of affairs?

Answer—

The Secretary, Eastern Provinces:

(a) Yes, Sir.

(b) and (c) The question of whether a "Stranger" community should be represented in Court or Council is a matter for decision by the indigenous inhabitants of the area concerned, taking into account the size of such stranger communities.

The Member for Educational Interests (Mr A. Ikoku):

21. To ask the Secretary, Eastern Provinces:—

(a) Is Government aware of the fact that lack of private telephone installations is causing considerable hardship to business and professional men in the Aba Township?

(b) Will Government take immediate steps to remedy the situation.

Answer—

The Secretary, Eastern Provinces:

(a) Government is aware that telephone facilities in the Aba Township do not meet the public demand.

(b) A sum of £3,800 for a new switchboard at Aba is included in the estimates for 1948-49 under Head 21 (Posts and Telegraphs) Special Expenditure, Sub-head 28, (Telephone Exchange Renewal and Development), but it is almost certain that the manufacturers will be unable to deliver until the end of 1949 at the earliest. Meanwhile additional capacity has been extemporised at Aba but it is not enough to overtake the whole of the waiting list.

The Member for Educational Interests (Mr A. Ikoku):

Your Honour, Part (a) of question number 19 refers to settlements dating back several generations and forming part and parcel of the people among whom they have settled and paying tax into their various Native Treasuries. May I submit, Sir, that the answer to (b) and (c)—Stranger Community—does not meet the case, because I understand “Stranger Community” means, for instance, a Hausa settlement in the Northern Areas generally called “Sabongari”, and part (a) of the question has not such a community in mind but refers to indigenous people completely forming part and parcel of the district where they live.

The Secretary, Eastern Provinces:

The Member is referring to part (a) of the question, Sir, and part (a) of the question, the question of Stranger Community does not arise and the answer that has been given is a complete answer to that particular section—part (a).

The Member for Educational Interests (Mr A. Ikoku):

May I ask, Sir, with your permission, that the Government should define “Stranger Community” in contrast to Settlers as described in part (a) of the question. The point I wish to make is that “Stranger Community” to my understanding is different from the settlements referred to in part (a) of the question.

The Secretary, Eastern Provinces:

I think that matter can be cleared up by substituting the word “settler” for “stranger”.

The Member for Educational Interests (Mr A. Ikoku):

In what section, Sir?

The Secretary, Eastern Provinces:

That is, in the answer to sections (b) and (c), where the word “stranger” occurs, the word “settler” should be substituted. I notice the Member used that word himself.

The Member for Educational Interests (Mr A. Ikoku):

May I say a word, Sir; it is Government's view, I take it, that those who have been resident or domiciled in places for several generations and forming, according to section (a) part and parcel of the people among whom they dwell can be regarded as settlers?

The Secretary, Eastern Provinces:

I do not get that. Would the Member repeat the question?

The Member for Educational Interests (Mr A. Ikoku):

Would Government take a view that those who have been domiciled for several generations can be regarded as Settlers and form as such part and parcel of the people among whom they dwell?

The Secretary, Eastern Provinces:

I have suggested that in the first line of that answer, the word "Settler" should be used for the word "stranger". I think that disposes of the Member's criticism. I would, however, like to consider the question before making any further answer and if the Member would agree to that I will give an answer before the close of the present meeting.

The Member for Educational Interests (Mr A. Ikoku):

I thank you.

BILLS**The Senior Crown Counsel, Eastern Provinces:**

Sir, yesterday the Unofficial Members pressed for an amendment to the Native Courts Ordinance limiting the powers which may be delegated to Administrative Officers.

His Honour the Chief Commissioner:

May I interrupt the Member for a moment.

The House will have to be in Committee before we continue discussions on the Native Courts Amendment Bill.

The Senior Crown Counsel, Eastern Provinces:

Yes, Sir.

His Honour the Chief Commissioner:

The House will now resolve itself into Committee to consider a Bill entitled "An Ordinance to amend the Native Courts Ordinance, 1933"

The Senior Crown Counsel, Eastern Provinces:

The two sections of Ordinance 44 of 1933, dealing particularly with these two matters are sections 25 and 28. Section 25 is the relevant section dealing with review and section 28 is the section dealing with appeals, and consquential to these two it would also

be necessary to delegate the powers of three further sections besides sections 25 and 28. The sections in question are No. 33, which is the section which gives Residents power to permit an appeal out of time. An appeal out of time does not lie as a right but may be given by the Resident, and if an Administrative Officer has to exercise the powers of the Resident with regard to hearing and determining appeals and reviews it would be necessary also to give him the power conferred by section 33 so that he can review an appeal out of time.

The other two remaining sections are 35 and 36. The former gives a Resident the power to appoint Assessors in connection with any matter before him. Perhaps the Unofficial Members would like me to read this because they have not got a copy before them, I will do so, but it will save time if they will take my word that section 35 deals with Assessors.

Section 36, deals with the powers conferred upon appeal tribunals and the Resident has power to hear the case if he thinks fit. It will be necessary to give Administrative Officers performing these functions the powers conferred by section 36, then the amendment will read:—

Inserts new section 36A in Ordinance No. 44 of 1933. “ 2. The Native Courts Ordinance, 1933, is hereby amended by the insertion of the following new section 36A, immediately after section 36:—

Chief Commissioner may appoint Administrative Officer to exercise powers of Resident.

“ 36A. A Chief Commissioner may appoint in writing an Administrative Officer to exercise the powers conferred upon a Resident by sections 25, 28, 33, 35 and 36.”

If there are any other points about which the House is uncertain I will endeavour to clear them up, but these are the amendments which will be necessary to confer these powers to be given to Administrative Officers so that they may have the powers of a Resident in connection with appeals and reviews.

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

Your Honour, it was I who proposed the amendment. I accept the recasting of that law.

The Senior Crown Counsel, Eastern Provinces:

May I send you a copy of it, Sir.

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

Yes, Sir.

His Honour the Chief Commissioner:

The question is that this House do advise His Excellency the Governor that clause 2, as amended is acceptable to this House.

Will those in favour say "Aye" and those to the contrary "No". The "Ayes" have it.

House resumed.

The Resident, Owerri Province:

Sir, I beg to report that a Bill entitled "An Ordinance to amend the Native Courts Ordinance, 1933" passed through Committee with one amendment.

His Honour the Chief Commissioner:

The question is that this House do advise His Excellency the Governor that a Bill entitled "An Ordinance to amend the Native Courts Ordinance, 1933", is acceptable to this House. Will those in favour say "Aye" and those to the contrary "No". The "Ayes" have it.

A BILL FOR AN ORDINANCE TO MAKE PROVISION FOR REGULATING THE PLANTING AND GROWING OF AGRICULTURAL CROPS, FOR THE CONTROL OF DISEASES AND PESTS, AND FOR THE PREPARATION, MARKETING, STORAGE, TRANSPORT, SHIPPING AND EXPORT OF AGRICULTURAL PRODUCE, AND FOR PURPOSES INCIDENTAL TO THE ABOVE

The Deputy Director of Agriculture, Eastern Provinces:

Sir, I rise to move the following:—

"Be it resolved:

That this House do advise His Excellency the Governor that the Bill entitled 'An Ordinance to make provision for regulating the planting and growing of agricultural crops, for the control of diseases and pests, and for the preparation, marketing, storage, transport, shipping and export of agricultural produce, and for purposes incidental to the above' is acceptable in principle."

The Agriculture Bill, to give it its short title, has already been before this House in a slightly different form and I therefore propose to be brief in introducing it today. Of the general provisions of the Bill I will content myself by saying that Ordinances of this type exist in every progressive country and are, in fact, essential if, on the one hand, the quality of agricultural produce for export is to be maintained and, on the other, if steps are to be taken, first, to prevent the introduction into Nigeria of serious pests and diseases hitherto unknown here and, secondly, to prevent serious outbreaks of pests or diseases, which already occur here or which may occur in the future. Further I would reiterate that most of the provisions of the Bill have already been in force for twenty years. The suggestion that the Bill is a measure which will restrict the freedom of activity of the ordinary farmer is therefore hardly tenable.

The Bill in its present form has a few significant differences from the Bill which was passed by you last year. The most important is the provision in clause 3 for a Board of Agriculture with an

unofficial majority which will be the body responsible for issuing all regulations under the Ordinance. This I think will meet many, if not most of the objections raised against the Bill in its earlier form.

When the Bill was considered in this House last year some amendments were suggested: some were and some were not accepted. It will perhaps meet with your approval if I discuss briefly all of these and show how they have been dealt with in the present Ordinance.

Amendments which were accepted were in respect of clauses 13 and 14 of the present Bill and consisted in the substitution of the words "a fine not exceeding £200" for the words "a fine of £200". This amendment has not been incorporated in the present Bill because it is unnecessary. I understand — and the Senior Crown Counsel will, I think, bear me out — that a person convicted under either of these clauses would not necessarily be fined £200. This sum merely indicates the maximum penalty that can be imposed.

Four other amendments were proposed last year but not accepted. I will take them in order.

Clause 4, sub-clause (1) (b) — that is now 5 (1) (b).

It was suggested that this clause should be deleted. In the present Bill the words "for the control of diseases, pests or weeds" have been inserted at the beginning of the clause. This I think clarifies the intention of the clause and I think removes the cause for objection.

Clause 4, sub-clause (1) (c) — now 5 (1) (c).

It was suggested that the words "in the event of disease" should be inserted after the word "including" in the 4th line. This has been done.

Clause 4, sub-clause (1) (e) and 4 (1) (f) — now 5 (1) (e).

It was suggested that these sub-clauses should be deleted. In the new Bill the old sub-clauses (e) and (f) have been amalgamated and it has been made clear that the Regulations will apply only to produce for export. I do not anticipate that there will be any objection to the clause in the present form.

I think therefore that you will agree that in revising the Bill consideration has been given to all the suggestion made last year and that they have been adequately met.

Before I close, there is one point I wish to bring to your notice. A resolution passed by the House of Chiefs recommends that the composition of the Board of Agriculture (Clause 4 of the Bill), should be increased by two nominees from the House of Chiefs. The membership would then be thirteen. Apart from the fact that this addition might tend to make the Board unwieldy, there is no strong opposition to it. It may be considered, however, that since all Regulations made by the Board must be laid on the table of the

House of Chiefs such addition is unnecessary. I do not propose to move this amendment in the Committee stage and have therefore mentioned it now so that Members may take action if they wish.

In conclusion I would repeat what was said by my predecessor in presenting the Bill to this House last year. The objects of the Bill are for the benefit of farmers and of the community as a whole. The progress and prosperity of Nigeria are indubitably bound up with agriculture and it is essential that we should take all measures possible for improvement both in productivity and quality. We cannot afford to do otherwise.

I commend the Bill to the House.

The Resident, Rivers Province:

Sir, I beg to second.

His Honour the Chief Commissioner:

Does any Member wish to address the House?

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

Your Honour, while accepting the Bill in principle I have a few observations to make about various clauses. It has been said, Sir, that it is not necessary to make any amendment in clause 14 of the Bill. That is with regard to punishment. Well, Sir, we who have to practise in the Courts and see how some of the sections of other Ordinances are being applied, Sir, know what difficulty we have often times experienced when we seek to convince the Judge or the Magistrate that such and such a penalty should not be imposed.

Having regard to clause 9 of the Bill I am suggesting, Sir, that the punishment provided in clause 14 of the Bill should be made to fall in line with the provisions of clause 9 of the Bill. In clause 9 the punishment is to be a fine not exceeding £200. Well, Sir, if it is the intention of clause 14 not to make any difference in punishment I do not see why there should not be uniformity of punishment under the Bill. I strongly suggest that that clause should not be left like that. There is also, Sir, clause 20 of the Bill, which inflicts a fine not exceeding £200. That is in line with clause 9 and is different from clause 14. I can quite see, Sir, that in future when a case under the Ordinance is being brought before the Courts, I can foresee, an argument from the Bench saying that if the legislation intended there should be no difference in the punishment under the Bill it should have said so. There should not have been two different provisions for punishment in the Bill.

Now, Sir, the next point I should like to make an observation on is 18 (b). I notice that an amendment has been proposed to that sub-section of clause 18, but that amendment does not affect the observations I am going to make. Power is given under section 8 and in section 18 for the Inspector to stop and search any person whom he believes to be carrying some sort of produce. I protest

very much against that power that has been given to an Inspector to search persons for under the word "persons" women are included and it would be very obnoxious to have a woman searched for produce; so I am opposing that section of the clause. And again, Sir, in clause 17, power is given to the Agricultural Officer upon mere suspicion to order produce to be destroyed. Personally I do not think that upon "mere suspicion" such an order should be made. These are the few observations, Sir, that I have to make upon this Bill and if these observations are considered, Sir, I have no objection to this Bill which I support in principle.

The First Provincial Member for the Owerri Province, (Mr M. W. Ubani):

Your Honour, I beg to say a few things on this Ordinance. This country is an agricultural country in every respect. The life of the people is intimately related to their agricultural products. Agriculture has to do with the products of the land. For sometime now almost about a year, when this Bill was originally introduced it caused a great deal of trouble and severe criticisms. The main reason for all these troubles was the idea which the people somehow got that the new Bill was a plan to take the people's land by the Government. The interpretation given to it was responsible for all the agitation and I am glad that some amendments have been affected to allay the fears of the people.

I think it is the duty of the Members of this House to give their people the assurance that the Government does not intend to take their land or introduce oppressive measures. I have given this assurance to my people and I hope that that assurance is well founded.

Agricultural activities of this country must be developed in accordance with the wish of the people for better results. Our agricultural products must compete with the world market and better provision must be made to safeguard the interest of the people.

I beg further to make a few observations on clause 17 (a) and (b) of this Bill.

It is to ask for the consideration of this House that compensation should be provided against the destruction of a farmer's field of crops when it is proved to be infested with disease.

I am just wondering what will become of a poor farmer who has strained nerves, energy and all his financial resources to erect a farm which is to be destroyed because of affectation with plant disease. He was not responsible and it was by forces of nature beyond his control. Why should he suffer both ways — the loss of the capital with which he started the farm and the loss of the whole field of crops only to start life, all over again. It is indeed very discouraging. I am submitting that it is the duty of the Government which is the State to provide for a compensation to the farmer whose field

of crops is to be destroyed whenever it is proved beyond all doubts that the affectation was not due to his own carelessness or negligence. On the other hand it will be the duty of the State to adopt every precaution or measures to safeguard the field of crops belonging to a whole community but if it is left to the farmer alone to suffer, the disease may spread to the inconvenience of the whole community and to the loss and discouragement of the individual concerned. The whole thing deserves careful consideration as it cuts both ways.

Again I should stress the point that before any destruction of an affected field of crops should take place, the Board of Agriculture of the area should be notified to recommend the destruction upon being satisfied that the case deserves the measures embodied in this clause.

I have been asked to request this House to consider the idea of establishing Agricultural Schools in the Provinces. At least farmers' sons should be sent to experimental farms for practical study and knowledge which they will carry back to their villages to teach their people. It is by introducing measures such as this that the common peasants in the villages will begin to appreciate the idea that the Bill is indeed in the interest of the people. It is needless gainsaying the effect of such schemes amongst the people. I can emphasize that if there are no practical measures and principles introduced for the practical demonstration of the aims of this Bill, we will still remain where we started if we should only depend upon appointing Boards whose aims will be to make recommendations which cannot be practicalised.

His Honour the Chief Commissioner:

Does any other Member wish to speak?

The Senior Crown Counsel, Eastern Provinces:

Might I just reply briefly to my friend from Calabar that the amendment he proposes to insert to the words "not exceeding" would be quite reasonable. In point of fact his point is very well taken as the words "not exceeding" are used in every penal clause of the Bill and should also be used in this particular clause. I did not realise the Bill was not consistent. He is perfectly right, Sir — we must be consistent at least or it would be arguable that something different was intended.

His Honour the Chief Commissioner:

What section is that?

The Senior Crown Counsel, Eastern Provinces:

Section 13, Your Honour. Instead of the words "fine of £200" substitute "not exceeding £200".

The Secretary, Eastern Provinces:

Section 14, Sir?

The Senior Crown Counsel, Eastern Provinces:

Sections 13 and 14. And with regard to his point on clause 17, Sir, I am not clear how he has gained the impression from reading clause 17 that the Agricultural Officer may on suspicion unsupported by anything else search, etc., etc. The clause reads "where plants, seeds, etc., on importation are found or suspected to be infected". No person can merely assume something. He must have grounds which lead him to suspect that the things in question are infected.

The wording is the same as that contained in other Ordinances which confer powers on the police to stop and search suspected persons. When the police stop someone say on suspicion of carrying stolen goods they must have grounds for this. I think it is a legal matter and my legal colleagues in the House may care to express an opinion on it. This is personal opinion—but it seems to me that the powers may be exercised only where there are good grounds. Where things are found or suspected to be infected with disease there must be some bona fide ground for that suspicion. Another point mentioned was clause 18 (1) (b) "The right to stop and search a person" believed to be carrying produce. Were it not for the fact that on occasions it might be desirable to stop the movement of infected seed, I would very largely agree with the speaker, but it is very easy for a person to carry on his person, say in his pocket a quantity of seed. I am sure that power will not be arbitrarily exercised. If cases do arise it would be quite competent for recommendations to be made to the Government to abolish that power, but as I see this Bill, Sir, it is wise to have that power. There may be some particular disease which may very well be spread over the whole of Nigeria and I think the provision is wise, but I think it is very unlikely to be used at any time. As to the other point made by my friend from Owerri — I know there is a popular feeling that a poor man who has gone to a lot of trouble to plant a small acreage of something that the law should not compel him, if it is found to be diseased, to destroy it, but we are surely concerned with the public good as a whole and if a virulent disease is found it is the duty of everybody even if it may seem hard on an individual to do everything for the good of Nigeria as a whole to prevent that disease from spreading.

May I quote from my own experience in the West Indies? In one small Island the one exportable product is Sea Island Cotton. If precautions are not taken the pink-ball worm completely destroys the cotton. To combat this everyone is given up to a certain date to have destroyed every scrap of cotton, leaf, stem, or plant left on his land, by burning. The date fixed is an arbitrary date. You may have a perfectly good crop of cotton in your field but on that date you have to have it destroyed by burning and to bury the ashes. People have willingly submitted to this because it is the only way to prevent the complete destruction of that export crop. I gather

that I am saying what everyone knows. I think in view of what the Member for Owerri has stated it might be as well to stress this aspect — these powers will only be exercised when the necessity is of the gravest nature. I think the safeguard is that a Board containing an unofficial majority will have to be satisfied that the destruction of the crop is essential to the prosperity of the whole of Nigeria.

The Deputy Director of Agriculture, Eastern Provinces:

Sir, I think I have very little to add to what has been said by the Senior Crown Counsel. He has covered most of the points on the question which has been raised by the First Provincial Member for the Calabar Province. I am prepared to move in the Committee stage an amendment which I think would cover the point made by the former. The word "suspected" in the case of pests and diseases must be included in the clause because you cannot always prove to a Court of Law that certain diseases are there. A suspicion is enough for a scientific officer. On the question of the destruction of crops raised by the First Provincial Member for the Owerri Province and compensation to be paid for them I would point out that it is hardly the place to mention compensation in a Bill of this sort but that should the amount of destruction entailed by an outbreak of a disease be great it is almost certain that Government would make provision for compensation as is being done now in the case of the swollen shoot disease in cocoa. The farmers who have had that disease are being compelled to destroy their cocoa and they are receiving compensation which is based on a sum sufficient to bring healthy cocoa trees into bearing to replace the ones which have been cut out: but I do not think the word "compensation" should be mentioned in the Bill: it might lead to all sorts of abuses and it would be better to leave it to the discretion of Government. I think that is all I have to say.

His Honour the Chief Commissioner:

The question is that this House do advise His Excellency the Governor that the Bill entitled "An Ordinance to make provision for regulating the planting and growing of agricultural crops, for the control of plant diseases and pests, and for the preparation, marketing, storage, transport, shipping and export of agricultural produce, and for purposes incidental to the above" is acceptable in principle.

Will those in favour say "Aye" and those to the contrary "No". The "Ayes" have it.

House in Committee.

Title.

Clause 1.

*Clause 2.***The Deputy Director of Agriculture, Eastern Provinces:**

In view of the change of title it will be necessary to amend the definition of "inspector" and insert after the definition of "produce" the following:—

" 'Produce Officer' means an officer of the Produce Inspection Branch of the Agriculture Department not below the rank of Produce Officer ".

The Second Provincial Member for the Onitsha Province (Mr C. D. Onyeama):

What is the difference, Sir, between the two?

The Deputy Director of Agriculture, Eastern Provinces:

A "Produce Officer" is an official title, Sir, which means a man of a certain rank. You can group Produce Officers and say there are Assistant Produce Officers and Produce Examiners and you must describe them as they are described in the Staff List.

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

Would it be proper to say a "Produce Officer"?

Clause 2 as amended.

Clause 3.

Clause 4.

The Provincial Member for the Ogoja Province (Dr F. A. Ibiam):

Your Honour, I may be open to correction here but the first time we considered this Bill I understood that the number of Unofficials would be seven not six. According to the present constitution of the Board there will be six Officials, that is, five Officials to six Non-official Members.

The Deputy Director of Agriculture, Eastern Provinces:

It is not clear, Sir, whether the Member to be nominated by the Governor would be official or otherwise.

The Provincial Member for the Ogoja Province (Dr F. A. Ibiam):

It would still not make seven Unofficial Members — I see the point now, Sir. But he must be an Unofficial Member. I think we agreed that it should be seven Unofficial Members.

The Secretary, Eastern Provinces:

In any case it seems to me there would be an unofficial majority.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

We were fully aware of the powers to be given to the Governor in Council for the purpose of preventing the deterioration of crops, but

one safeguard we do demand. There should be a substantial, African, non-official majority and we stress the word "African" although it may sound improper. I have no doubt that the Member for the Colony would be an African and possibly a non-official. But, I think it would serve our purpose better if we know that under the Ordinance His Excellency cannot nominate an Official Member and thereby increase the proportion of Officials to Unofficials in the ratio of five to six. I do not think a majority of one in a Board like that is sufficient because if for various reasons an Unofficial Member may be prevented from attending a meeting of the Board whereas it is known, Sir, that Officials by the very nature of their jobs have to be there. We think we must insist on a substantial unofficial majority on the Board.

The Provincial Member for the Owerri (Rivers) Province (Mr H. Bowari Brown):

Another thing is the House of Chiefs — I think they too should be represented on the Board.

His Honour the Chief Commissioner:

That was an amendment that was moved by the Northern House and the House of Chiefs. It is for the Legislative Council to decide. The House of Assembly merely advises the Governor and their advice is placed before the Legislative Council and the final statement is made by the Legislative Council.

The Provincial Member for the Owerri (Rivers) Province (Mr H. Bowari Brown):

I would move all the same, Sir. A Member of the House of Chiefs should be a Member of this Board. I would even say two Members. We are asking for a substantial African majority on this Board as the matter is of great importance to the country. We must make sure of our position.

The Second Provincial Member for the Onitsha Province (Mr C. D. Onyeama):

Do I understand our Honourable Friend to say he is moving an amendment that two Members of the House of Chiefs should be on the Board?

His Honour the Chief Commissioner:

Yes.

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

Not on that amendment but an amendment to clause 4.

His Honour the Chief Commissioner:

Let us deal with the first amendment — one thing at a time. Does any Member wish to speak on this amendment?

The Deputy Director of Agriculture, Eastern Provinces:

I said in my opening speech that this amendment had been proposed by the Northern House and the House of Chiefs and that although the addition of two Members would make the number of the Board up to thirteen, which would make it rather unwieldy, we have no strong opposition to it. We do not mind if there are more. I do feel that the Member nominated for the Colony is likely to be an African. They have no House of Assembly for nomination and therefore it is for the Governor to nominate him.

His Honour the Chief Commissioner:

The question is that clause 4 be amended by deleting the word "Six" and inserting the word "Eight" in line 7 and inserting after "nominated by" the words "House of Chiefs".

Will those in favour say "Aye" and those to the contrary "No". The "Noes" have it.

We will continue with clause 4.

The Member for Educational Interests (Mr A. Ikoku):

I was going to say, Sir, that we are not even sure that the six members provided are Unofficials, nor indeed that the one member provided in the last sentence of sub-section 1 is bound to be an unofficial, and I was going to propose a simple amendment that the word "Unofficial" be added before the word "Members" and also before the word "Member".

His Honour the Chief Commissioner:

With regard to the question, are you not rather restricting the privilege of the House?

The Member for Educational Interests (Mr A. Ikoku):

I do not think, so, Sir. We have been assured that six members—now eight—will be unofficials. Is that not the idea, Sir? There are six Unofficial Members, I presume, and I am only asking that they are "Unofficial".

The Deputy Director of Agriculture, Eastern Provinces:

I have no objection to that, Sir. It is the intention, I think, Sir; I am not sure about the last case.

The Secretary, Eastern Provinces:

I cannot see, Sir, the necessity for the inclusion of this because it is quite clear as the wording is now. The House can nominate a Member, a Member who is himself not a Member of the House as I read it, and it may be a private individual.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

That point was taken, Sir, during the last meeting and we thought it necessary not to fetter the discretion of the House and so

enable the House to nominate a non-member of this House who happens to have expert knowledge. When it comes to the question of nominating anyone by any of the Houses the matter should be left in the hands of the Unofficial Members.

His Honour the Chief Commissioner:

Do you wish to press the amendment?

The Member for Educational Interests (Mr A. Ikoku):

It is substantially the same, Sir.

His Honour the Chief Commissioner:

He will withdraw it if you are carrying on.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

Six Members of whom two shall be nominated by the Unofficial Members of the House. I think that is what we want. I hope it will satisfy. I think we are all agreed on this issue.

His Honour the Chief Commissioner:

Nominated by the Unofficial Members of each of the Houses of Assembly.

The Secretary (Finance), Eastern Provinces:

In view of the fact that the Unofficial Members have a majority I cannot see why it should not be left to the House.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

Owing to some difficulty I nearly failed to be here yesterday. Cause: lack of petrol, but I would say, Sir, that usually there is no difficulty in filling the official benches. Nobody knows when my friend, the Member from Port Harcourt, may be prevented from coming here. We want to make sure that if anybody nominates anybody it is the Unofficial Members. I hope that is not discriminatory.

His Honour the Chief Commissioner:

The question is that this House do advise His Excellency the Governor that clause 4 be amended accordingly. Does any other Member wish to address the House?

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

We have not finished with the clause yet. That last bit — I do not know what assurance we have that the Member nominated by the Governor will be an Unofficial Member. I think to all intents and purposes it would be, but what assurance have we, Sir? Therefore, Sir, I propose an amendment between the words "one" and "Member", the word "Unofficial".

His Honour the Chief Commissioner:

I do not think that would do. It would read wrongly.

The Secretary, Eastern Provinces:

It might be a private person, Sir.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

I was trying to avoid the word "African", Sir.

His Honour the Chief Commissioner:

I think your word will be needed.

The Senior Crown Counsel, Eastern Provinces:

I do not know what the definition of the word "Unofficial" is, Sir, why not say "Practical Agriculturist"?

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

I have always been given to understand that all members of the Agriculture Department are "Practical Agriculturists" (laughter). If the Chief Commissioner understands what our difficulties are, he will agree with our point of view. If we put the amendment in that form it would be suitable.

His Honour the Chief Commissioner:

Might I suggest that one Member be nominated by the Governor who should be a non-Official Member? Would that satisfy?

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

That is my idea, Sir.

His Honour the Chief Commissioner:

One Member who shall be a non-Official nominated by the Governor.

The Secretary (Finance), Eastern Provinces:

Who shall not be a member of the Public Service, Sir.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

Better still. I am glad we are all co-operating so well, Sir. (Laughter).

The Senior Crown Counsel, Eastern Provinces:

"One Member who shall be a non-official shall be nominated by the Governor to represent the Colony". I think that should satisfy it.

The Deputy Director of Agriculture, Eastern Provinces:

I think that will meet the case admirably. I think it was really the intention.

His Honour the Chief Commissioner:

The question is that this House do advise His Excellency the Governor that clause 4 be further amended as proposed.

Clause as amended.

Clause 5.

The Deputy Director of Agriculture, Eastern Provinces:

I propose an amendment to the marginal note.

Delete "Governor in Council" and insert the word "Board".

Clause 5 as amended.

Clause 5 (1) (b).

The Deputy Director of Agriculture, Eastern Provinces:

I propose the insertion of " ," (comma) after the "weeds" in line 1.

Clause 5 (1) (b) as amended.

Clause 5 (1) (c).

The Deputy Director of Agriculture, Eastern Provinces:

I propose the insertion of the words "or pest infestation" after "of disease" in line 4. The word "disease" does not cover all cases of pest infestation.

Clause 5 (1) (c) as amended.

Clause 5 (1) (d).

The Deputy Director of Agriculture, Eastern Provinces:

I propose the deletion of the word "insect" and the insertion of the word "pest". "insects" do not cover the whole of the animal kingdom which cause trouble.

Clause 5 (1) (d) as amended.

Clause 5 (1) (e).

The Deputy Director of Agriculture, Eastern Provinces:

I propose the deletion of the word "inspectors" and the insertion of the words "produce officers, assistant produce officers" in line 1.

Clause 5 (1) (e) as amended.

Clause 5 (1) (f).

The Deputy Director of Agriculture, Eastern Provinces:

I propose in the last line of the same clause the deletion of the word "of" and the insertion of the word "or".

Clause 5 (1) (f) as further amended.

Clause 5 (1) (p).

The Deputy Director of Agriculture, Eastern Provinces:

I propose the deletion of the word "inspectors" and the insertion of the words "assistant produce officers" in line 3.

Clause 5 (1) (p) as amended.

Clause 5 (1) (r).

The Deputy Director of Agriculture, Eastern Provinces:

I propose the deletion of the word "inspectors" and the insertion of the words "assistant produce officers" in line 2.

Clause 5 (1) (r) as amended.

Clause 5 as amended.

Clause 6.

Clause 7.

Clause 8 (1).

The Deputy Director of Agriculture, Eastern Provinces:

I propose an amendment — the deletion of the word "inspector" and the insertion of the words "produce officer or assistant produce officer" in line 1.

His Honour the Chief Commissioner:

As there are amendments of a similar nature in all the clauses may I propose you put them all at once?

The Deputy Director of Agriculture, Eastern Provinces:

I propose in clauses (8) (1), 8 (2) and 8 (3) the deletion of the word "inspector" and the insertion of the words "produce officer or assistant produce officer" in line 1.

Clause 8 as amended.

Clause 9.

The Deputy Director of Agriculture, Eastern Provinces:

I propose that after sub-clause (c) the insertion of a new sub-clause (d) which reads "any person who employs any person who is so disqualified to carry out or assist in carrying out any such transaction knowing that such person is disqualified (the onus of disproving which shall be on him)". And further delete the original sub-clause (d) and insert (e) and delete the original clause (d) and insert (f).

Clause 9 as amended.

Clauses 10 and 11.

Clause 12 (1).

Clause 12 (2).

The Deputy Director of Agriculture, Eastern Provinces:

I propose the deletion of the words "an inspector" and the

insertion of the words " a produce officer " or " an assistant produce officer ".

Clause 12 (2) as amended.

Clause 13 (1).

The Deputy Director of Agriculture, Eastern Provinces:

I propose the deletion of the words " an inspector " and the insertion of the words " a produce officer or assistant produce officer ".

Clause 13 (1) as amended.

Clause 13 (1).

The Deputy Director of Agriculture, Eastern Provinces:

I propose that line 2 *et seq.* should be amended to read " a fine not exceeding £200 or to imprisonment for a period not exceeding one year ".

Clause 13 (1) as further amended.

Clause 14.

The Deputy Director of Agriculture, Eastern Provinces:

I propose in lines 11 and 12 to amend as in clause 13 (1).

Clause 14 as amended.

Clause 15.

The Provincial Member for the Ogoja Province (Dr F. A. Ibiam):

Clause 13, Sir. . . .

His Honour the Chief Commissioner:

I am sorry. We have already dealt with that point. It has already been put and we cannot go back. I suggest that the Member may move the question in Legislative Council.

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

I propose an amendment here, Sir. " For a fine not exceeding £200 or imprisonment for a period not exceeding one year ".

Clause 15 as amended.

Clause 16.

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

I propose an amendment to clause 17.

His Honour the Chief Commissioner:

We are dealing with clause 16.

Clause 16.

Clause 17.

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

I propose an amendment to clause 17. In the fifth line of clause 17 "Order them to be destroyed" — I propose the deletion of these words.

The Deputy Director of Agriculture, Eastern Provinces:

That, Sir, I would rather strongly oppose. The object of this particular section is to prevent the importation into Nigeria of diseases which occur in other countries which are not general in Nigeria. If a man writes to, say, South Africa for, say, some rose plants and when those plants arrive in Lagos they are found to be affected by a disease we do not have here which may spread and cause serious danger to perhaps our oil palms, it is necessary for the Agricultural Officer at the port to have power to destroy them before they become a danger to the whole community and therefore, Sir, I ask for this amendment to be withdrawn.

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

I wish to press the amendment. I think power has been given to the Board to act in such an emergency and I do not see why an Agricultural Officer should have the same powers. He might act on mere suspicion and I do not think he should be vested with any powers to order any produce to be destroyed or detained.

His Honour the Chief Commissioner:

The question is that clause 17 be amended.

Will those in favour say "Aye" and those to the contrary "No". The "Noes" have it.

Clause 17.

Clause 18 (1).

The Deputy Director of Agriculture, Eastern Provinces:

I propose that clause 18 (1) be amended by deleting the word "inspector" and inserting the words "produce officer or assistant produce officer" in line 2.

Clause 18 (1) as amended.

Clause 18 (1) (a).

The Deputy Director of Agriculture, Eastern Provinces:

I propose the amendment to clause 18 (1) (a) by inserting after "produce" the words "which has been made subject to regulations under the provisions of this Ordinance", in line 2, and the insertion of the word "such" after "any" in line 3. This is an amendment which was suggested by the Northern House of Assembly and it is a very reasonable one.

His Honour the Chief Commissioner:

Has that amendment been accepted by the Government?

The Deputy Director of Agriculture, Eastern Provinces:

Yes, it has been accepted.

Clause 18 (1) (a) as amended.

Clause 18 (1) (b).

The Deputy Director of Agriculture, Eastern Provinces:

I propose, Sir, to amend sub-clause to read:—

“(b) to stop any person or persons carrying or believed to be carrying such produce and to examine such produce and to stop and search any vehicle, boat, canoe or animal carrying or believed to be carrying any such produce and to call upon the person in charge of such produce, or if he cannot be ascertained, the person appearing to be in charge of such vehicle, boat, canoe or animal, to unload any such produce found therein for inspection”.

Clause 18 (1) (b) as amended.

Clause 18 (1) (c).

The Deputy Director of Agriculture, Eastern Provinces:

I propose to amend clause 18 (1) (c) by inserting the word “such” after “any” in line 1.

Clause 18 (1) (c) as amended.

Clause 18 (1) (d).

The Deputy Director of Agriculture, Eastern Provinces:

I propose the amendment of sub-clause 18 (1) (d) to read:

“(d) to direct the person in charge of the vehicle, boat, canoe or animal, and the person or persons in charge of any produce seized under the provision of sub-clause (c) to proceed in or with the particular conveyance employed to the nearest suitable store for the purpose of depositing the seized produce and the containers thereof”.

The object is to get the produce which is seized under cover on a cement floor so that it can be examined as soon as possible.

Clause 18 (1) (d) as amended.

Clause 18 as amended.

Clause 19.

Clause 19 (1).

The Deputy Director of Agriculture, Eastern Provinces:

I propose the amendment of clause 19 (1) by the deletion of “an inspector” and the insertion of “a produce officer or assistant produce officer” in line 1.

Clause 19 (1) as amended.

*Clause 31.***The Deputy Director of Agriculture, Eastern Provinces:**

I propose the amendment of clause 31 by the deletion of the words " an inspector " and the insertion of the words " a produce officer or assistant produce officer " in line 2.

*Marginal Note:***The Deputy Director of Agriculture, Eastern Provinces:**

I propose the amendment of the marginal note to clause 31 by the deletion of the word " inspectors " and the insertion of the words " produce officers ".

*Clause 31 as amended.**Clause 32.**Clause 33.**Schedule.**House resumed.***The Deputy Director of Agriculture, Eastern Provinces:**

Sir, I beg to report that a Bill entitled " An Ordinance to make provision for regulating the planting and growing of agriculture crops, for the control of diseases and pests, and for the preparation, marketing, storage, transport, shipping and exporting of agricultural produce, and for purposes incidental to the above " passed through Committee with 44 amendments.

His Honour the Chief Commissioner:

The question is that this House do advise His Excellency the Governor that a Bill entitled " An Ordinance to make provision for regulating the planting and growing of agriculture crops, for the control of diseases and pests, and for the preparation, marketing, storage, transport, shipping and exporting of agricultural produce, and for purposes incidental to the above " as amended is acceptable to this House.

Will those in favour say " Aye " and those to the contrary " No ". The " Ayes " have it.

A BILL FOR AN ORDINANCE TO MAKE PROVISION FOR THE CONSTITUTION OF AND THE APPOINTMENT AND ELECTION OF THE MEMBERS OF THE PORT HARCOURT TOWN COUNCIL AND TO EMPOWER THE COUNCIL TO LEVY RATES FOR TOWNSHIP PURPOSES

The Resident, Rivers Province:

Sir, I beg to move the following:—

" Be it resolved:

That this House do advise His Excellency the Governor that a Bill entitled ' An Ordinance to make provision for the Constitution of and the Appointment and Election of the Members of the Port Harcourt Town

Council and to empower the Council to levy Rates for Township purposes' is acceptable in principle to this House."

Sir, on the motion on the adjournment of this House at the conclusion of its first session the Member representing the Urban aspect of life in Port Harcourt expressed the hope that within a short time Port Harcourt would attain the status of a First Class Township.

It is my privilege, Sir, to be called upon today to introduce this Bill which has been framed to give effect to this hope and which if it is accepted by this House will confer upon an Elected Council all the duties of a responsible self-governing body, and will provide the Council with powers to raise the revenues which will be necessary to enable it to maintain existing services and to expand them. I do not wish to weary the Members of this House with a long dissertation on Port Harcourt, but I should like to make a brief statement on the past history of this town in order to give a general background to the Bill. Most Members of this House will be well acquainted with the town of Port Harcourt. There may be some who need to be reminded that Port Harcourt is a town which is no more than thirty-five years old. I myself, and many Members of this House were born before Port Harcourt was thought of, and we are here today to discuss a Bill which is to give to this — the youngest town in Nigeria — a measure of political independence greater than is possessed by any other urban area in Nigeria. Port Harcourt has risen up out of the forests and swamps of the Delta area. From the first it has been under public ownership and control. This is an important factor in relation to the progress which has been made possible. At the beginning of its life Port Harcourt was a base for railway construction, and bush construction camps housed practically the entire population: gradually a town started to grow up inside a net work of roads, streets and railway tracks. Then during the period between 1921 and 1929 the Port area itself was developed and this naturally attracted a large population consisting of enterprising business men, and workmen employed by the Railway, Port and the Shipping concerns. Throughout the initial stages of development control of buildings and sanitation was lax, but as the town grew and resources increased improvements were made in sanitation, and electricity and water were added. Building Regulations were tightened up and a highest standard demanded and for the most part accepted. At the present time Port Harcourt has a population of some 36,000 people and it is still growing rapidly. This rapid growth of population has made it essential to regulate over-crowding and to provide improved sanitation. These will be among the tasks which the newly-elected Council will have to tackle. Nevertheless, Sir, the visitor who sees Port Harcourt for the first time is impressed, always, providing the weather is favourable with the orderly lay-out, the good roads, the quality of the houses and the vigour of the inhabi-

tants. Along with all this there has grown up a definite sense of civic pride, especially amongst the older inhabitants. All these features, Sir, have contributed to the progress which has culminated in this Bill and I venture to say that the public control of the Port Harcourt land is not the least of the factors which has brought to fruition the desires and ambitions of the people in record time. This Bill is the first of its kind in Nigeria, and will be followed in due course by a Bill which will be of general application to urban areas. I venture to suggest, Sir, that this Bill marks a definite milestone in the political progress of the people of the Eastern Region, and is an earnest of the expressed policy of the Nigerian Government to grant such measure of self-government to the people as they are able and willing to accept in good faith. If this Bill becomes Law Port Harcourt will be the testing ground for the first Council in Nigeria having a majority of African Members elected by secret ballot.

Turning to the Bill now, Sir, Members of this House will have studied the Bill and its Objects and Reasons. I would like to correct one small error in the Objects and Reasons — the word "month" should be substituted for the word "weeks" in paragraph 1 (c). The object of this Bill is to give Port Harcourt a Town Council which will be elected by adult suffrage within the Township. The constitution of the Council is provided for in clause 3. Two members are to be elected from each Ward of the Township. Clause 14 provides for the division of the Township into such Wards as the Governor in Council may prescribe by Regulation. There may also be members appointed by the Governor but these may not be more than half the number of the Elected Members. The qualifications for Elected Members are outlined in clause 4. Briefly, in order to qualify for election a man or woman standing for election must be a person whose name is on the Voters' List and a satisfactory citizen. In clause 5, Members—the Elected Members—take their seats for a term of three years. Appointed Members, under section 7, take their seats at the pleasure of the Governor whose powers under this Ordinance will probably be delegated. It is the intention that there should be three Appointed Members — the Local Authority, the Provincial Engineer and the Medical Officer of Health. Clause 10 provides for the appointment of the President of the Council by the Governor from among its Members. Clause 11, the Council elect their own Vice-President after each General Election. Clause 12 provides that the Council shall be a body corporate. Clause 13, exempts the Township from those sections of the Townships Ordinance which provide for the constitution of the Council, the appointment of a President, and the levying of Rates. This Bill contains its own provisions for these matters. Clause 14, as I have already said, empowers the Governor in Council by Regulations to divide the Township into Wards. There will be six Wards in Port Harcourt to begin with. Clause 15 provides who may vote and where. No voter may vote in more than one Ward, but he may

vote for two candidates in one Ward, though he may not cast both his votes in favour of one candidate. Clause 16 is the answer to the question "who is entitled to be placed in the Voters' List"? The various categories of voters are summarised in paragraph 1 (a), (b) and (c) of the Objects and Reasons. The general principle on which the franchise is based is the payment of Rent or Rates or association with either.

Clauses 17, 18 and 19 give the procedure to be followed by the Town Clerk in dealing with person desiring to have their names placed on the Voters' List. Notice has to be published, and the onus of claiming the right to vote lies on the individual concerned. If he does not claim he does not vote. Clause 20 requires any person who ceases to retain his voting qualification as a ratepayer to report if he loses this qualification, prescribes the penalties for failure to do so. Clause 21 gives the procedure to be followed by the Town Clerk in dealing with claims to be placed on the Voters' Lists. After examination of claims the names of person whose qualifications are proved to be satisfactory are included in the List of Voters. Clause 22 provides for the revision of the Voters' Lists. Clause 24 enables persons whose names have been omitted from the Voters' Lists to offer objections. It also enables protests to be lodged against the inclusion of the names of other persons in the Lists, provided the person who objects is himself a qualified voter. Clause 25 describes the duties of the Revising Officer who is the President of the Council. The powers of the Revising Officer, are in clause 26. It may be noted that no application for a name struck off or added to a List shall be allowed on the grounds that the property assessment is incorrect.

Clause 27, 28 and 29 describe the procedure to be followed in settling the Voters' List after the enquiry which is held in public has been completed. Clause 30 prescribes penalties for giving false information under the preceding sections. Clause 31 fixes the date of election as June 15th. Clause 32 enables the Governor in Council to make Regulations prescribing the number and boundaries of Wards, the conduct of Elections, and all matters relating thereto. Clause 33 enables the Governor to appoint a candidate to a Ward where no candidate has been nominated but such a person can only be nominated with his own consent. Clause 34 validates the proceedings of the Council despite the fact that election of a Member may be invalid. Clauses 35-42 define the character of offences and describe the penalties in respect of such offences. Clause 43 describes procedure when there is a dispute as to the validity of an Election and enables the Chief Justice to make Rules regulating practice and procedure if the validity of Election is in dispute before the Supreme Court. Clause 44 is important since it enables the Council to levy a half-yearly rate for the year 1949-50 and also empowers the Council to exempt any part of the Township from the payment of Rates. Clause 45 describes the

date and place of payment of Rates. Clause 46 fixes the liability for the rate and prescribes the penalty in the event of failure to pay. Clause 47 enables the Local Authority and the Township Advisory Board to continue to function until the first election of a Council to tide over the period between the 1st of January, 1949, the date on which the Ordinance should come into force and the 15th of June when the first election will be held. Clause 48 vests all Township assets and liabilities in the elected Town Council which were formerly held by the Local Authority. Clause 49 makes all Regulations and Bye-laws made by the Local Authority enforceable by the Council until they are revoked by it. Clause 50—the reason for this clause is that the first Voters' List will have to be compiled between the 1st of January, 1949, and the 15th of June, 1949. Schedules and Forms are self-explanatory. They are merely forms for Voters who have to give notice of their qualifications to be placed on the Voters' List. Sir, I commend this Bill to the House as I am confident that the Port Harcourt Town Council when it comes into being will continue to set an example of orderly progress.

The Member for Port Harcourt (Mr L. R. Potts-Johnson):

Sir, I beg to second the motion and if you will grant me an indulgence, I would like to say a few words.

His Honour the Chief Commissioner:

No doubt it is necessary.

The Member for Port Harcourt (Mr L. R. Potts-Johnson):

I should like to endorse what has been said by our Resident with reference to the progress which Port Harcourt has made. It would not be too much to say, I believe that Port Harcourt is the most progressive town in the Eastern Provinces, if not in Nigeria. It has been said this morning that since 1929 progress has been phenomenal and today, Sir, we take the credit for all we have done about this, in making Port Harcourt all it ought to be. We have not been able to do all we want to do yet I quite admit, but we hope that, within a short time, we shall make good these defects. Whilst on the subject of the Bill, Sir, I will have some amendments to propose when the House is in Committee and these amendments which I wish to propose come from the Officers and Members of the Community League—an organisation which represents the whole community in Port Harcourt of which I happen to be the President. I had summoned some meetings with reference to this Bill when it came to our hands and with the help of the Local Authority, Mr Floyer, we tried as much as possible to explain certain knotty points in the Bill to them; and whilst they appreciate the good intentions of the Law Officers who drafted the Bill they seemed to feel we must present amendments to this House when in Session; and I hope they will be received in the good spirit in which they are proffered, and I may venture to say, Sir, that if even all the amendments are not acceptable to this House some may at least be

acceptable so that when I go back to my people I may be able to tell them that they have had a hand in the framing of this Bill and the Bill is of their own creation. Mr Chairman, I am not going to say any more, Sir, but this that I heartily second this Bill which is the Port Harcourt Township Ordinance of 1948.

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):-

Your Honour, there is a point, Sir, on which I require some information. It is in clause 4 (2) (a). I notice that one of the qualifications of an Elected Member must be that he has never been convicted of an offence whether within Nigeria or elsewhere, and sentenced to imprisonment without the option of a fine and has not received a free pardon. I want an explanation whether, if a Member has suffered imprisonment for, say, three months for a trivial offence, such as common assault, he could be precluded from being an Elected Member.

The Senior Crown Counsel, Eastern Provinces:

The answer is in the affirmative, Sir. I cannot read into it any more than it says. A person who has been convicted of an offence and sentenced to imprisonment without the option of a fine and has not received His Majesty's free pardon is disqualified.

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

Why should a condition be so rigid in the case of a Town Council? With reference to Legislative Council I think that if a person has been sentenced to imprisonment not exceeding six months and has served the sentence he can qualify as an Elected Member. I do not see why the case at Port Harcourt should be so rigid.

The Second Provincial Member for the Onitsha Province (Mr C. D. Onyeama):

The point that has been taken by the last speaker is the same that I desire to take, but I think I will go even further in saying that in the Nigeria Legislative Council Order-in-Council, 1946, which sets out the Constitution of this House, the qualifications or disqualifications read as follows: "No chief shall be capable of being a Member of the House of Chiefs and no person shall be capable of being appointed or selected an Unofficial Member of a House of Assembly or being a First Class Chief or having been appointed or selected a Member of a House shall sit or vote therein who has, in any part of His Majesty's Dominions or in any territory under His Majesty's protection or in any territory in which His Majesty has from time to time jurisdiction, been sentenced to death or to imprisonment (by whatever name called) for a term exceeding six months, and has not either suffered the punishment to which he was sentenced, or such other punishment as may by competent authority have been substituted therefor, or received a free pardon".

In other words when a person has been sentenced to imprisonment for more than six months and he has suffered the imprisonment imposed by Law he is entitled to sit in the House, but in Port Harcourt Township Council which, with due respect, is subordinate to this House if anybody has suffered any imprisonment at all it does not matter whether in fact he has suffered the punishment, he has no right to sit on the Council and furthermore, Sir, the term used here is "for an offence". It does not matter whether it is the most trivial action or high treason, and to say, Sir, that if a man is convicted of an offence which is very trivial whether in Nigeria or elsewhere and is sentenced to imprisonment without the option of a fine, he has no right to vote seems to be a bit too much.

The second point I would like to make in connection with this Bill is that in most Municipalities in the world there is always in the constitution some provision for actions for and against the Municipality. By section 48 of this Bill we vest in the Township—in the Council—the property of the Local Authority, but although my honoured friend, the Resident for the Rivers Province has said that the section vests in the Town Council the rights and liabilities, I do not see anything in that section referring to liabilities. It only vests the property. I think that the public is entitled to protection in that if a man is going along a street at Port Harcourt and falls into a badly constructed culvert he should have a right of action against the Council. It is a right which occurs everywhere and Port Harcourt cannot get away from its obligations by ignoring the rights of the public. I think that express provision should be made under the Ordinance for people suing the Council if any need for that arises. Of course the usual provisions for limitation of time—six months period should be inserted. But I think, Sir, that it is a sad omission that the rights of the public have not been set down in the Bill. Otherwise I think the Bill is to be commended.

The Provincial Member for the Owerri (Rivers) Province (Mr H. Bowari Brown):

Your Honour, I would like to know for information, Sir, if a Barrister or Medical Practitioner happens to be disqualified from practising, and he owns perhaps a large premises in Port Harcourt, and is a citizen of Port Harcourt would the disqualification prevent him from voting? I think as long as he remains a good citizen, however he may be disqualified as a Barrister or Medical Practitioner, he should be able to vote. Secondly, I should like to mention in section 2, sub-paragraph (2) of the Ordinance—Families and Relations—I see here there is some proposed official amendment by which it is intended to alter this paragraph. It is possible that a man may have more than one wife. If the wives are not all living together, will that prevent them from being competent voters under this Ordinance? I think that the wife of a man whether she lives with him or not should have a vote.

The Member for Educational Interests (Mr A. Ikoku):

Your Honour, I would draw your attention to clauses 10 and 11 of the Bill. Clause 10 provides that the Governor should appoint a President of the Council and clause 11 provides that the Council should elect its own Vice-President. Then clause 10 goes on to stipulate that in the absence of the President His Excellency should appoint a temporary President. I should think, Sir, that the right thing, or the normal thing, I would not say "right", is that the Vice-President occupies the Chair in the absence of the President as otherwise he becomes an exalted figure-head, with no more rights or duties than any other Member of the Council. I appreciate, Sir, that the Vice-President may be an Unofficial and the President almost invariably an Official occupying his place *ex officio*, but even so I think a little measure of devolution should be risked as my honoured friend, the Resident, Rivers Province, said in this opening speech that this Bill if it becomes Law will try out the principle of Local Government and Port Harcourt will if they do well go down in history as pioneer; and so, Sir, I think the Government should not be afraid, if I may say so, of taking that little risk involved here. The Vice-President should occupy the Chair in the absence of the President.

The Provincial Member for the Ogoja Province (Dr F. A. Ibiam):

Your Honour, I have not much to say about this Ordinance. I am very pleased to find that Port Harcourt has risen to the status of being a Municipality. It is an example well worth emulating and I would like to see other urban areas like Enugu, Aba, Calabar and Onitsha rising to this status. It is a milestone whereby we Africans hope to learn to govern ourselves in the proper way. In reading through this Ordinance, Sir, I do not see anywhere where the Council is given powers to make Bye-laws. I am not a Barrister but perhaps legal people here can tell us if the Township Ordinance or the Municipality Ordinance which means that townships have the power to make Bye-laws is also applicable to the Port Harcourt Ordinance as far as Bye-laws are concerned. Otherwise, Sir, I would like, when it comes to the Committee Stage, to add after clause 12 another clause enabling this Council to make its own Bye-laws.

In clause 49, Sir, I notice that the Council will have power to retain Laws and Regulations made by the existing Local Authority and will have power to revoke any Bye-laws which it does not like. But it does not say so specifically that it does have this power to make Bye-laws.

The Senior Crown Counsel, Eastern Provinces:

The question last raised — the power to make Bye-laws — will be derived from the Townships Ordinance which has a long list of classes showing what Bye-laws may or may not be made. It

is a very long list and the clause which the Member for Ogoja suggests is really not necessary.

The Second Provincial Member for the Owerri Province (Mr D. N. Achara):

Your Honour, mine is only a very small observation. Clause 16 (1) (a) says "Every person of or over the age of twenty-one years whose name appears on the first day of October in any year in the Rates Ledgers for the current year kept in the Offices of the Council as being the person responsible for the payment of Rates on a tenement of which the capital, annual or unimproved value is assessed in accordance with the Assessment Ordinance at not less than one hundred and fifty pounds, eight pounds or forty pounds respectively as the case may be, shall be entitled to have their names placed on the Voters' Lists". I wish to ask, Sir, what happens in the case of a man who is twenty-one years of age who happens to live with his father. In that case his father pays his rent. Is such a person eligible to vote or not?

The Senior Crown Counsel, Eastern Provinces:

The answer is perfectly simple. If the man who is twenty-one years lives with his father and pays no rate in respect of any tenement (for he has no house of his own) he is not eligible to vote.

His Honour the Chief Commissioner:

Does any other Member wish to address the House before I call upon the mover to respond?

The Resident, Rivers Province:

In regard to the question about clause 4, sub-clause (2) (a) — disqualification of any person who has been convicted of an offence and served a term of imprisonment. This clause does not disqualify a person who is otherwise qualified to vote. What it does do is to disqualify a person from standing as a candidate. I suggest the operative words in this clause are to be found in line 4 — "without the option of a fine". It is almost inconceivable that anybody who has only committed a minor offence would be sentenced to a term of imprisonment without being given the option of a fine. I emphasise that this is a qualification for candidates. We want all who are candidates to be good citizens and I think the suggestion is if a man has been in prison he is not a good citizen.

With regard to the other point made by my friend from Onitsha — regarding clause 48 — I mentioned, I think, the term "assets and liabilities" of the Township. By that I meant for example roads as being Township property. I regard the maintenance of the roads as a liability and the roads themselves as assets. That is what I meant by that expression. My friend from Onitsha also drew attention to the fact that no specific provision is made in the Bill for people who are injured who wish to take action against

the Council for any reason. I think, Sir, that under section 12 it says the Council should be a body corporate and may sue or be sued as such. With regard to clause 10, Sir, the question of President, that section states that the President is appointed by the Governor from among the Members. The President will normally be the Local Authority. The reason for the insertion of these words in sub-section (2) is, I suggest, Sir, that under section 25 the President of the Council has the duties and powers of a Revising Officer and it would probably be quite impossible for a Non-official Member to exercise these powers. I think that this is the reason for the insertion of that provision. It is most unlikely that in the temporary absence of the President the Governor would be asked to exercise his powers unless the duties which the President is required to perform are such that they could not be performed by an elected Vice-President.

The power of the Council to make Bye-laws has been dealt with by Senior Crown Counsel. I would refer Members in this connection to section 13 which exempts the Port Harcourt Township from certain provisions of the Township Ordinance for which provision has been made in this Bill. All the other provisions in the Township Ordinance applicable to First Class Townships will be applicable to Port Harcourt except those which are specifically excluded. Finally, Sir, I come to section 16 (a), I am not quite clear what the question actually was, but I think it raised the question concerning a person who is responsible for the payment of Rates under that clause. If that is the case, I should like to say that a person who has a house and is responsible for the payment of Rates on that house is qualified as a voter. The members of his family, although they may be twenty-one years of age or over, are not qualified, because they pay no Rates. Also the section as it stands requires a small amendment which I propose to move in Committee.

His Honour the Chief Commissioner:

The question is that this House do advise His Excellency the Governor that the Bill entitled "An Ordinance to make provision for the Constitution of and the appointment and election of the Members of the Port Harcourt Town Council and to empower the Council to levy Rates for Township purposes" is acceptable in principle.

Will those in favour say "Aye" and those to the contrary "No". The "Ayes" have it.

The House will now resolve itself into Committee to consider the Bill clause by clause where possible, with the consent of the Members, I will join several clauses together to save time, if it suits you.

House in Committee.

Title.

Clause 1.

Clause 2.

The Resident, Rivers Province:

I propose the following amendment. Clause 2, sub-section (2) the addition of the words "living together" after the word "wife" and before the semi-colon in the definition of "family". This amendment will exclude adult members of a family who do not reside in Port Harcourt and have no responsibilities there. I also propose a further amendment in section 2(2), the deletion of the words "or any part of such tenement" in the definition of "occupier". This amendment is necessary in order to exclude those persons who do not pay either rent or rates.

The Provincial Member for the Owerri (Rivers) Province (Mr H. Bowari Brown):

I am not satisfied with this amendment, Sir, especially with regard to the definition of "family". A wife and husband may not live together but that should not prevent the woman from voting. The wife should have the privilege extended to her, whether she lives with the husband or not.

The Secretary (Finance), Eastern Provinces:

May I suggest, Sir, that if we inserted the words "living in Port Harcourt" the intention to exclude someone not living in Port Harcourt—for example, in Kano—would be served.

The Member for Port Harcourt (Mr L. R. Potts-Johnson):

This difficulty came before us in one of our meetings and I have been asked to suggest that it should be "wife" or "wives" but I do not think I can do that Sir. Even, although the argument was advanced, there are certain persons who are married according to Native Law and Custom and Native Custom is recognised by Law. The way I think we could overcome that difficulty is to suggest a definition of the word "wife".

His Honour the Chief Commissioner:

I think we are getting away from the amendment which is to add the words "living together" after the word "wife".

The Member for Port Harcourt (Mr L. R. Potts-Johnson):

I am proposing another amendment to get over that difficulty. It is the same thing, Sir. I want to add that in the definition to section 2, a definition of "wife" be made—that is "wife means any woman married to one man" or "wife means any woman married to such occupier". I feel that will overcome the difficulty, Mr Chairman—married either by Native Law and Custom or under the Marriage Ordinance.

His Honour the Chief Commissioner:

We are now considering an amendment that the words " living together " should be inserted between the word " wife " and before the semi-colon. I do not think this has any bearing on that. You may bring it up again.

The Member for Educational Interests (Mr A. Ikoku):

May I propose an amendment, Sir, to the amendment — for the words " living together " substitute " living in Port Harcourt ".

The Senior Crown Counsel, Eastern Provinces:

It seems to me, Sir, that most Electoral Laws confer votes on husbands and wives only when they are living together, and it seems a little strange that husbands and wives living apart should be both separately eligible to vote.

The Secretary (Finance), Eastern Provinces:

In deference to Senior Crown Counsel a husband and wife have not been separated unless they are separated by Law, wherever she may live.

His Honour the Chief Commissioner:

Do you wish your amendment to be put to vote?

The Member for Educational Interests (Mr A. Ikoku):

Yes, Sir.

His Honour the Chief Commissioner:

The question is that the amendment to the amendment of section 2 (2) is acceptable. Will those in favour say " Aye " and those to the contrary, " No ". The " Ayes " have it.

The Member for Port Harcourt (Mr L. R. Potts-Johnson):

I would ask for a further definition. I do not know whether it is necessary now that the word " wife "

His Honour the Chief Commissioner:

We have one further amendment to dispose of which has already been moved.

The Resident, Rivers Province:

The principle on which Franchise is based has to do with the payment of Rent or Rates. This amendment is necessary in order to exclude those persons who pay neither.

The Second Provincial Member for the Owerri Province (Mr D. N. Achara):

I think on this point the question which I asked a few minutes ago should be considered. What happens in the case of a man who has a son of about twenty-two or twenty-three years of age and his

The Second Provincial Member for the Onitsha Province (Mr C. D. Onyeama):

In the Interpretation Ordinance there is a provision that the use of the singular term shall include the plural and I am suggesting, Sir, we could get over it by saying the word "wife" includes "wives".

His Honour the Chief Commissioner:

We have sought legal advice on that and "wife" does not mean "wives".

The Second Provincial Member for the Calabar Province (Mr Nyong Essien):

I have a single question to ask on this matter. Does the establishment of a Municipality in Nigeria mean Anglicizing or the Britishizing of that Municipality in so far as marriage is concerned?

The Secretary (Finance), Eastern Provinces:

It is not a question of Anglicizing. What we are pressing for is definition. I am suggesting a wife married by the Marriage Ordinance or one wife declared by a man to be his wife under Native Law and Custom. The main issue is whether it is to be "a wife". It is quite clear that only "a wife" is intended. It is my view that a woman married either under the Marriage Ordinance or married under Native Law and Custom is eligible and I think it should be clarified.

His Honour the Chief Commissioner:

There is no definition of marriage by Native Law and Custom, but I am quite prepared to accept the Secretary (Finance)'s definition.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

I support the last speaker. The main issue is going to be one wife whether married under the Native Law and Custom or under the English Law.

His Honour the Chief Commissioner:

I am quite prepared to accept the definition if you will move it.

The Secretary (Finance), Eastern Provinces:

I move that there should be included at the end of this section " 'wife' for the purposes of this Ordinance means wife recognised by any Law of Nigeria and shall include one wife declared by any man to be his wife by Native Law and Custom ".

The Senior Crown Counsel, Eastern Provinces:

I think we must have to consider this point very carefully.

His Honour the Chief Commissioner:

Is it satisfactory to say Christian marriage?

The Senior Crown Counsel, Eastern Provinces:

I should say one wife whose marriage has been recognised by the Laws of Nigeria. In some portions of the Law we have declared what marriage — Christian marriage is.

The Member for Educational Interests (Mr A. Ikoku):

Your Honour, I am not very happy over this because I think the principle involved goes a little beyond the question of marriage. It is possible that if a man marries more than one wife and he accepts one wife for the purposes of this Ordinance he also accepts the children of that woman as the voting children. In effect you exclude the children of other women who are citizens in their own right; and again, Sir, a woman who happens to be unfortunate to be married to a man who already has a wife would be placed in a much worse position as a citizen than the woman who has the good fortune to be the accepted wife. Similarly the second wife would be worse of, from the point of view of civic rights, than the unmarried woman.

His Honour the Chief Commissioner:

If no one has a further amendment to propose I will put the question on the clause as it stands.

The Secretary (Finance), Eastern Provinces:

I have proposed at the end of the section to include " 'wife' for the purposes of this Ordinance means a wife recognized by any Law of Nigeria or shall include one wife declared by any man to be his wife by Native Law and Custom "

The Member for Urban Areas other than Port Harcourt (Reverend O. Efiang, O.B.E.):

I beg to second that.

The Member for Port Harcourt (Mr L. R. Potts-Johnson):

I would like my original amendment to stand.

His Honour the Chief Commissioner:

Does anyone wish to speak on the amendment to the amendment?

The Member for African Commercial Interests (Mr G. H. H. O'Dwyer):

I would very much like to support the amendment made by my friend, the Secretary (Finance), that by using the word " wife " to cover both the words marriage by Native Law and Custom as well as one by the Marriage Ordinance.

His Honour the Chief Commissioner:

The question is that this clause be amended as proposed. The " Ayes " have it.

The Secretary (Finance), Eastern Provinces:

I now wish to press for a further amendment — the deletion of the words “and his wife” in the definition of family. The object of this is to avoid the exclusion of some of the occupier’s children. Sir, it was pointed out by one Member that some of the children of an occupier would be excluded by the definition of wife which has just been passed.

The Secretary, Eastern Provinces:

You now get the position that children have the vote and the mother has not got a vote.

The Secretary (Finance), Eastern Provinces:

I cannot see why three children by one wife should have a vote and three other children should not have it.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

My only difficulty about that is it would mean the occupier and the children and exclude the wife entirely. It does give the impression that no wife is necessary for the family. I think you must have a wife to have a family and under that definition the word “wife” must appear somewhere.

The Secretary (Finance), Eastern Provinces:

It appears in the first line, Sir.

His Honour the Chief Commissioner:

The question is that clause 2 be amended accordingly.

Clause 2 as amended.

Clause 3.

Clause 4.

The Second Provincial Member for the Owerri Province (Mr D. N. Achara):

Could I know what has become of what we said a few minutes ago?

His Honour the Chief Commissioner:

The question has already been put and carried. The question is that clause 2 stand part of the Bill.

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

I am proposing an amendment, Sir, to clause 4 (2) (a) and the amendment is to come in the fourth line after the word “called” by the insertion of the words “for a term not exceeding six months”. The clause will then read: “Within five years before the date of election or since his election is convicted of an offence whether within Nigeria or elsewhere and sentenced to imprisonment by whatever term called for a term of not exceeding six months without the option of a fine and has not received His Majesty’s free pardon”.

His Honour the Chief Commissioner:

I do not quite follow.

The Resident, Owerri Province:

It seems to me, Sir, that there should be no such qualification here and sentence to imprisonment at all is a serious matter, and Port Harcourt must have the services of good citizens who have never served terms of imprisonment. It is no use arguing that in Legislative Council they have this special clause. Port Harcourt must set a good example.

The Resident, Rivers Province:

I wish to resist this amendment, Sir. Port Harcourt requires good citizens. I do not think that anybody who has served a term of imprisonment without the option of a fine should be regarded as a satisfactory candidate for election.

The Secretary, Eastern Provinces:

I suggest that Nigeria equally requires good citizens in Legislative Council and the Houses of Assembly and I do not think it will be in the interests of Port Harcourt to approve the amendment.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

On a point of order, there is one point regarding the amendment. Under Legislative Council Rules any man who has served a sentence is still entitled to come back but under this amendment it means that once a man has been sentenced at all he is not eligible for election.

The Second Provincial Member for the Onitsha Province (Mr C. D. Onyeama):

I was going to suggest at the end of the words "free pardon" in the fifth line the insertion of the words "or served the sentence imposed". That would bring it in line, Sir, with the corresponding Law in the Legislative Council and Houses of Assembly and, I may add, in the Houses of Parliament.

The Senior Crown Counsel, Eastern Provinces:

I do not know that a similar provision of the Legislative Council and this House should necessarily be followed in the case of Port Harcourt. It is up to the Port Harcourt people themselves — if they think that they do not want anyone who has been convicted of any offence at all they are entitled to ask for that. We need not blindly follow Legislative Council qualification. It is a question of what we think right for Port Harcourt. In a population of 35,000 I think they should be able to find six or eight people who are, like Caesar's wife "above suspicion". I think we should try and set as high a standard as possible.

The Second Provincial Member for the Onitsha Province (Mr C. D. Onyeama):

The question of a sentence of a term of imprisonment is at the discretion of a Magistrate and the Magistrate might give a man three months. It does not mean that such a man is not a fit member of society.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

In any case, Sir, if Port Harcourt as a small township of 35,000 people may not find it difficult to find six people without blemish, how much more the whole of Nigeria. I think it is a question of principle. A man may be sent to gaol for reckless driving, but if that man comes forward and has the ability to serve and wish to serve his country, should he be disqualified? I do not know whether the people of Port Harcourt were duly consulted on this Bill before it is brought here. It is our duty to scrutinise this legislation and in doing so we should be careful.

The Member for Port Harcourt (Mr L. R. Potts-Johnson):

In answer to the last speaker, Sir, this point came up in one of our meetings. I gave a similar explanation to that given by the Senior Crown Counsel and the point was withdrawn. It was brought before the people and after some discussion the motion was withdrawn.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

I think that the amendment is absolutely necessary for safeguarding the people. It is not a question of having a few honest people. We do not want them in Council only because they are honest.

The Member for Educational Interests (Mr A. Ikoku):

I think, Sir, Port Harcourt cannot have it all its own way. We are here to guide Port Harcourt. Our respected friend the Resident, Rivers Province, in his opening speech pointed out that we are trying to set a pattern for the Eastern Provinces and indeed for the whole of Nigeria.

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

I wish to press the amendment.

His Honour the Chief Commissioner:

The question is that clause 4 (2) (a) be amended as proposed.
Clause 4 (2) (a) amended.

The Member for Port Harcourt (Mr L. R. Potts-Johnson):

There is another amendment in clause 3 which I was requested to make and it is this that before making such appointment the

Governor shall take into account the recommendations of the Council submitted through the President. I should like that to be inserted because the Chairman, wherever he may be should consult the Council and will indeed see that the proper person is appointed. It is a minor thing, Your Honour.

The Secretary (Finance), Eastern Provinces:

There is no Council to make such recommendations, and I oppose it for that reason. It is not logical.

The Secretary, Eastern Provinces:

We cannot take the recommendations of a body which has not been created.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

The Governor should be left with wide rights and allowed certain discretion to enable him to choose whomsoever he thinks fit.

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

The Member for Port Harcourt has in mind future appointments. The Bill gives details of the Constitution of the Council at the very beginning and such an amendment would be a contradiction of the whole clause.

The Resident, Rivers Province:

It would not be possible to make recommendations. The position is that there would be three Appointed Members, the Local Authority, the Medical Officer and the Provincial Engineer, who are Officials posted to Port Harcourt for their normal duties.

His Honour the Chief Commissioner:

Does the Member wish to press the amendment?

The Member for Port Harcourt (Mr L. R. Potts-Johnson):

Yes.

His Honour the Chief Commissioner:

The question is that clause 3 be amended accordingly. The "Noes" have it.

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

On a point of information, Sir, I presume the amendment in clause 4 includes the one I suggested about

His Honour the Chief Commissioner:

The amendment was moved and carried.

Clauses 3, 4 and 5.

Clauses 6, 7 and 8.

Clauses 9, 10, 11 and 12.

The Member for Educational Interests (Mr A. Ikoku):

Your Honour, clauses 10 and 11. I have already expressed the views I hold about the Vice-President. May I move the deletion of clause 10, sub-section 2 in entirety and a consequential amendment if that is approved, the deletion of the following words in clause 11 (2), "and where no appointment of another person has been made under section 10".

The Senior Crown Counsel, Eastern Provinces:

I do not think that can possibly be accepted. If the Member will look at section 25. There is vested in the Revising Officer very important powers and it is very desirable that the Revising Officer should be an official. At all times he should be a person who is independent of local politics. The idea of the section is that where the President is not able to act the Governor will appoint a Vice-President who can perform the duties of a Revising Officer. I think that is the intention behind the Ordinance.

The Second Provincial Member for the Owerri Province (Mr D. N. Achara):

Your Honour, the Governor has to appoint the President of the Council, and the Council by a majority of votes elects a Vice-President from among the members. But when the President appointed by the Governor is absent from a meeting, the Governor steps in to appoint the Vice-President. This means that the Vice-President elected by the Council does not act for the President. But according to clause 11 sub-section 2 where no appointment of another person by the Governor has been made under clause 10 section 2, the Vice-President elected by the Council acts. To me this means coming back to the same thing that the Vice-President elected by the Council should act in the absence of the President always. Why the Governor shall appoint a Vice-President to act for the President in the latter's absence; but where such an appointment is not made, the Vice-President elected by the Council acts is a point I do not quite understand.

The Member for Educational Interests (Mr A. Ikoku):

Your Honour, I have spoken once, but in the light of the explanation by the Senior Crown Counsel, I propose an amendment to the amendment worded in such a way so as to except clause 25 from the powers of the Vice-President.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

I am opposed to the amendment. The President holds a specialized position; he must be somebody who has far more detailed knowledge of the machinery of Government, and while acting as Chairman he is the depository of knowledge, sometimes of a secret or confidential nature regarding Government activities or Government's intentions. In any case, he is Chairman for as long

as the Governor wishes him to be there. The Vice-Chairman is a man elected by the people for a term of three years, and at the end of three years he may be thrown out and a new person, who may be very inefficient, may take his place. If such a person has the right to act automatically as Chairman, there is no knowing exactly what the result will be, he might lead Port Harcourt in the wrong way. It must be realized that this person the Chairman will have at present to be an official with proper qualifications. I support the view of the Senior Crown Counsel and oppose the amendment because it is undesirable.

The Member for Port Harcourt (Mr L. R. Potts-Johnson):

I wish to make an amendment in connection with the appointment of a temporary President.

His Honour the Chief Commissioner:

There has already been an amendment moved on the matter. Can we deal with this amendment first? Does the mover wish to reply in any way?

The Resident, Rivers Province:

No, Sir.

His Honour the Chief Commissioner:

The question is that clause 10 (2) and clause 11 (2) be amended as proposed. The "Noes" have it.

The Resident, Rivers Province:

I wish to move a minor amendment. In clause 11 (2) line 2, after the figure "10" add "(2)". It is merely a clerical amendment.

The Member for Educational Interests (Mr A. Ikoku):

I have been listening to the suggestions made to these two clauses 10 and 11, and we agree that the clauses as they are should stand.

His Honour the Chief Commissioner:

We are now dealing with an amendment which calls for the insertion of the figure "2". Are you speaking on that amendment?

The Member for Educational Interests (Mr A. Ikoku):

No, Sir.

His Honour the Chief Commissioner:

The question is that clause 11 (2) be amended accordingly. The "Ayes" have it.

The Second Provincial Member for the Onitsha Province (Mr C. D. Onyeama):

I propose an amendment to clause 12. To insert the words "and may sue and be sued" after the words "common seal".

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

I would support that, Sir. There is a similar provision in the Ordinance for the University College. We are dealing with the fact that the Council shall be a body corporate. Surely it should be liable for its actions. If these bodies corporate must have rights they must also have liabilities.

The Senior Crown Counsel, Eastern Provinces:

Yes, I would propose also the addition of the usual wording which follows "and in the execution of any public duty, etc., no action shall lie unless it shall be brought within six months", but I think we could leave it to the Government in Legislative Council.

His Honour the Chief Commissioner:

The question is that this House do approve that clause 12 be amended as proposed by the Second Provincial Member for the Onitsha Province. The "Ayes" have it.

Sections 9, 10, 11 and 12.

The Provincial Member for the Ogoja Province (Dr F. A. Ibiam):

In section 11, sub-clause 2: it is stated "in the absence of the President, and where no appointment of another person has been made under section 10 the Vice-President may exercise any of the powers and perform any of the duties of the President". In section 10 we had agreed that a temporary President should be appointed by the Governor and also the Council should appoint a Vice-President. If the Vice-President cannot act for the President, I do not see any sense in the Council appointing a Vice-President at all.

His Honour the Chief Commissioner:

I must rule we have been over all this ground before and I cannot accept any amendment.

The Member for Port Harcourt (Mr L. R. Potts-Johnson):

On this same point I wish to speak. We have suggested that in line 3, the word "temporary" be substituted by "acting".

His Honour the Chief Commissioner:

It has precisely the same meaning, is not that so, Mr Crown Counsel?

The Senior Crown Counsel, Eastern Provinces:

Yes, "Temporary" and "Acting" is not different.

The Member for Port Harcourt (Mr L. R. Potts-Johnson):

Vice-President is a temporary President, and the word "Acting" should be substituted for "Temporary".

His Honour the Chief Commissioner:

The two words mean the same thing.

The Member for Port Harcourt (Mr L. R. Potts-Johnson):

In paragraph 12 we would like the following to be added " The Council should have power to make Bye-laws ".

His Honour the Chief Commissioner:

That has already been provided for in section 49.

Clauses 9, 10, 11 and 12.

Clause 13.

The Resident, Rivers Province:

I beg to move an amendment, Sir, to re-number clause 13 as 13 (1). *Delete* the letter " s " from the word " Townships " and in line 4 *insert* the words " save where it is otherwise expressly provided by this Ordinance " between the word " and " and the word " all ".

His Honour the Chief Commissioner:

Would the Member speak up. I am afraid I cannot hear and the reporters must find it very difficult.

The Resident, Rivers Province:

Add the following two sub-sections after section 13 (1):—

" (2) For the purposes of this Ordinance and in relation to Port Harcourt the Townships Ordinance shall be read subject to the modifications set out in Schedule B.

(3) Notwithstanding the definition of the expression ' Local Authority ' contained in section 2 of the Direct Taxation Ordinance, 1940, the Port Harcourt Town Council shall be deemed to be a Local Authority for the purposes of the said Ordinance."

Under the Direct Taxation Ordinance the Local Authority is defined as meaning a Local Authority for a Township of the Second Class, appointed or acting under the provision of the Townships Ordinance, whereas this Local Authority is appointed under section 3 of the Townships Ordinance. As to Schedule B, this contains provisions for the exercise of certain powers vested in the Governor by the Chief Commissioner, Eastern Provinces.

His Honour the Chief Commissioner:

Does anybody wish to address the House on this amendment?

Clause 13 as amended.

Clause 14.

Clause 15.

Is it the wish of Members that we should continue or would they like to adjourn now.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

If Your Honour is agreeable, I think we should stop now.

His Honour the Chief Commissioner:

The House will adjourn till 10 a.m tomorrow.

Debates in the Eastern House of Assembly

Friday, 30th July, 1948

Pursuant to notice the Members of the Eastern House of Assembly met in the Garrison Hall, Enugu, at 10 a.m. on Friday, the 30th of July, 1948.

PRESENT

OFFICIAL MEMBERS

- The Chief Commissioner, Eastern Provinces,
Sir Bernard Carr, Kt., C.M.G.
- The Resident, Cameroons Province,
Mr A. F. B. Bridges.
- The Secretary, Eastern Provinces,
Commander S. E. Johnson, R.N.
- The Resident, Owerri Province,
Mr J. S. Smith.
- The Resident, Rivers Province,
Mr A. T. E. Marsh.
- The Acting Resident, Calabar Province,
Mr H. L. M. Butcher.
- The Acting Resident, Onitsha Province,
Mr E. R. Chadwick, O.B.E.
- The Acting Resident, Ogoja Province,
Mr J. G. Mackenzie.
- The Secretary (Finance), Eastern Provinces,
Mr G. B. G. Chapman.
- The Deputy Director of Medical Services, Eastern Provinces,
Dr C. Wilson.
- The Acting Deputy Director of Education, Eastern Provinces,
Mr W. E. Holt, O.B.E.
- The Deputy Director of Agriculture, Eastern Provinces,
Mr M. Park.
- The Deputy Director of Public Works, Eastern Provinces,
Captain R. Rodger.
- The Senior Crown Counsel, Eastern Provinces,
Mr S. A. McKinstry.

UNOFFICIAL MEMBERS

- The Member for Urban Areas other than Port Harcourt,
Reverend O. Efiang, O.B.E.
- The First Provincial Member for the Cameroons Province,
Mr J. Manga Williams, O.B.E.
- The Member for Professional, Salaried and Wage-earning
Classes,
Mr E. N. Egbuna.
- The Member for African Commercial Interests,
Mr G. H. H. O'Dwyer.
- The First Provincial Member for the Onitsha Province,
Mr P. E. Chukwurah.
- The First Provincial Member for the Owerri Province,
Mr M. W. Ubani.
- The Provincial Member for the Ogoja Province,
Dr F. A. Ibiam.
- The First Provincial Member for the Calabar Province,
Mr Asuquo Okon.
- The Second Provincial Member for the Cameroons Province,
Galega, Fon of Bali.
- The Second Provincial Member for the Onitsha Province,
Mr C. D. Onyeama.
- The Member for Port Harcourt,
Mr L. R. Potts-Johnson.
- The Second Provincial Member for the Owerri Province,
Mr D. N. Achara.
- The Provincial Member for the Owerri (Rivers) Province,
Mr H. Bowari Brown.
- The Member for Educational Interests,
Mr A. Ikoku.
- The Second Provincial Member for the Calabar Province,
Mr Nyong Essien.

PRAYERS

At the request of the President, Mr L. R. Potts-Johnson, the Member for Port Harcourt, opened the proceedings of the House with prayers.

CONFIRMATION OF MINUTES

The Minutes of the meeting held on the 29th of July, 1948, having been printed and circulated to the Members, were taken as read and confirmed.

PAPERS LAID

The Secretary (Finance), Eastern Provinces:

Sir, I beg to lay on the table the report of the Standing Committee on Finance of the meeting held on the 29th of July.

His Honour the Chief Commissioner:

The question is that the report of the Standing Committee on Finance be adopted. Will those in favour say "Aye" and those to the contrary, "No". The "Ayes" have it.

QUESTIONS

NOTE.—Replies to Questions No. 6 by the Provincial Member for the Owerri (Rivers) Province, and No. 20 by the Member for Educational Interests, are not yet ready.

The Provincial Member for the Owerri (Rivers) Province (Mr H. Bowari Brown):

2. To ask the Deputy Director of Education, Eastern Provinces:—

(a) Why Government has refused or delayed financial assistance to the Kalabari College at Buguma?

(b) Judging by results of the last Cambridge Examination, should not this infant struggling institution be nursed up by Government support financially and otherwise without any further delay and excuses?

Answer—

The Deputy Director of Education, Eastern Provinces:

(a) It is considered that the school has not yet reached a state of efficiency which would justify its placing on the list of assisted Secondary Schools. In particular the present buildings are considered unsuitable for secondary education.

(b) The fitness of Secondary Schools for assistance is not judged by the results of written examinations but by inspection which takes into account the quality of the Management, Staff and Buildings and the balance and efficiency of the education given.

The Provincial Member for the Owerri (Rivers) Province (Mr H. Bowari Brown):

3. To ask the Secretary, Eastern Provinces:—

(a) Whether it is true that a Forest Reserve is to be or is being created in the Engeni area of Degema-Ahoada Divisions against the wishes of the owners of the forest who use same for agricultural purposes and depend largely upon native foodstuffs cultivated and produced there?

(b) What is the real object for creating this particular Forest Reserve and was this explained fully to the people concerned?

Answer—

The Secretary, Eastern Provinces:

(a) On the 14th of February, 1929, an Agreement between the Governor and the Chiefs of Emelego and Oloibiri Native Court areas was executed by the terms of which a Forest Reserve was to be constituted subject to rights established before a Reserve Settlement Officer. A number of attempts to reach a settlement satisfactory to all has been made but, on account of legal and other difficulties, without success. The area is now subject to section 19 of the Forestry Ordinance (No. 38 of 1937) but the provisions by the direction of the Governor have been exercised sympathetically and, so far as is known, without hardship to the people. It is now clear that the original area for reservation is no longer suitable on account of the extensive farming undertaken and it is intended, forthwith, to withdraw the Forest Staff now exercising control under section 19 of the Ordinance from all parts save those east of Emelego in which part only it is believed that a small Reserve may be finally constituted without interference with the people.

(b) The object of the Reserve is in accordance with approved Forest Policy and this has been explained to the people.

The Provincial Member for the Ogoja Province (Dr F. A. Ibiam):

8. To ask the Secretary, Eastern Provinces:—

(a) What is the personnel (it is not necessary to state names) of the Native Administration Staff in the following places:—

Abakaliki, Afikpo, Ikom, Obubra, Obudu, and Ogoja?

(b) How many members of the staff in each of these Native Administrations are indigenes of the Division in which they are posted?

Answer—

The Secretary, Eastern Provinces:

(a)	Abakaliki	...	...	...	...	...	118
	Afikpo	...	...	...	...	...	99
	Ikom	...	...	...	...	...	37
	Obubra	...	...	...	...	...	101
	Obudu	...	...	...	...	...	40
	Ogoja	...	...	...	...	...	61
(b)	Abakaliki	...	...	...	...	...	85
	Afikpo	...	...	...	...	...	93
	Ikom	...	...	...	...	...	35
	Obubra	...	...	...	...	...	96
	Obudu	...	...	...	...	...	37
	Ogoja	...	...	...	...	...	52

The Provincial Member for the Ogoja Province (Dr F. A. Ibiam):

13. To ask the Secretary, Eastern Provinces:—

(a) How many Native Court Clerks are there in each of the following Divisions of the Ogoja Province:—

Abakaliki, Afikpo, Ikom, Obubra Obudu, and Ogoja?

(b) What are the qualifications of each clerk?

(c) How long has each been in the Service?

(d) What was the grade of each clerk on appointment?

(e) What is the present grade of each clerk?

Answer—

The Secretary, Eastern Provinces:

Abakaliki.

(a) Eleven Native Court Clerks.

(b) Ten are holders of Standard VI Certificates, and one a holder of a Standard V Certificate.

(c) Three over ten years' service; five over five years' service; three under five years' service.

(d) All were appointed Grade V Native Court Clerks.

(e) Grade V.

Afikpo.

(a) Twenty Native Court Clerks.

(b) Twelve are holders of Standard VI Certificates; six Standard V; and two Standard IV.

(c) One with twenty-one years' service; three with fifteen years' service; three with thirteen years' service; one with twelve years' service; one with eleven years' service; two with ten years' service; three with nine years' service; two with seven years' service; one with three years' service; one with two years' service; two with one year's service.

(d) Four who were appointed after 1943 were on Grade V, but sixteen who were appointed before 1943 were ungraded as grading started after 1943.

(e) All twenty are in Grade V at present.

Ikom.

(a) Five Native Court Clerks.

(b) Three passed Standard VI, and two Standard V.

(c) One has fourteen years' service; one twelve years' service; one eight years' service; one seven years' service and one three years' service.

(d) Under the revised conditions of service, 1943, three were appointed Grade V, and two in a sub-scale now known as Grade VI.

(e) Four in Grade V, and one in Grade VI.

Obubra.

(a) Eleven Native Court Clerks.

Owerri-Rivers Provinces

1. Egbelu-Ihie.
2. Umuahia.
3. Ogonokom, Abua.
4. Harry's Town.
5. Okobo Abua.
6. Ovele Mburdu.
7. Central, Ogwa.
8. Okporowo-Odiabidi.

(iii) *Enrolment.* Approximately 5,000 pupils.

(c) (i) *Number of Primary Schools approved for the award of the First School Leaving Certificate:* Two.

(ii) *Location.*

1. Idua Asang, Oron, Calabar Province.
2. Ndon Ebom, Uyo, Calabar Province.

(iii) *Enrolment.* Information not available.

(d) Approximately £7,900 in 1948.

(e) Agbebi Memorial, Abua.

(f) £391 in 1947-48.

African Gospel Mission, Okigwi.

(a) Information not available.

(b) (i) *Number of Primary Schools:* Owerri-Rivers Provinces: 9.
Ogoja Province: 1.

(ii) *Location:*

Owerri-Rivers Provinces

1. Amanduba Group, Amanduba.
2. Aro Settlement, Aro.
3. Isuokpu.
4. Anicho Itheme Memorial, Anicho-Itheme.
5. Agwa Central, Agwa.
6. National Hope Institute.
7. Ndiorji.
8. Amukwe Amiyi.
9. Umuapu.

Ogoja Province.

1. Ishietutu Ishiagu.

(iii) *Enrolment.* Information not available.

(c) Nil.

(d) Information not available.

(e) None.

(f) Does not arise.

The Provincial Member for the Owerri (Rivers) Province (Mr H. Bowari Brown):

23. To ask the Regional Deputy Director of Education, Eastern Provinces:—

(a) What has Government done and is doing to encourage and

assist the Eledenwa Girls' Institution, the only Girls' School in the Rivers Province?

(b) Has any Development Grant been made to assist the school which is undoubtedly doing very good work under the able supervision of two or more European Ladies presently?

(c) Is this School on the list of Assisted Schools? If not, why not?

(d) How many Girls' Schools (Primary or Secondary) are established in the Eastern Provinces by (1) Government and (2) Missionary Bodies or Voluntary Agencies?

(e) Are there any satisfactory reasons why the Niger Diocese which has excellent records in educational services of the country should not receive direct financial assistance for Girls' Education from Development Funds?

Answer—

The Deputy Director of Education, Eastern Provinces:

(a) This school was assisted by a Grant of £1,860 in 1947-48, and so far this year has received a Grant of £743.

(b) No grant has been made from Development Funds.

(c) Yes, Sir.

(d) (1) None. (2) Forty-one Assisted, and twenty-six Non-assisted Primary Schools; three Secondary Schools.

(e) The choice of institutions to be expanded by assistance from Development Funds is governed by consideration of the general educational needs with especial regard to the ability of the proprietors to recruit the staff necessary for expansion. It has been considered best to use the limited Development money available for the expansion of Girls' Secondary Education by Protestant Missions in the Eastern Provinces to found one big Girls' School conducted jointly by a number of Missions.

The Member for Educational Interests (Mr A. Ikoku):

Your Honour, my information with regard to Question 22 subsection (a) in connection with the African Gospel Mission at Okigwi, is that the date of commencement of operation is July, 1946. I wonder if the Deputy Director of Education will correct me there.

The Acting Deputy Director of Education, Eastern Provinces:

All I can say is that correspondence about the activities of the Mission began approximately in 1934.

The Member for Educational Interests (Mr A. Ikoku):

Is it possible that on page 5 of the answer (d) "approximately £7,900 in 1948" refers to 1947? Is it possible that 1948 is a typographical error? Perhaps you mean 1947.

The Acting Deputy Director of Education, Eastern Provinces:

In regard to the sum of £7,900, reference was made in a petition sent to Mr Phillipson, in which the African Methodist Episcopal Zion Mission asked for information, which was given as 1948. The date referred to therefore is 1948.

The Member for Educational Interests (Mr A. Ikoku):

My information in regard to the African Gospel Mission Primary School page 6 — answer (1) is that the number of Primary Schools is 12:—

- 10 in the Owerri Rivers Province,
- 1 in the Ogoja Province,
- 1 in the Onitsha Province.

The Acting Deputy Director of Education, Eastern Provinces:

You may be correct.

The Member for Educational Interests (Mr A. Ikoku):

On the same page, Sir, in regard to date of enrolment . . .

His Honour the Chief Commissioner:

I think I am right in saying that the Member should submit a supplementary question for this in accordance with Standing Orders.

The Member for Educational Interests (Mr A. Ikoku):

I am only calling attention to this subject of numbers on the same page 6, item 3 (d). My information is: in 1947 this Mission spent £893 3s. 9d: £65 10s. 9d out of this sum came from school fees and the entire balance from voluntary subscriptions.

May I ask, Sir, if the Deputy Director of Education would consider these two Missions. I should be glad if the Director of Education will accord these two Missions very high priority when the Grant-in-Aid is re-opened next year, presumably.

The Acting Deputy Director of Education, Eastern Provinces:

Their claim for Grant-in-Aid will, I think, be judged according to the use of the educational facility and social usefulness of the schools. In other words, we should take the opinion of the Local Committee as to whether or not the school claiming assistance is useful.

BILLS**His Honour the Chief Commissioner:**

The House will resolve itself into committee to continue discussion on a Bill for "An Ordinance to make provision for the Constitution of and the appointment and election of the Members of the Port Harcourt Town Council and to empower the Council to levy Rates for Township purposes."

The House is in Committee.

The question is that the House do advise His Excellency the Governor that the following clauses are acceptable:—

Clause 16.

The Resident, Rivers Province:

I beg to move an amendment to this clause. After the word "be" and before the semi-colon at the end of clause 16 (1) (a) and the words "and the adult members of his family if living in the tenement in respect of which the Rates are paid."

Clause 16 (1) (a) as amended.

The Resident, Rivers Province:

I wish to propose an amendment to clause 16 (1) (b). Insert the words "or any part of a tenement" between the word "tenement" and the word "appearing" in the fourth line.

Clause 16 (1) (b) as amended.

The Resident, Rivers Province:

I wish to move an amendment to clause 16 (1) (c). In line 6 after the word "Ordinance" insert "and who pays in respect of such occupancy rent at the rate of not less than eight pounds per annum". This amendment is necessary in order that the principle to which I referred — the payment of Rates or Rent should be applied and so enable any persons occupying Government or Council Houses to vote.

Clause 16 (1) (c) as amended.

The Member for Port Harcourt (Mr L. R. Potts-Johnson):

There is another amendment, Sir, I wish to suggest, and I have been specially requested to do so by the Port Harcourt Chamber of Commerce, and it is this:—Their employees under this Ordinance, as it is framed will have no right to vote in the European Ward whilst occupying houses and tenements, whilst Government Officers occupying houses and tenements, in a similar capacity are provided for. They have the right to vote, but the employees have no right to vote and I would like to make an amendment to clause 16, sub-clause (c) to the effect that all who occupy such tenements free of rent by reason of the terms of their employment should have a right to vote. Members of the Chamber of Commerce pointed out that they will be paying a greater share of the Rates and that it must be expected of them, and yet their people will not get a chance to vote under this Ordinance unless some provision is made whereby their employees should have the right to vote.

The Secretary (Finance), Eastern Provinces:

I oppose that amendment. The whole principle of this Ordinance is that the vote should be given to people who pay Rent or Rates. The amendment would create a privileged class which I think is wrong in principle. This matter should not cause any cases of

hardship whatsoever. The employer could always make his employee pay him a sufficient amount of rent and can make arrangements whereby the employee earns more money to cover the cost of the rent. I do not think that the Ordinance should now be amended in order to create one privileged class.

The Secretary, Eastern Provinces:

May I make it clear, Sir. As far as I can hear the Member is suggesting that an amendment be made to section 16, sub-section (c). Did he refer to (c) only or did he wish to include (d)?

His Honour the Chief Commissioner:

The amendment would include (d).

The Secretary, Eastern Provinces:

I must say, Sir, that I agree with the last speaker.

The Resident, Rivers Province:

I have already stated, the principle on which the franchise will be based is the payment of Rent or Rates. There is this class of persons, Sir, who by reason of their contract of service do not pay either Rent or Rates but who are occupiers of tenements which are assessed for rating purposes, but the Rates are paid by the corporate bodies which employ them. It happens, Sir, that this class of persons are nearly all in occupation of houses situated in what is called the "Government Reservation Area" — I should prefer to call it "The First-Class Residential Area". The situation is therefore created whereby no vote can be cast either by a corporate body which pays both Rent and Rates, or by any employee of such body, and this amendment has been introduced I think, Sir, to enable this class of persons, I mean for example the employees of a Firm or a Mission, who do not pay Rent to their employers, to enable these persons to qualify for the franchise. Members of this House will have to decide whether in fact this amendment will create a privileged class of voters. It happens that the majority, if not all of the persons affected are expatriates. The exclusion of this class of voters from the franchise will mean, of course that they will not be able to nominate a candidate, so it may be left to Government Officials who qualify under sub-clause (c) to stand for election in this Ward. If no Government Official wishes to stand the Ward may be unrepresented. It may be asked why do not these persons take steps to obtain voting qualifications, for example by means of an arrangement whereby their employers would pay them an additional sum of money sufficient to meet the rent and the employees would then pay over the amount to their employers and so qualify to vote. Two objections have been made to this suggestion. Firstly that it would be necessary for all the existing written contracts of service with employees in Port Harcourt only to be amended to include provision for the payment of Rent, and secondly the resulting addition to their emoluments would render these

employees liable to the payment of additional Income Tax. When the Constitution of the Port Harcourt Council was being discussed in Port Harcourt in 1947 and the division of the town into Wards with representatives elected from each was being considered, a proposal was put forward that the interests of the Ward now under discussion would be served by the nomination of members to represent the Ward on the Council. This proposal was opposed by the people of Port Harcourt who desired that the two seats in the Ward should be contested by the ordinary processes of election which apply to all the other Wards and this objection was accepted. Port Harcourt representatives were, I believe, at that time, anxious that these interests should be represented on the Council. The question at issue therefore resolves itself into whether this class of persons should be given a voting qualification by means of this amendment or whether the House would regard the amendment as creating a privileged class of voters. I would like to remind the House of the statement which I made in my opening address that this Bill is the Port Harcourt Township Bill and will be superseded in the near future by a Municipality Bill which will be Nigeria-wide in its application, that is, it will be applied to all those urban areas which from time to time find themselves able and willing to have it applied.

The Senior Crown Counsel, Eastern Provinces:

Sir, having heard the balanced presentation of the two arguments I still feel I must give very much weight to the principle enunciated by the Secretary (Finance), Eastern Provinces. I think the last speaker made reference to Government Officers standing for election. That is not possible.

His Honour the Chief Commissioner:

There is nothing in the Bill to prevent it.

The Senior Crown Counsel, Eastern Provinces:

It comes as a novel proposition to me that a whole-time Government Officer whose whole time is at the disposal of Government could stand for election. That, of course, would be one means out of it, but I still think the principle is wrong. The qualifications under this Bill are either you pay Rent or Rates. It is perfectly easy for the Commercial Firms to do exactly what is done in the Government Service; they can make their employees pay rent and pay it back to them. The one reason why I take it that the employees are not very keen on that proposal is that they will have to pay Income Tax on the amounts of rent received. The only answer to that is to point out that this is giving them privileges which certainly do not apply to Government Officers, who have to pay rent for their houses and have to pay Income Tax on it.

His Honour the Chief Commissioner:

Does the mover of the amendment wish to say anything?

The Member for Port Harcourt (Mr L. R. Potts-Johnson):

It is just to say it looks altogether unfair if no chance is given to the employees to vote, as provision is made for other junior members of the service under (c). Why should not provision be made for everyone?

His Honour the Chief Commissioner:

The point is that Government employees do pay rent. They get their qualification by paying rent.

The question is that clause 16 (1) be amended by an additional clause with the letter "d" as proposed by the Member for Port Harcourt. Will those in favour say "Aye" and those to the contrary "No". The "Noes" have it.

The Member for Port Harcourt (Mr L. R. Potts-Johnson):

There is another point I wish to make on behalf of the Chamber of Commerce. They want an addition to be made to section 16 (1) (a) to enable a corporate body such as that which represents Commercial Interests, to vote as a body at the time of election.

The Senior Crown Counsel, Eastern Provinces:

I find some difficulty in a corporation qualifying for voting. Only persons who have attained twenty-one years of age can vote. That can apply only to a person and not a corporate body. The word "person" must be limited to individuals and not to corporate bodies.

The Secretary (Finance), Eastern Provinces:

It seems to me to be open to objection. A special request has been made for the employees of corporate bodies to have a special vote, and now a special vote is asked for for the employer. It is more privilege.

The Secretary, Eastern Provinces:

I suggest the amendment is contrary to the principles of the Bill.

His Honour the Chief Commissioner:

I do not think any amendment has been moved yet. The Member rose on a point of explanation. Is his explanation acceptable?

The Member for Port Harcourt (Mr L. R. Potts-Johnson):

I have not yet moved an amendment.

His Honour the Chief Commissioner:

I agree that you only rose to give an explanation. The explanation has been given. Is that explanation satisfactory to the Members?

The Member for Port Harcourt (Mr L. R. Potts-Johnson):

It is satisfactory to me otherwise I would never have proposed it here. The actual wording of the request is that the word "person" is not defined, but it has been made clear to the Chamber of Commerce that it will include a corporate body.

His Honour the Chief Commissioner:

The explanation given is that it does not include a corporate body. Does any other Member wish to address the House on clause 16? The question is that this House do advise His Excellency the Governor that clause 16 as amended is acceptable. Will those in favour say "Aye" and those to the contrary "No". The "Ayes" have it.

Clause 17.

Clause 18.

The Resident, Rivers Province:

There is a slight amendment. I beg to move an amendment to Schedule B by the deletion of the words "form A and B in the Schedule" in line 3 and the substitution of the words and figures "forms A (1) and A (2) and B in Schedule A". A similar amendment will be needed in the marginal note.

Clause 18 as amended.

Clause 19.

The Resident, Rivers Province:

In line 2 *delete* the words "The Schedule" and *substitute* "Schedule A".

Clause 19 as amended.

Clause 20.

Clauses 21, 22 and 23.

Clause 24.

The Resident, Rivers Province:

In sub-clauses (1) and (2) (a) and (b) of clause 24, for the words "in the Schedule", read "in Schedule A", wherever the former occurs. In the marginal notes insert the letter "A" after the word "schedule" wherever the latter occurs.

Clause 24 as amended.

Clauses 25, 26, 27, 28 and 29.

Clauses 30, 31 and 32.

The Provincial Member for the Ogoja Province (Dr F. A. Ibiam):

Your Honour, in clause 31, the date of the election is given as the 15th day of June, and I would like to make a slight amendment here, inserting after the word "June" the following: "except when it falls on a Sunday, when such election shall be on the day preceding or following the 15th day of June".

The Senior Crown Counsel, Eastern Provinces:

I think this is covered by the Interpretation Ordinance, whenever an act falls to be done on a Sunday it may be done on the following day.

His Honour the Chief Commissioner:

Does that satisfy the Member? It is covered by the Interpretation Ordinance.

The Provincial Member for the Ogoja Province (Dr F. A. Ibiam):

No, Sir. I would rather have the following words inserted: after the word "June"—"except when that day falls on a Sunday, when such election shall be on the day preceding or following the 15th day of June".

His Honour the Chief Commissioner:

May I suggest the Member has forgotten a Public Holiday or a Good Friday? I think it is quite unnecessary, but I am willing to accept the amendment if you press it. It is covered by the Interpretation Ordinance.

The Provincial Member for the Ogoja Province (Dr F. A. Ibiam):

I agree, Sir.

The Member for Port Harcourt (Mr L. R. Potts-Johnson):

There is a small amendment I have been requested to make. This is section 30, sub-section 3, the last words "both such fine and imprisonment" should be deleted. We think it is enough for a man to be fined £500 for an offence or sentenced to imprisonment for two years. Both fine and imprisonment will be too much for any one of us.

The Secretary, Eastern Provinces:

Might I point out that it is permissive, Sir?

The Resident, Rivers Province:

I would like to point out this sub-section provides for a penalty for false statements made on oath, and to remind the Members of this House that a false statement made on oath in judicial proceedings would have a maximum penalty of fourteen years imprisonment without the option of a fine. The £500 or two years or both is the maximum sentence, and it should be left to the discretion of the Court to see that the punishment fits the crime.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

I feel that the fine of £500 or two years imprisonment, which is the maximum sentence, should be left to the discretion of the Court, who will be able to see what punishment is suitable.

His Honour the Chief Commissioner:

Does the Member wish to press his amendment?

The Member for Port Harcourt (Mr L. R. Potts-Johnson):

Yes, Sir. £500 is not a small sum, Sir. To gaol a man for two years in addition to a fine of £500 for an offence committed inadvertently is too heavy a punishment. Owing to a lapse of memory a man might have forgotten something which he has to say and say another, and a Judge who might be severe could give him a maximum penalty. We feel that £500 or two years imprisonment, but not both, will meet the case.

The Second Provincial Member for the Calabar Province (Mr Nyong Essien):

I rise to support the last speaker. The sentence would be too much for an act which may be done in an unguarded moment.

The Senior Crown Counsel, Eastern Provinces:

I wish to say that no judge would pass such a sentence. In fact, it may not be necessary, except in certain instances where the person concerned knowingly and wilfully commits the offence.

The Second Provincial Member for the Onitsha Province (Mr C. D. Onyeama):

We do not quarrel with the fact of the punishment, what we are quarrelling with is the fact that it is too much. A Judge may fine you or he may imprison you, but where a man is exposed at once to a fine and imprisonment, it is too much. I support the amendment.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

Your Honour, one might be inclined to oppose this amendment on the grounds that if what we desire for Port Harcourt is a very high standard of honesty and integrity, no penalty is too high to be inflicted on any person who does anything to make this Township Ordinance impossible of success. But as was pointed out by a speaker before this Ordinance is intended for Port Harcourt and the people of Port Harcourt have felt the penalty contemplated rather stiff and they would prefer less severe punishment. It is going to be an experiment and there is no doubt that all sorts of crimes will be committed under this Ordinance either wilfully or unintentionally.

The Deputy Director of Medical Services, Eastern Provinces:

Sir, I consider that the integrity of an oath is more or less the absolute foundation of our Society and anything that strikes at that is to be deplored. A man who makes a statement on oath knowing it is wrong is the biggest enemy Society can have.

His Honour the Chief Commissioner:

The question is that this House do advise His Excellency the Governor that clause 30, sub-section (3) be amended accordingly.

The Secretary (Finance), Eastern Provinces:

May I suggest a division, Sir.

<i>For</i>	<i>Against</i>
The Second Provincial Member for the Calabar Province	The Senior Crown Counsel, Eastern Provinces
The Member for Educational Interests	The Deputy Director of Public Works, Eastern Provinces
The Provincial Member for the Owerri (Rivers) Province	The Deputy Director of Agriculture, Eastern Provinces
The Second Provincial Member for the Owerri Province	The Deputy Director of Education, Eastern Provinces
The Member for Port Harcourt	The Deputy Director of Medical Services, Eastern Provinces
The Second Provincial Member for the Onitsha Province	The Secretary (Finance), Eastern Provinces
The Second Provincial Member for the Cameroons Province	The Resident, Ogoja Province
The First Provincial Member for the Calabar Province	The Resident, Onitsha Province
The Provincial Member for the Ogoja Province	The Resident, Calabar Province
The First Provincial Member for the Owerri Province	The Resident, Rivers Province
The First Provincial Member for the Onitsha Province	The Resident, Owerri Province
The Member for African Commercial Interests	The Secretary, Eastern Provinces
The Member for Professional, Salaried and Wage-earning Classes	The Resident, Cameroons Province
The First Provincial Member for Cameroons Province	The Chief Commissioner, Eastern Provinces
The Member for Urban Areas other than Port Harcourt	
<hr/> 15	<hr/> 14

His Honour the Chief Commissioner:

The result of the voting is "Ayes" 15, "Noes" 14. The "Ayes" have it.

The First Provincial Member for the Owerri Province, (Mr M. W. Ubani):

I do not know, Sir, if we are still considering section 30. If we are, there is a further amendment I would like to ask for. I am referring to a fine of £50 in sub-clause 2, and £500 in sub-section 3.

His Honour the Chief Commissioner:

Might I point out to the Member that it is already provided that if a man is liable to a fine he is liable to a lesser fine and that is only the maximum. If we alter this clause I am quite certain the Attorney-General will alter it to its original form when it goes to Legislative Council, but if you wish to press your amendment, you may do so.

The Senior Crown Counsel, Eastern Provinces:

To be consistent we have made the amendment in clause 20, and we may as well make it here Sir. "Liable on conviction to a fine not exceeding £500 or to imprisonment for a term not exceeding two years" instead of "liable to a fine of £500 or to imprisonment for two years".

The Second Provincial Member for the Onitsha Province (Mr C. D. Onyeama):

We accepted this amendment in the other Bill because there was a case of inconsistency. But in this case I am not aware of any inconsistency.

The Secretary (Finance), Eastern Provinces:

If this amendment goes through an inconsistency is being condoned because section 20 has not been amended in this House.

The Second Provincial Member for the Onitsha Province (Mr C. D. Onyeama):

In section 20 the wording is the same.

The Secretary, Eastern Provinces:

Section 20 has not been amended. I think it will be an inconsistency because in clause 42 in sub-clause (b) we have there "to a fine not exceeding £50".

The Senior Crown Counsel, Eastern Provinces:

Might I suggest, Sir, that we amend section 42 if any amendment is put in front. It will save putting it two or three times, but if we do not amend section 42 we will have to amend two or three clauses which come before. Clause 42 (b) "shall be liable to a fine not exceeding". It will be simple to amend clause 42 when we come to it, or it could be done in Committee in Legislative Council.

The Member for Educational Interests (Mr A. Ikoku):

I would very much oppose this amendment to allow a false statement made on oath to go unpunished or to be lightly punished. Whoever does such a thing wilfully should get the maximum punishment.

His Honour the Chief Commissioner:

The Member has already voted in favour of the amendment. The amendment has already deleted "to both such fine and imprisonment".

The Member for Educational Interests (Mr A. Ikoku):

That is not my point. In view of what this section amends I am opposed to it because it makes the punishment too light.

His Honour the Chief Commissioner:

I think one of us has got confused. The idea is simply to be consistent and to have the thing the same all the way through the Bill. Whether the words are in or not it makes not the slightest bit of difference.

The Secretary (Finance), Eastern Provinces:

We are not going to be consistent because we have not amended section 20.

The Secretary, Eastern Provinces:

When we get to section 42 we can consider the amendment.

The Member for Urban Areas other than Port Harcourt (Reverend O. Efiang, O.B.E.):

The point is really very small, but it is definitely understood that with or without the insertion of that phrase the understanding of the election is the same and if that is so, Sir, there is no reason why we should make any amendment. I do suggest that we accept the position without any amendment. When we come to section 42 we can amend, so that it will be consistent. In future those who are responsible for drafting these Bills will take this matter into consideration.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

It is the correct form and the phrase is only used where it is intended to put a proposition beyond all doubt.

His Honour the Chief Commissioner:

Does the Member wish to press his amendment?

The First Provincial Member for the Owerri Province, (Mr M. W. Ubani):

No, Sir.

His Honour the Chief Commissioner:

Does any other Member wish to address the House on this section?

Clauses 33, 34, 35 and 36.

Clauses 37 and 38.

Clause 39.

Clauses 40 and 41.

The Second Provincial Member for the Onitsha Province (Mr C. D. Onyeama):

Clause 40. I think, Sir, that the sentence imposed is too light for offences in respect of Nomination Papers, Voting Papers and Ballot Boxes. Section 40 (1) (a) reads:— "Every person who forges or fraudulently defaces or fraudulently destroys any Nomination Paper, or delivers to the officer charged with the conduct of elections any Nomination Paper, knowing the same to be forged". The element or ingredient of the crime in this case is forgery and fraud and the sentence proposed is a fine of £50 or imprisonment for six months. In my humble opinion it is light and I would suggest a fine of £100 or imprisonment for two years. I propose it should read "guilty of an offence and shall be liable to a fine of £100 or imprisonment for two years".

The Senior Crown Counsel Eastern Provinces:

I would second that.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

The sentence is light, but if Government proposes to amend it and will make the penalty heavier, I will support.

The Secretary, Eastern Provinces:

May I ask, Sir, if this is an official motion?

His Honour the Chief Commissioner:

The amendment came from the Second Provincial Member for the Onitsha Province.

The Second Provincial Member for the Onitsha Province (Mr C. D. Onyeama):

I am trying to avoid a situation where certain Members would have to oppose it because I moved it. (*laughter*).

His Honour the Chief Commissioner:

You have moved an amendment and you must accept it.

The Member for African Commercial Interests (Mr G. H. H. O'Dwyer):

I would like to move an amendment to the amendment. That it should read "a fine not exceeding £100 or to a period of imprisonment not exceeding two years".

His Honour the Chief Commissioner:

Now we are getting into an inconsistency again.

The Member for African Commercial Interests (Mr G. H. H. O'Dwyer):

What I had in mind was that a case of this kind might come before a Magistrate of limited powers.

The Senior Crown Counsel Eastern Provinces:

A Magistrate Grade I has jurisdiction to impose imprisonment up to two years.

The Provincial Member for the Owerri (Rivers) Province (Mr H. Bowari Brown):

Might I move that the section should read: "shall be guilty of an offence and liable to a fine of £100 or imprisonment for one year" not two years.

His Honour the Chief Commissioner:

We will take the amendment to the amendment first. Is it the wish of this House that clause 40, sub-clause 1 be amended to

read:—"a fine of £100 or to imprisonment for one year". Will those in favour say "Aye" and those to the contrary "No". The "Noes" have it.

We will now return to the original amendment. The question is that this House do advise His Excellency the Governor that clause 40, sub-clause 1 at the end be amended to read: "a fine of £100 or imprisonment for two years". Will those in favour say "Aye" and those to the contrary "No". The "Ayes" have it.

Section 40 as amended.

Section 41.

Section 42.

The First Provincial Member for the Owerri Province (Mr M. W. Ubani):

This section recalls an amendment which has already been discussed, the alteration of an inconsistency. I would suggest that it be amended by the substitution of the word "of" for the words "not exceeding" occurring in line 12 of the clause.

Clause 42 as amended.

Clauses 43 and 44.

Clause 45.

The Resident, Rivers Province:

I beg to move an amendment to clause 45. In line two the figure 44 should be substituted for "43".

Clause 45 as amended.

Clauses 46 and 47.

The Member for Port Harcourt (Mr L. R. Potts-Johnson):

I have an amendment to make, Sir. It is on sub-section 3 of clause 46. That the following words be added: "provided that one week's notice is given to him in writing before action is taken against him in Court". This amendment was suggested because it was possible that the person concerned may not be in town and we in Port Harcourt do often go away a great deal. A man may not know that notice has been given him, he is away and when he comes back perhaps the month is exhausted and then a week's notice can come to him in writing before action is taken in Court. That is all we plead for, Sir.

The Second Provincial Member for the Owerri Province (Mr D. N. Achara):

The Member for Port Harcourt has proposed an amendment. I should propose two weeks instead of one week. I had lived in Port Harcourt and I know what it is for a paper to come to a person's house and find him absent when he may be in Calabar or in the Cameroons, so I think the period should be longer than one week.

The Senior Crown Counsel Eastern Provinces:

I think the amendment is objectionable in principle because the Rates become payable on a certain day. It is for the debtor

to pay his debts by that time. It is not for the creditor to give warnings. It would give a lot of work to the Council if they have to give notice, and the only penalty is 8%. The principle is wrong. It is one of the weaknesses of a lot of us; debtors do not realise it is their duty to pay their debts. They expect their creditors to run after them. If a man knows he is going to be away when the Rates become payable he should make arrangements to have them paid.

The Secretary, Eastern Provinces:

If the Council were to give warning it would mean more paper; more written forms.

The Secretary (Finance), Eastern Provinces:

It is a common practice of Municipalities to send a second demand for Rates.

The Resident, Rivers Province:

In section 44 (2) (c), the Council shall determine the date when the Rates shall become due. This amendment as I see it will only create an additional difficulty for the Council. Section 46 (3) provides for the payment of Rates within one month and the effect of this amendment would be to give the debtor five weeks and I cannot see the point of this amendment at all. The onus of paying Rates or Taxes is on the debtor.

His Honour the Chief Commissioner:

Would you kindly refer me to the section you are talking about.

The Resident, Rivers Province:

Section 44 (2) (c). We will be imposing rather serious hardship on the Council if the Council is expected to give notice before it could put a debtor into Court. It really means that in an action the Council would have to prove that notice has been sent.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

I do not think that Port Harcourt will have all that money to waste on litigation on that account. People must be discouraged from defaulting in payment of Rates. I oppose this amendment.

His Honour the Chief Commissioner:

The question is that this amendment is acceptable to the House. Will those in favour say "Aye" and those to the contrary "No". The "Noes" have it.

Clauses 46 and 47.

Clause 48.

The Resident, Rivers Province:

I propose an amendment. The deletion of the words "or in the Township Advisory Board". The Township Advisory Board not

being a corporate body cannot hold any of the property enumerated in this section.

Clause 48 as amended.

Clauses 49 and 50.

The Resident, Rivers Province:

Clause 50. I beg to move the following amendments:— (1) in line 1 of the table delete the word " of " and substitute the word " or ". (2) In paragraph (d) of the same sub-clause insert the words " (Schedule A) " after the words " Forms A and B ".

Clause 50 as amended.

Schedule A.

The Resident, Rivers Province:

I move the following amendments:—" Schedule " should read " Schedule A " and underneath read " Form A (1) ". Also Form A (2) should be added. Form A (2) is similar to Form A (1) and is a form of notice for those who qualify under section 16(1) (a) as amended.

The Deputy Director of Agriculture, Eastern Provinces:

I move that the word " annuul " be spelt correctly in sub-section (c).

Schedule A as amended.

The Resident, Rivers Province:

I beg to move the addition of a new Schedule B. The purpose of Schedule B is to vest in the Chief Commissioner, Eastern Provinces, certain powers and duties which are at present vested in the Governor.

His Honour the Chief Commissioner:

The question is that Schedule B be added to this Bill.

Schedule B adopted.

The House will now resume.

The Resident, Rivers Province:

Sir, I beg to report that a Bill entitled " An Ordinance to make provision for the Constitution of and the appointment and election of the Members of the Port Harcourt Town Council and to empower the Council to levy Rates for Township purposes " passed through Committee with thirty-two amendments.

His Honour the Chief Commissioner:

The question is that this House do advise His Excellency the Governor that a Bill entitled " An Ordinance to make provision for the Constitution of and the appointment and election of the Members of the Port Harcourt Town Council and to empower the Council to levy Rates for Township purposes " is acceptable to this House. Will those in favour say " Aye " and those to the contrary " No ". The " Ayes " have it.

A BILL FOR AN ORDINANCE TO MAKE BETTER PROVISIONS IN
REGARD TO EDUCATION IN NIGERIA.

The Acting Deputy Director of Education, Eastern Provinces:

Sir, I beg to move the following:—

“ Be it resolved that this House do advise His Excellency the Governor that a Bill entitled ‘ An Ordinance to make better provisions in regard to Education in Nigeria ’ is acceptable to this House in principle.”

Your Honour, this House at its meeting last December had a debate on the Memorandum on Educational Policy in Nigeria and approved of the policy set out in that Memorandum. Afterwards at the Budget Session of Legislative Council the Director of Education promised that if the policy explained in the Memorandum was acceptable to Legislative Council a new Education Ordinance would be drafted to give effect to it. The Bill before us is the first step in the carrying out of the policy outlined in the Memorandum. It is the first step in the “ practicalisation ” for which the Member for Urban Areas other than Port Harcourt called in his address in December.

I need hardly remind the House that there are rapid and profound changes taking place in the Educational System of this country which make this Bill a matter of great importance and urgency. At the top we have a new University coming into being, then there is a big programme of expansion of Secondary Education and Teacher Training financed from Colonial Development and Welfare Funds. In the Primary Schools during the last five years the enrolment has just about doubled. We have got 2,700, or rather we had last year, 2,700 teachers in training as against only 750 five years before. Approximately 500 newly trained teachers are coming out from the Training Colleges each year and the number will increase under the Ten-Year Programme. We have got to have a new Ordinance to guide the proprietors of schools in the posting of these newly trained teachers so that the country as a whole will get the maximum benefit from the Teacher Training Development Programme.

Schedule B of the Bill shows that this Bill proposes an Ordinance to take the place of two separate Ordinances. For the last two years Northern and Southern Nigeria have had separate Ordinances, so this new proposed Ordinance is a unifying Ordinance and will ensure that common purpose in education outlined in the Memorandum. The rules in this Bill will be followed throughout Nigeria; it is a unifying Ordinance.

May we now turn to the definitions? There is one of them which is new. It was not in the old Ordinance and it is of particular interest. That is to say Voluntary Agencies. This definition is of importance because Voluntary Agencies qualify for Grants-in-Aid for their schools, along with Native Authorities and Local Authorities. Passing on from the definitions, clause 3 provides

for a delegation of the powers of the Director of Education. We all realize that this delegation is necessary for the regionalisation and the urgent carrying out of the work of the Education Department under the new Constitution.

The Memorandum on Policy laid considerable stress on the need for what it called organized contact between the leaders of the community who are interested in education and educational administrators, and the Memorandum recommends the setting up of a system of consultative councils to be called A Central Board of Education, Regional Boards of Education and Local Education Committees and Authorities. Clauses 4 to 17 of this Bill show the constitution for these proposed Boards. Members will be aware of the importance of these Boards; they will be the machinery of consultation by which Educational Policy will be kept on evolving and not remain static, so it is fitting that I should say a few words about the membership, the composition of these extremely important Boards, and I will try to bring out the principles. May we together consider these principles by examining the membership of the Eastern Board of Education which is shown in clause 11, sub-clause 2. First, there is a group of five Official Members including four officers of the Education Department and the Secretary or his representative—five Official Members. Then there is a group of three who are appointed by Unofficial Members of this House, next a group of eight members representing the big Voluntary Agencies, and then there is one member representing the Teachers in the Eastern Provinces. In all there are seventeen members with an unofficial majority of twelve to five. The membership of the Board has been kept low. It is still larger than the Agricultural Board, of which I am rather envious, but it is kept low not on the grounds of theory but as a result of experience with the present Board of Education. There it has been shown that to have a large Board means delay and indecision. Now I will try to bring out the principles underlying its membership. First I will state that both the Regional Boards and the Central Board are bodies set up to give expert and responsible advice; they are set up to give expert and responsible advice and therefore their numbers must be appointed because they have expert knowledge of education and because they have a wide public responsibility. In the light of that statement shall we examine the membership together. First the five Official Members. They are all expert officers responsible for administration and inspection throughout the Eastern Region. With regard to the Members to be appointed by the Unofficial Members of this House, obviously they have upon their shoulders a Regional responsibility; they will no doubt speak for Native Authorities throughout the East, Local Authorities in the Towns, and they may represent the views of the Provincial Meetings. They have Regional responsibility resting upon their shoulders. After them we come to the group of eight members of Voluntary Agencies. They will be appointed by two big groups of Mission Societies and

Churches, which have — I am speaking of the Roman Catholic Missions and the Churches which belong to the Christian Council— which have brought education to this Region, which conduct 90% of the Assisted Schools and are responsible for the education of more than 90% of the children in Non-assisted Schools in this Region. I need hardly emphasise that the members appointed by these Missions will certainly be experienced, and their responsibility goes back two ways; on the one side to 3,000 villages throughout the length and breadth of the East and on the other side it goes back to the Churches, which are international, to which these members belong. They will have a very wide responsibility. The representative of the Teaching Profession — a teacher — will likewise be appointed by a big professional organization which has its members in all parts of the Region. I want to stress again, at the cost of boring Members, the principles underlying membership of the Board — one, it is expert; secondly it has regional responsibility; thirdly, it is balanced, and fourthly it is kept small enough, we hope, for efficient working. So much for the Eastern Regional Board.

The composition of the Central Board of Education is built up on the same principles. I would ask Members to note the linkage between the Boards of Education and the Houses of Assembly. Members of this House will, I hope, be asked before long to nominate Members to the Regional Board and to the Central Board. Because of this close linkage between the Educational Councils of this country and the constitutional Assemblies, the people of this country should not have any fear that their wishes with regard to education will go unheard.

The duties of the Central and Regional Boards are twofold; they have first laid upon them advisory duties; clause 8 shows the duty which will be laid upon the Central Board of giving advice on policy, clause 26 lays upon the Central Board the duty of presenting schemes of Education Authorities and Committees; clause 30, which resembles one in the old Bill, gives it the duty of advising and explaining the general regulations made under this Bill.

The duty of the Regional Boards is shown in clause 10, the middle clauses 10 (a) and 10 (b). I would ask the House to note the chain of communication from the circumference to the centre. From the Local Education Committees to the Regional Boards and from there to the Central Board there is a chain of communication of educational experience. This eventually is going to bring about a sharing of ideas of all parts of Nigeria and this is one aspect of the unifying power of this Bill. There are also very important advisory duties laid upon these Boards in the Grant Regulations but I will not dwell on them. One of great significance is that concerning rates of local contribution which you will remember particularly from Regulation 16 may not be changed unless the Director of Education has consulted the Central Board.

The executive powers of the Boards are rather important. Under clause 22 they have got the power, I am speaking of their executive duties, to judge appeals against refusals of Regional Deputy Directors of Education to permit the opening of schools. Under clause 24 they have the power to close schools and clause 25 allows a Proprietor to appeal against a decision of the Regional Board to the Central Board. This power of opening and closing schools is a fundamental power and it is very proper that it should be laid upon such an expert responsible body as one of these Boards of Education. In considering whether a school should be opened or not, or whether a school should be closed or not, evidently a Regional Board of Education will be in a position to take the information of a Local Education Committee operating near where the school is to be set up or where it is to be closed. Evidently Members of the Boards which have to judge whether schools should be closed or whether they should be opened should have the power to visit schools and judge for themselves as to whether any such report laid before them is correct or not, so clause 23 of the Bill gives Members of the Regional and Central Boards power to visit schools.

May we now pass on to clause 26 which deals with Local Educational Authorities and Local Education Committees. This is a disappointing clause; we all realise it. The Board of Education itself, three Regional Committees of it, and then the Board again, tried to frame a constitution and rules for Local Education Authorities and Committees which would cover the whole country, but they were unable to do so because of the great variations in the form of local government, so there is nothing left for it but to have regional schemes which have been drawn up under clause 26 and which it will be the urgent duty of my Department to draw up for this Region.

Passing on to the question of the opening and closing of schools, clause 20 shows the conditions which have to be satisfied before schools may be opened. Clause 21 shows the causes for which permission may be withheld. I have said appeal lies to the Regional Board and beyond that to the Central Board against a refusal of permission by a Regional Deputy Director. The cases which may lead to the closing of a school are contained in clause 24. I want to emphasise that these clauses are more detailed than the corresponding clauses in the old Bill because they are designed for the protection of the children of this country against bad education in bad buildings. That is the sole purpose for the various parts of clauses 21 and 24.

Other clauses I do not need to bother with, I think, are clauses 18 and 19 dealing with the registration of teachers and the opening of Government and Native Authority Schools. Clause 22 is new and worth noticing. It empowers Government to make loans to Agencies for buildings. Clause 30 is the usual one giving the Governor power of making Regulations.

And so I now come to the most vital, or at least one of the vital parts of this Bill; that is clause 27 which empowers the Governor to make grants to Voluntary Agencies, Native Authorities and Local Committees for their schools, as to Schedule A which shows the conditions under which these grants may be made. I am afraid I am only having a very brief opportunity to remind Members in this inadequate speech of what Mr Phillipson has argued in 100 pages of his Report. I will just try to bring back to their minds the salient parts of that Report. First of all, we see that in this country, as in most countries, Education has to be financed from two sides. There is what we call the local contribution, which consists of School Fees, Church Subscriptions, Voluntary Levies, maybe Native Authority Grants, and we hope in the near future, Local Education Rates — all these make up what we call the "Local Contribution" towards Education. On the other side we have the Government Contribution, called "Grants-in-Aid" which are prescribed in Grants-in-Aid Regulations. Grants-in-Aid Regulations are extremely important because, according to how they are drawn up, they may shape the whole Education System for better or worse. They may, and this has happened in this country, result in the restriction of Education to a few areas. If they are drawn up in the interests of the whole community they may result in the extending of education. If they are badly drawn up they may make it very difficult for poor areas to get good teachers and good schools even though parents in these areas may be willing to make big sacrifices. They may — and this was the case in 1926 — foster efficiency by rewarding it. If they are bad, which is the state of affairs at the present time, they may confirm inefficiency and cause a waste by allowing inefficient and redundant schools to use up the Grants-in-Aid Vote. So these Regulations are very important. Government is fully aware of this, and my Department is aware of the difficulties and chaos caused by bad Regulations. Because of this, Grants-in-Aid Regulations have been under consideration for some years for this country by the Secretary of State's Advisory Committee on Education in the Colonies. They have been discussed by the Board of Education — and finally, with the approval of the Secretary of State, the Governor asked Mr Phillipson to make a special investigation as to what should be the financial clauses of the new Education Code. You have got them before you in Schedule A and Mr Phillipson's Report has, I believe, been sent to you. As you know, Mr Phillipson had very wide discussions in all Regions and they were followed up by two meetings with the augmented Board of Education. There was a lot of detailed negotiation with two special Committees of the Board of Education and finally the Board gave its unqualified blessing to the principles underlying Schedule A. The Board, subject to one very important amendment, which I will refer to later, and to a number of minor amendments which have been laid before you in cyclostiled sheets, the Board approved Schedule A, and that, I may

say, is the most important argument I have to bring forward in support of Schedule A—that it has survived the criticism of some thirty representatives of Voluntary Agencies conducting schools all over this country.

I must now try to deal with the new Grants Regulations by just rapidly running through them after indicating the present state of affairs so that we may know where we start from, as it were. In 1926 the Code, which we have lived with for twenty years, resulted in practice in the giving of Grants only to very highly developed schools—Standard IV or VI Schools. They were put on what we called the “ Assisted List ”. Then in 1931 there was a depression; the list was closed. In 1942 what amounted to a ‘dole’ was handed out to all the schools of approved Voluntary Agencies; that dole was given to all their schools, whether they were efficient or inefficient, and in 1947, last year, this Cost of Living Allowance Grant was raised.

So now we have got, as a result of all that, about 270 highly-developed, efficient schools on the Assisted List, but ten times that number of so-called Unassisted Schools which get a comparatively low rate of Grant without any regard to their efficiency. The list of approved Voluntary Agencies for Grants is closed and we have the state of affairs where there are some socially necessary and useful schools of reasonable efficiency belonging to non-approved agencies, not able to get a grant. Inefficiency is being subsidized at present and efficiency left unsubsidized. The present state of affairs is that a few communities are unduly favoured by a high rate of grant at the expense of a large number of communities which get an unduly low rate; and there is nothing in the administration of grants at present to encourage improved organization.

So, the aim underlying the new Regulations is this:—we want to direct the newly trained Elementary and Higher Elementary Teachers coming from the Training Colleges under the Ten-year Plan, *not* so as to build up a few superior schools here and there but to build up a *system* covering every part of this Region and this country where there is a real demand for education. We aim to build up a system, not a limited number of Approved Schools. This system ought to have as wide a base as possible of Junior Primary Schools giving and offering a basic four-year course of what we may call civilising education. Above that a properly staffed, efficiently organized system of Senior Primary Schools for as many pupils as there are properly qualified teachers to teach. And above the elementary school system it is the aim to use part of the Grants-in-Aid Vote to build up a group of Secondary Schools aided generously so that they may be well-staffed and well-equipped so as to give secondary education of that high quality which is needed to produce the salaried and professional classes upon whom the future of this country depends so much. Deployment of the teachers so as to build a system of education is the aim of these Regulations.

There are certain conditions which limit the development of these aims, and I will enumerate them. First, we have got to have good quality of direction and regulation of the whole system. Secondly, good management. Thirdly, we have got to have good teachers, fourthly there has got to be adequate contribution from local sources, and fifthly, adequate supplementation of the local contribution by Government Grant.

First, as regards the quality of direction and regulation. I submit, Sir, that these Regulations give very clear directions to proprietors as to how to deploy their teachers so as to build up an efficient system of education. The Regulations specify three distinct types of schools in accordance with the Memorandum and show how each type must be placed and staffed so as to get a Grant.

The Junior Primary Schools, which are the basis of the whole system—under the old Regulations as you know these Junior Primary Schools were practically excluded from the possibility of Grants—will now get assistance. Under Regulations 5, 6, 7 and 8, if they satisfy certain obvious necessary conditions of accommodation and so on, and if they are educationally necessary, which means if the supply of pupils justifies them; and if they are efficient having regard to the type of school—and I need hardly say we do not expect a very high degree of efficiency in this type of school in the present state of dilution of the teaching staffs. And they must be what Mr Phillipson calls socially useful, which means they must serve the interest of the community or a part of the community. There are two other conditions of importance that a Junior Primary School must satisfy if it wishes to earn a Grant. They are, it must offer a full Junior Primary Course—it is no use giving half of a course, it must be at least four years—and also the staff must contain a certain minimum number of qualified teachers. But these two conditions have been relaxed; they have been relaxed so as to bring in as many schools as possible. The relaxation has come in Regulation 10 which permits help to be given to Infant Schools if they are genuine feeders to the Junior Primary School; and then the condition as regards the staff is relaxed by a proviso to Regulation 8 which gives managers three years within which to find qualified teachers to put into these schools. These Regulations are going to have, it is quite certain, two good effects—one is they will lead to improvement in the staffing of Junior Primary Schools which are the basis of the whole system and also at present the worst staffed part of the school system. The other thing is they will encourage communities to group their schools so as to have well-organized units, giving a full four-year course, taking the place of a number of what Sir Hugh Clifford called "hedge schools." Grouping is an old idea and aim of the administration of education in this Region. We hope to encourage it by these Regulations.

The conditions laid down for Senior Primary Schools are similar to those laid down for Junior Primary Schools except that a higher number of qualified teachers is demanded—but no higher than is demanded by the existing Regulations. I may remark here, since this Bill arose out of the Memorandum, that the Memorandum has something to say with regard to the regulation of Senior Primary Schools. I am quoting Chapter VIII of the Memorandum where it reads:—"Initiative in planning location of additional Senior Primary Schools should be taken by the Regional Bodies referred to in Chapter V."—these bodies being Local Education Committees and Authorities. In other words we expect Local Education Committees to plan where Senior Primary Schools should be placed.

With regard to Secondary Schools the conditions for grants to them are shown in Regulation 24 and there is nothing particularly new, except the recognition of Boards of Governors and Boards of Trustees. The reference to Boards of Trustees is in accordance with the recommendations of the Select Committee of Legislative Council which considered the question of conditions which should regulate the award of grants to private schools. One Member of this House was, I think, on the Select Committee.

While we are on this subject of efficiency of direction I would like to refer to Regulation 14 (2) which exempts Voluntary Agencies from having to find local contribution for specialist teachers—that is Rural Science Teachers and Domestic Science Teachers and Headmasters—when the schools are above a certain size. This is going to encourage grouping of Senior Primary Schools so that they will get their specialized teachers. But this benefit of exemption from local contribution ceases to grow when schools get to a certain size, so this Regulation does not encourage the growth of mammoth schools where the interests of the pupil are submerged in those of the organization.

The Regulations which I have just tried to enumerate specify conditions of efficiency and social usefulness which qualify schools for grant, and equally clearly in Regulation 4 they specify the conditions of stability, efficiency and social responsibility which will qualify the Voluntary Agencies which are at present excluded from the grant system to become approved Voluntary Agencies.

So much for efficiency of direction. The second condition I have mentioned is the necessity for good management if we are going to build a good system. These Regulations do something to help management in three ways—First, they do drastically simplify the grant system by enabling Managers to know for three years at a time how much money they have got to find. Secondly, Grant Regulation 17 makes the grant payable by monthly instalments and should help Managers to find the money they need for the payment of salaries concurrent with the payment of salaries. Now

thirdly, Regulation 23 is a more positive kind of help which allows grants to be payable for full-time Educational Secretaries, Clerical Staff and Supervisors. We expect improved efficiency of Voluntary Agency administration by the use of that Regulation.

The third condition for success in building up our system is good teachers. These Regulations help very positively in that direction. Regulations 30, 31 and 32 provide more generous Teacher Training Grants than formerly. These grants, together with the money which is coming from the Colonial Development and Welfare Fund, will provide good financial foundation for teacher training. Then again, with regard to teachers, there is Regulation 5, sub-paragraph , which makes it a condition of grant that teachers shall be paid according to the Approved Scale. Teachers have a high degree of security and with these conditions which guarantee their salaries the public has every right to expect single-minded and conscientious service, to the children of this country. And again, speaking of teachers, there is a group of three Regulations—18, 26 and 30—which permit various allowances to be paid to Headmasters and other teachers with special duties; this will be an encouragement to teachers to bear responsibility. And finally there is Regulation 15, which provides an extra grant to schools which have attained a specially high degree of efficiency. That should encourage both teachers and managers to make their schools model schools. So much for the teachers.

Now we come to the crux or half of the crux of the matter—the question of adequate local support for schools. Nothing can be done for the education of a community unless the parents really want education for their children; that is to say, are prepared to send their children to school and unless they are prepared to pay for it. There cannot be enough money in this country to provide basic education for all unless all contribute. Roughly speaking, there are two kinds of expense incurred in running schools in this country. There is first the capital expense of buildings and furniture and on the other hand a recurrent expense of teachers' salaries and teaching equipment. In regard to capital expenditure these Regulations do not offer assistance in the form of building grants except under Regulation 33; the money for it will probably be provided in Regional Estimates. That money will not go far among two or three thousand schools.

With regard to recurrent expense, the chief burden is teachers' salaries, and it is a colossal burden. It is estimated that the salary bill in Assisted Schools in 1949 if this Ordinance comes into operation may be about £660,000 in this Region. The annual salary bill will be £660,000, and then coming into the system there is going to be about 500 teachers a year newly trained and starting off at salaries ranging from £60 to £84 a year. Because of this and of increments the cost of teachers' salaries is going to rise pretty steeply while we all know that the local communities

have no hope whatever of meeting costs of this order. Nor can Government meet the whole costs, so they will have to be paid by the joint effort of the Government and local community.

Under these Grant Regulations the Government proposes to solve the problem of teachers' salaries in this way. They define what is called the assumed local contribution towards each teacher's salary; that local contribution is put at a point which is within the ability of each community to pay. This contribution is fixed for three years at a time so that the communities are able to realize their responsibilities and so that Managers are able to plan ahead. That contribution having been made the Government shoulders the rest of the burden and by far the biggest part of the burden. I have spoken of the burden, as of being of the order of £660,000. It is estimated that Government may be committed to paying something of the order of about £450,000 towards that—in other words in the Eastern Provinces we expect roughly that for every penny that the local community puts in in the form of this contribution Government will put in twopence. The Regulation dealing with this local contribution is Regulation 14, and I will just remind Members of the chief points about it. The first is this. How was it fixed? Well, it approximates to the actual local contribution being made this year by the local communities which are supporting the Non-Assisted Schools.

The second point I want to stress. It is made lower in poorer areas — Ogoja, for instance, has a lower rate of contribution than Calabar or Onitsha.

The third point is this. It can be made lower in thinly-populated areas by lowering the multiple, that is by a lowering of the standard size of enrolment prescribed for schools.

The fourth point— it is set lower in Junior Primary Schools than in Senior Primary Schools, for two reasons: to encourage the spread of this basic Junior Primary Education and because the salary cost per pupil are much higher in Senior Primary than in Junior Primary Schools, so that these local contributions will also be higher.

Fifthly, it is made lower in Girls' Boarding Schools so as to encourage girls to come to Boarding Schools.

I wonder if Members will allow me to draw attention to a very important amendment which the Board of Education insisted on as a condition of its acceptance of these Regulations, that is Regulation 14 (2). That Regulation states that the local contribution to be paid for a Junior Primary School shall be the rate of local contribution multiplied by thirty-five. In Mr Phillipson's Report thirty-five was put down as a reasonable number of pupils to be expected in classes in the Junior Primary Schools. The Board refused to accept this as reasonable in rural areas and so it insisted

that this multiple of thirty-five should be brought down to twenty-five for schools in rural areas, which, of course, means that the amount of contribution in rural areas has been brought down very considerably.

Now I will go on to the fifth condition — the last condition of success in building a proper system of Primary Education and Secondary Education — that is adequate addition to the local contributions by Government grant so that properly qualified teachers can be employed. Regulations 11 and 12 show how this grant is going to be assigned for Primary Schools and Regulations 25 and 26 for Secondary Schools. The Government Grant is in two parts; part of the Government grant is the provision of money to make up the local contributions to the full amount of the teachers' salaries; I have indicated how big this is. The second part of the Government Grant is the provision of the grant for classroom teaching expenses and equipment.

To summarize the system in a few words, in effect the Government says: "This do, in the way of providing local contributions, and the rest shall be added unto you". So, provided that the community finds its contribution for an Assisted School the Government grant will then ensure a staff as good as the supply of trained teachers and the efficiency of management allows.

I may say that the Grant-in-Aid for equipment expenditure for Secondary Schools is very high. It is £3 per pupil. It is deliberately high because if we are going to have Secondary Education it must be good in order to, as I have said, train properly the salaried and professional classes of this country. Science equipment costs a lot of money.

Now I come again to a most important question, perhaps the most important question in these Regulations. That is the amount of financial strain which is imposed on the Government. As I have already stated, in this Region alone it may be that the Government grant required under the Regulations next year may be of the order of £450,000. This is for primary education and as the Regulations show the local contribution is then to be fixed for three years at a time. That means that for three years, during the period of three years, the Government alone will have to meet the full cost of increments and a great part of the cost of newly trained teachers who are coming into the system. The cost of that strain due to increments and new teachers may be of the order of £60,000 a year. That is a very high rate of increase; Government cannot go on, it is quite obvious, bearing the whole of that strain indefinitely. That is why at the end of every three year period there has to be readjustment and the rate of local contribution has to be revised. It will be revised by consultation between the Board of Education and the Director who will then advise the Governor as to what change should be made.

should be given seats in their various Regional Boards and then in turn seats should be given to a federation of the regional organisations on the Central Board. This would create an atmosphere of better understanding between ALL, and I use the word "all" in capitals between all engaged in educational work in the land. It would I submit secure an enlightened popular support for sound educational policy and arouse widespread righteous indignation against unscrupulous traffickers. I do not think that Government can, by itself, without the help of enlightened public opinion really track down those who are engaged in the educational black market. I think they need the co-operation of the African Proprietors.

Sir, I commend this Bill to the House.

The First Provincial Member for the Onitsha Province (N^s
P. E. Chukwurah):

Your Honour, I am in support of the last speaker about the position of the Proprietors of Private Schools. I have been asked by the Proprietors in the Eastern Provinces and the West, and an Association of Proprietors of Private Schools, to plead with the Chairman of this House that Government see it fit that they are represented on the various Boards contained in the Bill. The usefulness of these schools has been recognised by the Education Department through the approval it has given to most of their schools, and the number of children that they have trained is enormous. That the Proprietors of these schools have not been organised in the past is true, but they have started to do so and in the West we have the Association of Proprietors of African-owned Schools, and in the Eastern Provinces we have the Association of African-owned Schools with branches at Onitsha and Aba, so they are organised. If they are to be omitted from the Boards because they are not organised, I say they are organised and we plead they should be recognised.

There are various points in the Bill — various clauses to which I shall suggest some amendments when the House is in Committee. There is one phrase which is not properly understood by the Proprietors and which they feel is a weapon that may be used against them and one can easily not blame them knowing too well that not all of them have been Law Students. The phrase is "a fit and proper person". It has been difficult for anyone we have approached to be able to tell us what "a fit and proper person" is. It means everything good and if anything is lacking it means something bad. So they have asked me to ask that "a fit and proper person" be defined, and also embodied in the Bill. If it is impossible to have it defined it should be deleted so as to make their position clear and fair, so that they will not be labouring in fear. There has been printed in the Bill the minimum number of staff required for the various institutions. We are all rather anxious to see that our schools are raised in their standard

but the difficulty is that the number of teachers available to man these schools is very small, and we are rather anxious that the Government shall take into consideration these schools run by what we have been calling Proprietors of Private Schools and avail them places in Normal Colleges where they can train their teachers.

I support the Bill in principle.

The Provincial Member for the Ogoja Province (Dr F. A. Ibiam):

Your Honour, I welcome the Education Bill which now seeks to give an improved standard of education to the peoples of Nigeria. It also aims at inculcating in Nigeria a spirit of self-help among the peoples of this country. I am especially glad, Sir, that the small villages and their small communities are going to benefit by the new system of Grants-in-Aid: By this system, Sir, Government is practically giving more or less a free education to the masses of Nigerian children who attend the Junior Primary Schools, that is, Infants and Standards I and II. This I hope Sir, is a fair indication that in time free Mass Education will be instituted for all schools up to the top of the Senior Primary School.

This Bill, Sir, also helps the teachers because by these Grants-in-Aid the teachers would have their salaries paid by the Government. It stands to reason, Sir, that all schools will be able to have the proper type of teacher which it seeks to get. Briefly there are three types of teachers who are going to be specially benefitted. I refer, Sir, to the Headmasters of schools, the Rural Science Teacher, and the Technical Teacher. Formerly only schools which were able to maintain or aid the salaries of these teachers would have them, excepting, of course, the Headmasters who must have a place in all schools. What I mean is, that the Headmasters by this system would be able to look after their schools without having a special class and at the same time have his full salary. The Rural Science Teacher and the Technical Teacher can be in schools where such schools would not normally have been able to pay their salaries. Our thanks, Sir, are due to the Government, to the Nigeria Union of Teachers and all those members of the Board of Education who have worked together to bring about this happy state of affairs.

I have, however, one or two observations to make. The schools which are normally known as Assisted Schools will suffer much hardship. There will be a considerable reduction in their Grants and may be in the long run nullify the purposes for which the Bill has been formulated. It is said, Your Honour, that schools are maintained in three different ways, namely by the Government Grant, by school fees and by Church or town collection. I may state, Sir, that it is not always very easy for a small village or a small town to maintain a school by special Church or town collection. It may be said, Sir, that Government who imposes taxation also collects it. It is not always easy for people to give voluntarily in aid of education, and, for that matter, in anything

else. Therefore, Sir, I wish to make the following suggestions:— that the size of the hypothetical classes for purposes of Grants be twenty-five pupils for all grades of schools not only in Secondary Schools, but also in the Junior Primary and Senior Primary Schools where ever placed. The mover of the Bill says that the Government rejected the number thirty-six for Senior Primary Schools situated in the urban areas, but I would suggest, Sir, that this number, twenty-five, be accepted for all schools wherever placed because, Sir, in helping the Junior Primary Schools you have also discouraged efficiency, at any rate, which is expected of Senior Primary Schools. You will understand, Sir, that pupils from the Junior Primary Schools go to the Senior Primary Schools. If in one place you have Junior Primary Schools maintained more or less by the Government and you have a Senior Primary School situated in the same place and not making ends meet, you are not going to do well helping this kind of school. In conclusion, Sir, I would like to suggest that the sum of 2s. be raised to 2s. 6d. as I take it, Sir, that this money is going to help each school to equip itself with whatever needs which a school might want, and the sum of 2s. 6d. would be most reasonable for these types of schools.

Your Honour, I beg to support this Bill in principle.

The First Provincial Member for the Owerri Province (Mr M. W. Ubani):

Your Honour, I rise to support this Bill in principle. There is one feature of it which is striking. I quote the Deputy Director of Education's speech and definition when the Memorandum on the principle of educational policy was discussed by this House during its Budget Session in December last. It reads:—

“Increased education facilities cannot be provided with advantage except with the active co-operation of the communities concerned. The stage has been reached at which popular education will cease to be popular unless the communities concerned have a measure of control; and popular share in the control depends on the creation of some machinery of Local Government. (*i.e.*, Local Government “of education”).”

It is indeed encouraging when the new educational policy of this country will take into consideration the interest of the communities concerned. It is when the people themselves begin to take active part in the planning of the education of their children that the new policy will become a real success and that is what the present Code has provided. The new Code is the result of criticisms against the old Code and it is indeed commendable that the Education Authorities have taken the needs of the people into consideration.

For the formulation of this new Education Code most committees in this country have little knowledge of how Education was run but by the introduction of this new Code, the different sections amongst

all the people, even the people of rural villages will have to participate in the schemes. In this country that in itself is a big progress and shows that Government has actually taken into consideration the cries of the people for better education in the country. I feels, Sir, that if Local Education Authorities are introduced in which all the people will have to show their interest most of the difficulties in misunderstanding the aims of Education facilities will have been minimised, because the difficulties confronting those at the head will be appreciated. We are praising this Code, Sir, but I must not fail to make a few remarks on what I feel has been omitted. I remember during our last Session in December I touched upon the same point, that is the Regional Board provided. There are provided also other Boards to be known as Local Education Authorities or Local Education Committees. I am suggesting, Sir, for consideration of this House whether it would not be possible to provide also what is known as a Provincial Board, because in each Province we have an Education Officer whose duty it is to gather information and to ensure the proper running of education in that Province. Except I am to be corrected, Sir, I should like to know if the Local Education Authorities are meant to be for the Provinces and if it is to be that, we have it at Aba and Port Harcourt, I feel there should be a spread with the community and for the Education Officer within the Province to advise and co-operate with the proper method of them on carrying out all schemes of the Regional Board.

While the mover of the Bill was giving his introduction he made mention of the use to be made by the Provincial Meetings. If that is so, Sir, I feel that it is necessary that provision should be made for Provincial Boards to be established. Furthermore I have to support previous speakers on the question of Private School Proprietors. These men are really very essential amongst the communities in which they live. They have been doing a great deal of work and to see they are not included—that no provision is made in the Code for them to be represented on one of the Boards, that is a point which I think should be brought to the House for consideration.

In the past most of the schools in the country have been run by these men who have suffered untold hardship and they should be given a chance to follow and not be discouraged.

I have been through the Code and I do not think my eyes are in fault, but I see that no provision has been made for Mass Education; it may be that another Bill will be introduced for it, but I am subject to correction, but if not, I would like it to be placed on record that representation should be made under the Code for Mass Education, because even if we are going to have this Code to introduce education widely into the country, Mass Education should not be overlooked and education of the country should in every respect include an Education Officer in charge of Mass Education.

Finally, I have to support the Bill and to say that the Government in this country and the Education Authorities should be praised because they have realized that no country can expect to succeed that overlooks the education of the communities it governs and with this ideal before the Government of Nigeria and with the wide vision of the Education Code which we have before us, and if all measures are properly carried out, I am sure most of the difficulties which are concerning the country due to misunderstanding—where we have more efficient education I am sure that all measures brought before the people will not be so misunderstood and where it is brought to light most of the difficulties will be minimised and success will follow and there will be happiness on all sides. I feel, Sir, that this country is a great country and the education of this country is a matter of primary importance and the Code as I see it has made provision for that and everything that works towards that end should be given praise and supported without fear or favour.

The Second Provincial Member for the Calabar Province (Mr Nyong Essien):

I rise to support this Bill in principle and to thank the Government for having in the long run arrived at drawing up this Bill so as to promote higher education in Nigeria. We have been crying 'time without number in this House for improved standard of education to be given to the children of this country on a wide scale. The time has come now and this Bill promises such a standard of education. Therefore I thank the Government for the introduction of this Bill.

It is a product of human beings. As such it cannot be perfect, so whatever omissions or commissions might be found in this Bill, that are not compatible with the required standard of education, I submit, Sir, that such omissions or commissions be corrected. We should now cease the practice of experimenting with human intelligence. Such errors should be corrected in the Code till we are sure of its perfection for the time being. I support the Bill in principle, Sir, and when the House has resolved into a Committee to examine it clause by clause, I have got some observations to make. Thank you, Sir.

The Member for Urban Areas other than Port Harcourt (Reverend O. Efiang, O.B.E.):

Your Honour, the Bill before this House has been very carefully framed and represented by the mover in an admirable manner. He has set before us such an array of facts which are very exact, in describing the situation. I rise to support it in principle, and I think I shall be voicing the consensus of opinion of the Unofficial Members when I say we accept this Bill in principle, for there is no other organization in Nigeria which is so very well safeguarded, I think than the educational organizations. We have the N.U.T.—Nigeria Union of Teachers, whose main object is the educa-

he submits to the superior authority will be acted upon and a poor proprietor may suffer thereby. I do not mean to insinuate that a Director who is very kindly disposed towards us will not use his discretion in dealing with such an intricate and important problem—"fit and proper"—Human nature being what it is, it is only right that some definite decision should be made whereby the general public will be satisfied what this means so that we can be assured that unfortunate prospective proprietors of schools will not be maliciously or otherwise victimised, since the Director of Education will not always be reliably informed. At present, Your Honour, we have a good number of children seeking admission into the schools. It cannot be said that the number of schools existing in the country are adequate to accommodate all these children, so that raises in point of fact the question as to how it could be ascertained whether a school will be useful in a particular area at a particular time. I think, Sir, that a proprietor of a school should be given an opportunity of making a start, and when it is observed that a sufficient number of children have been admitted into the school and then by inspection or otherwise an Officer in charge will be able to see whether that school will serve a useful purpose in the area concerned or not. He cannot judge whether the school will be useful, or is not required in the area unless some commencement has been made so that where application is made to open a school every chance should be given to the proprietor to show how good his application is.

Another point, Your Honour, I would like to mention is this: there is some inconsistency regarding the use of the words "Private School". I may be wrong and therefore open to correction. I think "Private Schools" are all schools not established by Government, so that in my humble opinion I think those opened by Voluntary Agencies as well as schools opened by individuals ought to be classed as "Private Schools". The work of education lies primarily in the hands of the Government. As I said at Kaduna, I think it was Alfred the Great who said that educated people can easily be led, and I hope that Mass Education for Nigeria will enable the Government to lead the people better, because just now the mass of the people are uneducated and have to depend on opinions passed to them by the more educated members of the community, who may make misrepresentation both in matters educational and otherwise, so that we hope every effort will be exerted in the matter of encouraging private schools whether they are started by individuals or missionary bodies. We would thank Government very sincerely for the efforts that have so far been made in the education of the country generally, but as I have said, we cannot, in this country, be satisfied with the mere education of the head only; we want to see more of technical education and professional progress. Education should go side by side with acquisition of something that a child can develop against the time he leaves school, because we know that most of the children will be engaged

tional progress or facilities of the country to scrutinize and accept the Bill in principle. Then through the Nigeria Union of Teachers, the branches of the N.U.T. throughout the country have had observations. I think that they have submitted a number of corrections and amendments. This is very good, Sir, this Bill has been subjected to checking and cross checking sufficiently, therefore I do not very well like to speak at length on this matter because it has been sufficiently thought of and represented by different competent bodies. When this matter came before the Education Authority of our Mission and other relative bodies and committees all of them contributed to what are embodied in this Bill.

There is a feeling of satisfaction that the views of the people are adequately represented. The question of representation of Proprietors of African schools is an important question, Sir, but I think the right decision has been made about the Proprietors of Private Schools. There are certain conditions and qualifications to be fulfilled before a Proprietor is admitted to the membership of Education Board, and as my most respected friend mentioned the fact that they are unorganized and that is one of the reasons why they are not responsible, he answered his own question. I would like further steps to be taken to see that they are organized and I think the move should come from ourselves and/or the Nigeria Union of Teachers. We cannot, under the circumstance, propose membership to be given them if they ignore provisions like that.

Lastly, Sir, the Bill has just come as a step towards the implimentation of the Education Policy which was discussed in this House last December, and I therefore sincerely support it in principle.

The Provincial Member for the Owerri (Rivers) Province (Mr H. Bowari Brown):

Your Honour, I join with my friends in praising and thanking the Education Department for framing the Bill now being considered by this House. We have had very extensive discussions on the Educational Policy in this House so that in a measure we ourselves have contributed largely to the drawing up of this Bill and whatever is right or wrong therein we have a share.

While I support the Bill in principle, Your Honour, I beg permission to make a few observations which I have carefully studied and tried to make sure are right. In section 21 of the Bill, as was mentioned by previous speakers, the Director has the power to decide who is a fit and proper person to be a proprietor of a school. The criterion by which the Director of Education is to arrive at this seems to be very doubtful, since the Director has to depend more or less on the opinion which is to be gathered from those on the spot, and Your Honour knows very well that the man on the spot is considered invulnerable and whatever reports

in technical work. One of the points I wish to raise, Sir, is whether the Mission Schools and those called private schools could not be better assisted by Government than at present, so as to enable them spread their work over wider areas in the country. We appreciate very much the efforts of Government but I am sure no one considers that we are satisfied yet. We are still pressing for greater and greater progress on educational lines.

With regard to qualifications of teachers, it is not very easy in many places, here, especially for the Private School Proprietors, to get trained teachers to staff their schools because the Training Centres more or less belong to Missionary Bodies and it is difficult for those proprietors to get their men trained by the Missionary Training Centres. For that reason we need more Teacher Training Centres in this country. Approved private school proprietors should be able to obtain assistance by way of qualified teachers.

There is another matter I should like to mention. I am not sure, but am asking for information if any provision is intended to be made in the Education Code with regard to pensions to teachers. Government is going to undertake the payment of practically all the teachers in the country, so they are, more or less, Government employees, and I must ask whether any provision is going to be made for them to receive pensions or gratuities.

Other matters which I desire to mention I will bring up during the Committee Stage of the Bill which will be examined clause by clause.

The Second Provincial Member for the Owerri Province (Mr D. N. Achara):

Your Honour, I wish to say how very pleased I am having come from a rural area to see that the time has come for schools in those areas to be considered. I think that those people who have been struggling all along to maintain their schools, whether they are Junior Primary or Senior Primary, will be greatly relieved.

I have to say a word in support of the suggestion made by my friend, the First Member for the Owerri Province. I believe we are expected to throw some light on matters educational when discussing education with our people, we are made to understand that the term "Local Board" may mean the Provincial Board. But suppose we have a District Board and after that a Regional Board, isn't there going to be a big gap between the two Boards? I support the idea that we do not leave such a space between the District and the Provincial Boards but rather close it up by creating a Provincial Board.

In December I made mention of this same thing that it is the desire of most of us that Managers of those schools that we call "Private Schools" whatever may be the part they are now playing in the educational work in this country, deserve some guidance. I

do not think that there is any other way of guiding them properly than by providing a Supervisor to supervise their work because alone in rural areas where some of their schools are, they may not have the opportunity of benefitting by the advice of an Education Officer. There are many difficulties which may be in their way and which a Supervisor may help them to solve. I am of opinion that, as a Member said a few minutes ago, if they are helped to organize themselves and at the same time helped to maintain the services of a Supervisor, I believe that will assist in putting right anything wrong in their social service for the country as a whole.

I am inclined to leave one or two matters I would have mentioned because of the speech made by the Acting Deputy Director of Education that there are many amendments unknown to us. I do not want to waste your time or the time of the Members by possibly repeating certain points unnecessarily, so I leave those points in the meantime until we get to the Committee Stage.

The Acting Deputy Director of Education, Eastern Provinces:

Your Honour, I welcome the general support for this Bill which is due to the fact that it is a co-operative effort of the communities and Government.

With regard to the points raised by the Member for Educational Interests, I can reassure him that the Education Department have no desire of restricting education to the Standard II level. If it did have such an intention it would soon be put right by the Board of Education. Whatever restrictions there are on Senior Primary Education will come from the lack of teachers. Certainly there will be nothing like the low ratio of 1 to 24. It will be more like 1 to 4.

With reference to African Proprietors — I rather deplore the words "African Proprietors". The schools of the Church of Scotland Mission and the Presbyterian Church of Biafra are managed by an Education Authority which consists, I am told, of fifteen Europeans and twenty-five Africans. Are we to describe that as European or African? The fact is that education is a joint effort, and I do not think we should refer to African or European Proprietors because we have in this country joint Proprietors.

The First Member for Onitsha raised some points and asked for representation of African Proprietors, or Private School Proprietors, on those Boards of Education. I do not think yet they have a real basis for representation. They are not Region-wide in their representation; they are not Region-wide in their experience, and as I pointed out the Regional Board consists of experts and representatives of bodies who do represent the Region.

The question of a definition of a "fit and proper person" is to be answered in two ways, one is that under clause 30 (g) it

is shown that the Governor in Council is given powers to make Regulations with regard to the determination of the fitness of persons, and then again if a man is dissatisfied with the refusal of permission by the Regional Director on the grounds of fitness, he has only to appeal to the Regional Board, which will judge the case.

The First Member for Onitsha also asked for reassurance about help to train teachers for private schools. The Government Training Centres would offer a few vacancies to teachers for private proprietors but not very many of them since so many vacancies were needed for other Agencies which conduct schools and have not their own Training Colleges.

The Member for Ogoja asked for a reduction of the multiple for all schools in the Region as well as rural areas. That is simply not possible, on grounds of finance, and it is not reasonable because the multiple prescribes a reasonable number of children in a class and it is quite reasonable to expect the classes in a town will have thirty-five children. Classes with only twenty-five children are uneconomic and the country cannot afford them. In some rural areas classes are smaller, but thirty-five is a reasonable figure for the towns. Government does not feel able to raise the rate for equipment expenditure. If it did raise that rate all the rates for assumed local contributions would have to be raised also.

The First Member for Owerri, I think, welcomed the prospect of representative Local Education Authorities, and wanted representation of Private School Proprietors. I too shall welcome the emergence of these Local Education Authorities and I am quite sure that important Private School Proprietors will be represented on them. As I have stated, at present they have not a claim to be represented on the Regional Boards. He asked also, I think, about provision for Mass Education; that is given in Regulation 33 (b) which provides for a grant for adult education.

The Second Member for the Calabar Province asked that this Bill should be amended in the light of experience, and there is a clause which makes provision for that—27 (2).

I appreciate very much the welcome given by the Member for Urban Areas other than Port Harcourt. I value it very much. I agree with him the non-representation of Private Schools is due to non-organization; they are not yet organized up to regional level.

I agree with the Member for the Rivers Province that the communities have contributed to framing this Bill.

The Second Member for Owerri asked for Regional Boards to be formed. Our experience of Provincial School Committees in the past has not been very happy. It may be that there is need for a Provincial Education Committee, but my own view is that Local Education Authorities and

Committees should be truly Local Authorities and Local Committees at the Divisional level because they have to be very closely in touch with the schools they are considering and they have responsibility for the schools in their area. Provincial Boards would not be so closely in touch with reality and would not have the same responsibility.

That, Sir, is all I have to say.

His Honour the Chief Commissioner:

The question is that this House do advise His Excellency the Governor that a Bill entitled "An Ordinance to make better provisions in regard to Education in Nigeria" is acceptable to the House in principle. Will those in favour say "Aye" and those to the contrary "No". The "Ayes" have it.

Gentlemen, the Select Committee which is to review the existing system of Local Government in the Eastern Provinces and to formulate general principles for the reform of that system will consist of all Unofficial Members of this House, and the Secretary, Eastern Provinces; the Secretary, Eastern Provinces will be the Chairman.

We will now adjourn until 10 o'clock tomorrow morning.

Debates in the Eastern House of Assembly

Saturday, 31st July, 1948

Pursuant to notice the Members of the Eastern House of Assembly met in the Garrison Hall, Enugu, at 10 a.m. on Saturday, the 31st of July, 1948.

PRESENT

OFFICIAL MEMBERS

- The Chief Commissioner, Eastern Provinces,
Sir Bernard Carr, Kt., C.M.G.
- The Resident, Cameroons Province,
Mr A. F. B. Bridges.
- The Secretary, Eastern Provinces,
Commander S. E. Johnson, R.N.
- The Resident, Owerri Province,
Mr J. S. Smith.
- The Resident, Rivers Province,
Mr A. T. E. Marsh.
- The Acting Resident, Calabar Province,
Mr H. L. M. Butcher.
- The Acting Resident, Onitsha Province,
Mr E. R. Chadwick, O.B.E.
- The Acting Resident, Ogoja Province,
Mr J. G. Mackenzie.
- The Secretary (Finance), Eastern Provinces,
Mr G. B. G. Chapman.
- The Deputy Director of Medical Services, Eastern Provinces,
Dr C. Wilson.
- The Acting Deputy Director of Education, Eastern Provinces,
Mr W. E. Holt, O.B.E.
- The Deputy Director of Agriculture, Eastern Provinces,
Mr M. Park.
- The Deputy Director of Public Works, Eastern Provinces,
Captain R. Rodger.
- The Senior Crown Counsel, Eastern Provinces,
Mr S. A. McKinstry.

UNOFFICIAL MEMBERS

- The Member for Urban Areas other than Port Harcourt,
Reverend O. Efiang, O.B.E.
- The First Provincial Member for the Cameroons Province,
Mr J. Manga Williams, O.B.E.
- The Member for Professional, Salaried and Wage-earning
Classes,
Mr E. N. Egbuna.
- The Member for African Commercial Interests,
Mr G. H. H. O'Dwyer.
- The First Provincial Member for the Onitsha Province,
Mr P. E. Chukwurah.
- The First Provincial Member for the Owerri Province,
Mr M. W. Ubani.
- The Provincial Member for the Ogoja Province,
Dr F. A. Ibiam.
- The First Provincial Member for the Calabar Province,
Mr Asuquo Okon.
- The Second Provincial Member for the Cameroons Province,
Galega, Fon of Bali.
- The Second Provincial Member for the Onitsha Province,
Mr C. D. Onyeama.
- The Member for Port Harcourt,
Mr L. R. Potts-Johnson.
- The Second Provincial Member for the Owerri Province,
Mr D. N. Achara.
- The Provincial Member for the Owerri (Rivers) Province,
Mr H. Bowari Brown.
- The Member for Educational Interests,
Mr A. Ikoku.
- The Second Provincial Member for the Calabar Province,
Mr Nyong Essien.

PRAYERS

At the request of the President, Rev. O. Efiang, O.B.E., the Member for Urban Areas other than Port Harcourt, opened the proceedings of the House with prayers.

CONFIRMATION OF MINUTES

The Minutes of the meeting held on the 30th July, 1948, having been printed and circulated to the Members, were taken as read and confirmed.

ANNOUNCEMENTS

The Secretary (Finance), Eastern Provinces:

Your Honour, I wish to make the following announcement:—

“ Government has had under consideration for some time the question of the exchange for legal tender of Manillas at present circulating in certain areas of the Eastern Provinces; and it has now been decided to put into operation the following plan for their withdrawal:—

(1) Manillas will be exchanged, either by Government or its accredited agents; or accepted in payment of official taxes and dues, with effect from 1st of October, 1948, and up to, and including, the 31st of March, 1949.

(2) The following rates of exchange will apply throughout this period:—

<i>Type of Manilla</i>	<i>Exchange rate</i>
Okpoho	Four to the shilling <i>(in multiples of four)</i>
Okombo	Twelve to the shilling <i>(in multiples of twelve)</i>
Abi	Twenty-four to the shilling <i>(in multiples of twenty-four)</i>

2. It is the intention of Government to request the Banks and the larger Commercial Firms operating in the manilla withdrawal areas, to assist in the withdrawal operation.

3. A full plan of operations will be made public as soon as is practicable, setting out the centres where withdrawal will be effected and other relevant details.”

QUESTIONS

The Secretary, Eastern Provinces:

Sir, I am now in a position to answer the supplementary question of the Member for the Ogoja Province. The question was:—

Question 14.

Does the Ikom Division not require a Qualified Interpreter?

Answer—

It is recognised that a Qualified Interpreter for the Ikom Division is advisable, but owing to language difficulties it has not yet been found possible to secure a suitable man. The matter will be borne in mind.

The Acting Deputy Director of Education, Eastern Provinces:

Sir, in replying yesterday to a question with regard to my reply to Question Number 22, Part (a), I stated that correspondence in connection with the African Methodist Zion Mission began approximately in 1934. I should have said that correspondence

ment who is vested with the control while the Director sees to the development of education. Under clause 3 it is the duty of the Director:—

- “ (a) to advise the Governor on all matters relating to Education;
- (b) to carry out the approved policy of Education; and
- (c) to promote the education of the people of Nigeria and the progressive development of all institutions devoted to that purpose.”

Not control. These things are inconsistent. Education Officers have control.

The Acting Deputy Director of Education, Eastern Provinces:

The Director must have control Sir, to accomplish the objects of clause 3 (1) (b) — “to carry out the approved policy of Education”.

His Honour the Chief Commissioner:

Do you wish to move an amendment?

The Member for Educational Interests (Mr A. Ikoku):

Yes, Sir, I have to move that clause 3 (1) (c) should read “to promote and control the education of the people of Nigeria and the progressive development of all institutions devoted to that purpose”.

The Acting Deputy Director of Education, Eastern Provinces:

I do not think it adds anything to that clause. I do not think it is necessary.

His Honour the Chief Commissioner:

The question is that this House do approve the amendment of clause 3 (1) (c) by the insertion of the words “and control” between the words “promote” and “the”. Will those in favour say “Aye” and those to the contrary “No”. The “Noes” have it.

Clause 4.

Clause 5.

The Acting Deputy Director of Education, Eastern Provinces:

Sir, I beg to move the following amendment:—

That in sub-clause (1) after sub-section (n) a new sub-section (o) be added, worded as follows:—

“A teacher employed by a Native Authority to be appointed by the Chief Commissioner, Northern Provinces.”

The reason for this suggested amendment is that it is necessary to secure more adequate representation on the Central Board of on the one hand the big Mohammedan population in the North which has not got a school system except the Native Authority School System,

and to secure representation on the other hand of the teachers in the Northern Provinces who are not members of the Nigeria Union of Teachers.

His Honour the Chief Commissioner:

The question is that clause 5 (1) be amended accordingly. The "Ayes" have it.

The First Provincial Member for the Onitsha Province (Mr P. E. Chukwurah):

Your Honour, I beg to move an amendment. The insertion of the following between "k" and "l" "Three Members, one of whom must be appointed by the Proprietors of African-owned schools".

The Acting Deputy Director of Education, Eastern Provinces:

I oppose that, Sir, on grounds of principle. The Proprietors of African-owned institutions, by which I take it the First Member for Onitsha means private school proprietors, do not have representation in this country adequate enough to justify their representation as a body on the Central Board, nor even on the Regional Board. In this Region, for instance, they have some 20,000 children in their schools as against over 300,000 children in the schools conducted by Roman Catholic Missions and Missions which belong to the Christian Council.

The importance of the work done by private proprietors does not, at this stage of Nigeria's history, justify their representation on the Central Board, for they have neither the expert knowledge nor the Nigeria-wide representation, so I oppose that amendment.

His Honour the Chief Commissioner:

If this amendment is carried it will need a subsequent amendment renumbering the clauses, and I think you will move afterwards if the present amendment is carried.

The amendment is to insert between "k" and "l" the following:— "Three Members, one of whom must be appointed by the Proprietors of African-owned schools".

Will those in favour say "Aye" and those to the contrary "No". The "Noes" have it.

Clauses 6, 7, 8, 9 and 10.

Clause 11.

The Acting Deputy Director of Education, Eastern Provinces:

Sir, I beg to move two amendments:—

That in sub-clauses (1) (c), (2) (c) and (3) (c), the title "Chief Education Officer" be altered to "Chief Woman Education Officer".

That in sub-clause (3) (f) after the word "Teachers" the words be added "or his representative".

The reason for that is that title "Chief Education Officer" does not indicate that she is a woman, and in the case of the second amendment is to enable the General Secretary of the Nigeria Union of Teachers to send a representative if he is unable to attend.

Clause as amended.

The Member for Educational Interests (Mr A. Ikoku):

Your Honour, clause 11, sub-section 1 (i). What I wish to say has relation to the composition of the three Regional Boards. If the various Regional Boards are to have effective local influence, Sir, from the area level, it is felt by my Union that Membership of the House of Assembly and of the Nigeria Union of Teachers should be increased slightly so that you have an effective balance not in opposition to an effective balance in contribution when it comes to matters of action with the Christian Missions and other bodies represented.

The amendment I stress is simply this, that in clause 11 (1) (i) "three members of whom at least one shall be a member of a Native Authority to be appointed by the Unofficial Members of the House of Assembly" should read "six members" and in clause 11 (1) (j) "one member" should read "two members, of whom one shall be a woman".

His Honour the Chief Commissioner:

I think we had better take the amendment in the House of Assembly first.

The Member for Educational Interests (Mr A. Ikoku):

Houses of Assembly?

His Honour the Chief Commissioner:

Does the Member intend that that clause applies to the three Regional Boards?

The Member for Educational Interests (Mr A. Ikoku):

Yes, Sir, in the same proportion.

His Honour the Chief Commissioner:

The one with which we are most concerned is sub-clause 2 of clause 11, pertaining to the Eastern Provinces.

The Member for Educational Interests (Mr A. Ikoku):

The Nigeria Union of Teachers, as you will appreciate, Your Honour, is Nigeria-wide. This is under their command and concerns all Regions and not Eastern Region only.

His Honour the Chief Commissioner:

The amendment is in regard to sub-clause 1 (1), sub-clause 2 (h) and 3 (j).

The Member for Educational Interests (Mr A. Ikoku):

In 3 (j), for "six", I would say "four".

The Acting Deputy Director of Education, Eastern Provinces:

I oppose that, Sir, on these grounds: I think that it is possible to represent fully the responsibility and the knowledge of the Unofficial Members of this House by three. Three men should be able to put before the Regional Board the experience and the educational knowledge which rests in the Unofficial Members. I do not think there is any point in having more than three, and again, if this amendment is carried the Board will become too big, I think, for official discussion. It will be too big to sit inside an ordinary committee room, too big for the members to know each other properly; there will be a lot of profitless discussion leading nowhere. Three members, I submit can adequately represent the knowledge and experience of Unofficial Members of a Regional House. I oppose the amendment.

The Second Provincial Member for the Owerri Province (Mr D. N. Achara):

Your Honour, whatever may be the reason given against this amendment I think personally that it is necessary that as many people as possible should sit on the Board for the interests of the people whom they represent. There are other meetings, for example the Legislative Council, with more than twenty-two members, and I feel that the amendment will give all the Provinces a chance to have a representation on the Board. The representatives are the people to carry whatever is discussed here back to the people at home. So that is my reason for seconding the amendment.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

If the objection to the increase in the number suggested by the Member for Educational Interests is that the Board will become rather unwieldy on account of the numbers, then it occurs to me a good suggestion would be to propose an amendment to decrease the number of certain representatives, for instance, in clause 11 (1) (f) — "four members of whom at least one shall be a woman appointed by the Roman Catholic Mission", surely the interests of the Roman Catholic Mission is so widespread that a smaller number, say two, might adequately represent that body. Again, there is the question of the Christian Council of Nigeria, clause 11 (1) (g) — "Five members, of whom at least one shall be a woman shall be appointed by the Christian Council

of Nigeria", again that could safely be reduced. The interests of the African community and its case ought in my view be adequately protected. There is, after all, the consideration of the large unorganized body — the African Proprietors of Private Schools who have to be protected and it is my view, Sir, that increasing the number as suggested by the mover of the amendment the unorganized body will be well and truly represented by their African friends in this House. I am strongly of the opinion this amendment should not be over-ruled.

The Secretary, Eastern Provinces:

If three members appointed by this House cannot fully represent private schools, I cannot see how six could do any better.

His Honour the Chief Commissioner:

Does any member wish to address the House?

The Provincial Member for the Ogoja Province (Dr F. A. Ibiam):

Your Honour, while I am in agreement with the amendment to six members who will represent the Western House of Assembly and the Eastern House of Assembly, I am opposed to the reduction in number of the representatives of either the Roman Catholic Mission or the Christian Council, because the Christian Council is not just one Church or one Mission, and in nominating representatives to these Boards we shall have to take into account the number of Missionary Bodies making up this Council, and I therefore wish that the number be left as it is and that the amendment to six members for the Eastern House of Assembly and the Western House of Assembly should be accepted. I do not think that the large number making up the Board would hamper the business of the Board.

The Member for Urban Areas other than Port Harcourt (Reverend O. Efiang, O.B.E.):

Your Honour, I understand, Sir, that the fundamental policy is to have an African majority on these different Boards and if that is secured or if that is the policy, I presume that the drafting of this section was done in accordance with that idea in view and if it is proved that Africans are in the majority on this Board I would support the motion, and in fact I do not know whether the mover of this motion spoke of six or four, but once a majority is secured, I would support the motion.

The Provincial Member for the Owerri (Rivers) Province (Mr H. Bowari Brown):

Your Honour, the question of education is of such vital importance to this country that we should not be satisfied with inadequate representation on the Board. We hope for self-government therefore I think all Provinces in the Eastern Region should be represented to

enable the representatives go to their people and educate them and/or explain to them the policy on education, and therefore I do not think the motion for this is out of place, Sir, and I do not believe that the larger the number the more difficult it would be, to carry out the functions of the Board, especially as we have no guarantee that in section 11 (2) (f) and (g) there is going to be any African representation. The Missions may be represented all by Europeans, which would mean there would not be an African majority. I am suggesting, very sincerely that the question of giving a chance to every Province in the Eastern Provinces be seriously considered.

The Member for Educational Interests (Mr A. Ikoku):

The Member for Urban Areas other than Port Harcourt wanted to know whether I meant six or four. For section 11 (1) (z) I meant six, for section 11 (2) (h) six, and section 11 (3) (j) four. About the question of the Board being unwieldy, the Board has its remedy in clause 16 where both the Central and Regional Boards are empowered to appoint committees to consider specialized questions. About the question of African Representation, whether that would be a majority or not. We all appreciate the fact as the Deputy Director of Education has stated that Education is a co-operative effort and the colour line is not the line to draw, but the situation is that those Mission representatives are generally Europeans, as far as I know there is only one African representative of the Missions, and so we have to face facts, Sir, and not just hope for the best.

The Acting Deputy Director of Education, Eastern Provinces:

I do not think that the representation of Unofficial Members should be increased in order to secure or attempt to secure, an African majority in any of these Boards. We are not concerned with African or European representation. It is a fact now that there will be a European majority on the Board set up at this moment, but we have to consider this Bill may go on for twenty years and in twenty years' time the representatives of the Christian Council may well be mostly African and there may be African Fathers representing the Roman Catholic Mission. In discussing this Ordinance we must take a long term view. Again, I am against increasing the Board because it will inevitably end in delay and decision. The formation of committees is not a remedy. A committee has to report to the Board, which has to consider what on clause committee has decided, so that it comes back on to the Board. The it a workable body where the members may function efficiently? I submit that the increase will make the Board unwieldy and will not add to the expert knowledge of the representatives that we desire to have.

His Honour the Chief Commissioner:

The question is that this House do agree that clause 11 be amended accordingly. Will those in favour say "Aye" and those to the contrary "No".

The Provincial Member for the Ogoja Province (Dr F. A. Ibiam):

Yes, Sir.

The Acting Deputy Director of Education, Eastern Provinces:

I do not think we should interfere with the Bill as printed unless we have knowledge to the Region concerned by the suggested amendment.

His Honour the Chief Commissioner:

The question is that clause 11 (3) (k) be amended accordingly. The "Noes" have it.

Does any other Member wish to address the House on clause-11?
Clause 11 as amended.

The First Provincial Member for the Owerri Province, (Mr M. W. Ubani):

While we are discussing the duties of the Board I wish to move an amendment, Sir. It should read: "or as soon as may be after the coming into operation of this Ordinance there should be established a Provincial Board for each Province". I make this amendment, Sir, with a view to stressing an important point that we have—we want to have a Committee like the Central Board and the Regional Board.

I must say that we are not clear how we can simply omit the Provincial Board, and I feel Sir, that if this Board is established it will be advisory in its capacity. Where it does not exist, I feel that a big gap has been created and I fear the disjoint link between the Province and the Region. I therefore move this amendment be considered by the House.

The Acting Deputy Director of Education, Eastern Provinces:

We have had experience of what were in effect Provincial Boards in the past and that experience proved they were ineffective. For that reason I oppose that amendment. Clause 26 provides for schemes to be drawn up for Local Education Committees and Authorities. Well, Local Education Committees may be Divisional or Provincial. It has not been thought out properly yet. They might be Provincial in one Province and Divisional in another Province where there is a thicker population. I think we should leave this question until schemes are worked out for Local Education Bodies. At present our experience does not justify building up Provincial Education Boards.

The Secretary, Eastern Provinces:

On a point of order, Sir, has an amendment been proposed?

His Honour the Chief Commissioner:

I could not hear very well, but I think it was.

The First Provincial Member for the Owerri Province, (Mr M. W. Ubani):

I proposed that a clause be inserted after clause 11 which would read: "so soon as may be after the coming into operation of this Ordinance there shall be established a Provincial Board for each Province."

His Honour the Chief Commissioner:

The question is that a clause be inserted accordingly.

The "Noes" have it.

Clauses 12, 13, 14, 15, 16 and 17.

Clause 18.

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following amendment:—

That in sub-clause (2) the words "with the consent of the relevant Regional Board" be deleted.

These words are unnecessary because Native Authority Schools will be opened according to the procedure given in clauses 20, 21 and 22, that is to say that Regional Boards will have power to judge the refusal of permission to open a Native Authority School.

Clause 18 as amended.

Clause 19.

The Member for Educational Interests (Mr A. Ikoku):

Your Honour, I beg to move that in sub-section 3 of this clause the words "in addition to any other action which may be taken against him under this Ordinance" be deleted. This is a clause, which makes it compulsory for teachers to register and the penalty for teaching without registering is £5 and an additional fine of £1 in respect of each day on which the offender continues to teach. They may mean anything, Sir. I am not pleading that the penalty be reduced, but that the words "in addition to any other action which may be taken against him under this Ordinance" should be deleted.

The Acting Deputy Director of Education, Eastern Provinces:

I think, Sir, this may be a subject for the Senior Crown Counsel, but the reason for the inclusion of these words is that action may lie against a teacher for breach of Regulations made in this Ordinance, and those words are to make it clear so that if the teacher teaches he is liable to the penalties irrespective of other penalties he may incur under this Ordinance. I think so far as this is concerned I must oppose the amendment. I think if a teacher who has no proper qualifications breaks the Regulations he should be made to bear the cost. I think it should be left as it is.

His Honour the Chief Commissioner:

I understand the amendment was the deletion of the last words—"any other action which may be taken under this Ordinance."

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

I think that the matter is of such a serious nature that any provision which makes it impossible for somebody not qualified to attempt to teach will receive my support Sir. Certain amendments have been made to this Ordinance which make it possible to make them represented. I do not approve the amendment.

The First Provincial Member for the Onitsha Province (Mr P. E. Chukwurah):

I understand by this clause that if a teacher teaches without being registered he will be fined £5 for the first time and £1 for every day he teaches, but here there is another point which we are asking to be deleted, which makes it possible for the teacher to be penalized after he has been fined £5 or £1. He still has to fear some further punishment according to this:—"in addition to any other action which may be taken against him under this Ordinance."

His Honour the Chief Commissioner:

That depends whether he has committed any other offence under the Ordinance.

The Senior Crown Counsel, Eastern Provinces:

The word used is "action"; it does not mean punishment in any way. He may be struck off another Board which he may have got on by falsely representing he was a certified teacher. It does not mean legal action.

The First Provincial Member for the Owerri Province (M. W. Ubani):

If a man has been fined £5 and continues to pay a fine of £1 each day, I do not know, Sir, if it would be justifiable to impose any other penalty.

His Honour the Chief Commissioner:

The question is if he committed any offence under this Ordinance. Does any other Member wish to address the House on this amendment.

The Member for Educational Interests (Mr A. Ikoku):

I did not, in making the amendment desire that if a person broke any other section he should not be prosecuted. If in spite of the fine the teacher continues to teach, punish him for that offence and not for any other, but the Senior Crown Counsel has given me a suggestion which if he makes as an amendment to my amendment, I will accept.

The Senior Crown Counsel, Eastern Provinces:

The other action envisaged by this particular sub-clause is action other than a criminal prosecution. For example, if a man represents himself to be a certified teacher and he has been

registered as such, upon conviction the authorities will have his name removed from the Register. The fine of £5 is a maximum — he may be fined as much as £5; he may be fined as little as 1s. or 5s.

Clause 20.

The Acting Deputy Director of Education, Eastern Provinces:

Sir, I beg to move the following amendment:—

That in sub-clause (1) after the words “no new school” the words “other than a Government School” be added.

Clause 20 as amended.

The Member for Educational Interests (Mr A. Ikoku):

I wish to move the following amendment in clause 20 (a) (vii). I propose that the words that “such further information on such questions” be deleted and the words “on all the fore-going” be substituted therefor. The object of the amendment proposed is to limit the information requested to the items listed in (i), (ii), (iii), (iv), (v) and (vi) and not beyond that.

His Honour the Chief Commissioner:

I suggest the legal interpretation is the same.

The Acting Deputy Director of Education, Eastern Provinces:

We may wish further information with regard to particular schools. For instance, there may be an application to open a secondary school. We may wish to know what equipment there will be for such a school; whether a school can be conducted with the equipment. We may wish to know the names of the teachers proposed for the school to be opened, because if we find that these teachers are already teaching in other secondary schools, obviously the new school can only be opened at the expense of other schools. When we open secondary schools we do not want a lot of bogus inefficient schools opened which purport to give education which they cannot give. We require in every case in the case of a secondary school information as to whether a proprietor has sufficient money to put up proper buildings and be able to pay his staff and then we want to know what are the prospects of continuity and stability. This is in the interests of the public. We want to be able to ask for relevant information to prevent the opening of bogus schools.

His Honour the Chief Commissioner:

Do you wish to press the amendment?

The Member for Educational Interests (Mr A. Ikoku):

When we were first considering the draft we were assured that consideration of such questions referred to the questions listed there. If the Department wanted power to ask other questions surely it is not beyond their capacity to list the questions. I do not suggest we want to prevent this clause going a little beyond the powers

originally intended or, as Your Honour said, that in such questions the legal interpretation is in keeping with the amendment. If it is a wide power undefined over and above, I violently oppose it as it stands.

The Secretary, Eastern Provinces:

Subject to the Senior Crown Counsel's interpretation it seems to me that it should allow such other information on such questions as the Director may require. He does not want questions but answers.

The Secretary (Finance), Eastern Provinces:

The information the Director requires may not apply to questions (i) to (vi).

His Honour the Chief Commissioner:

Please give the exact wording of your amendment.

The Member for Educational Interests (Mr A. Ikoku):

"Such further information regarding the foregoing as the Director may require."

The Acting Deputy Director of Education, Eastern Provinces:

I should like to ask in whose interest it is thought desirable to limit our source of information, in regard to the opening of schools. Schools belong to the public. The public should know everything about the schools. Why should there be a desire to limit information about the schools before they are opened? It is the children of the country who are going to the schools: it is designed to protect the children. We want to know what is going to happen before we allow a school to be opened which will be for the children of the country. I oppose this amendment.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

I am opposing the amendment. After all, there are many questions which the Officer in charge of Education may wish to ask before he can take definite actions. At this stage, in any Ordinance of this nature, it is not possible to enumerate the sort of questions that may be asked. If the Director is prevented from asking relevant questions such as the suitability of a site for the opening of a College, or staff, I think more harm will be done to the community than good. I think he wants these powers for the purpose of making sure the service being given is properly run. Regarding the opening of a new school, I think that there should be strict control. I think, Sir, that that power is absolutely necessary. We do not want to encourage the existence of a certain type of schools we have today.

The Second Provincial Member for the Owerri Province (Mr D. N. Achara):

I do not think there is anybody who will support people who start schools which may be detrimental to our children. I feel that for

the guidance of those who may like to start, say a secondary school they ought to know exactly what they will be required to have without which they will not be allowed to open a school. So while I believe that whatever is put down here is for the country and the country's children, I still feel the minimum of all that is required before permission to open a school is granted should be down in white and black for the guidance of future school managers.

His Honour the Chief Commissioner:

The question is that sub-clause 20 (1) (a) be amended by the deletion of the words " on such questions " and the substitution of the words " the foregoing ". The " Noes " have it.

Clause 21.

The Member for Educational Interests (Mr A. Ikoku):

Your Honour, I beg to propose an amendment in section (d) of this clause, to the effect that the wording " or any one of them " should be deleted. This is a section requiring a Regional Deputy Director to make sure that the proposed staff for a school is adequate in the matter of qualifications and with that we have no quarrel, but I should like to make it quite clear that it is quality we are all after, and I have been commissioned by my Union to propose an amendment. If you have a staff of about five or six, or whatever it may be, teachers and one of them happens not to have the qualifications required then the Department should point out that that person without the necessary qualifications should be deleted from the list of teachers and if the school otherwise satisfies the staff conditions it should not be prohibited from opening merely because of that one unsatisfactory teacher.

The Acting Deputy Director of Education, Eastern Provinces:

I oppose the amendment, Sir, because as the Member for Educational Interests has pointed out, one member of the staff, it may be the headmaster, may not have the qualifications required of him to be a member. In that case a Regional Deputy Director may withhold permission and in any case it is only a withholding of permission; an aggrieved proprietor can appeal to the Regional Board.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

I am in favour of the amendment, for reasons which have been clearly indicated by the mover. Surely, if for any reason a member of the teaching staff is considered not to have the requisite qualifications the proprietor should be told: " unless you delete this man's name we do not approve because we do not think he is suitable ". If he makes arrangements to have this name deleted surely there is no reason why the mere fact that one member is not qualified should prevent that proprietor from getting permission to open his school. I am certain that the Ordinance does not intend such harsh treatment of a would-be proprietor.

The Acting Deputy Director of Education, Eastern Provinces:

This sub-section as it stands gives us the power we want, to say to the proprietor: "one of your staff has not got proper qualifications, therefore we withhold permission". We want the power to be able to say to him: "one of your staff has not got proper qualifications, therefore we withhold permission. When you put up a proposition with a fully qualified staff, we will not withhold permission".

The Resident, Owerri Province:

If these words are deleted then the clause reads as if the Deputy Director of Education need not take the question into consideration unless the whole of the staff are unqualified.

The Member for Urban Areas other than Port Harcourt (Reverend O. Efiang, O.B.E.):

Your Honour, it does not seem to me that this position will arise because the very first object in opening a school is to satisfy the Education Authorities that the requisite things are fulfilled, such as staffing—qualifications of the members of the staff—and buildings or any other necessary things. I do not know at what stage that knowledge is inculcated definitely to the proprietor. If he has it early enough I don't think that he will still engage a teacher without the necessary qualifications. I feel that the Department should be given power to check such a position. I oppose this amendment, Sir.

His Honour the Chief Commissioner:

Does the Member wish to press the amendment?

The Member for Educational Interests (Mr A. Ikoku):

Yes, Your Honour, the actual amendment is to delete "or any one of them".

His Honour the Chief Commissioner:

The question is that clause 21 be amended accordingly. Will those in favour say "Aye" and those to the contrary "No". The "Noes" have it.

The Member for Educational Interests (Mr A. Ikoku):

Clause 21 (f). It is admitted both by the Unofficial and Official Benches of the Education Board, Your Honour, that Teacher Training Institutions and Secondary Schools are Nigeria-wide while Primary Schools are local or regional; and clause 21 (f) we think has reference to Primary Schools. "Where having regard to any other educational facilities available in the area, he is of the opinion that the proposed school will not be in the interest of the community to be served". This in particular refers to Primary Schools and therefore, Sir, I propose, with your permission, to make the following amendment—that before the word "where" at the beginning of the clause, the words "in the case of Primary Schools" be inserted.

The Acting Deputy Director of Education, Eastern Provinces:

I oppose that, Sir. This clause applies to all types of schools and the interpretation of the phrase "of the community to be served" depends upon the type of school. In the case of primary school it is a limited community, in the case of a secondary school a much wider community. We judge what is the community to be served by the type of school.

The Member for Educational Interests (Mr A. Ikoku):

In the light of this explanation which I do not accept, this sub-clause suggests local application and not Nigerian application, and the area may be a Province, Region or Nigeria.

Clause 21 (f) not amended.

The Second Provincial Member for the Calabar Province (Mr Nyong Essien):

Your Honour, I have another amendment to make in clause 21. My amendment is to add after the words "Regional Deputy Director" the words "in Committee". The reason for my motion is this: I feel that the responsibility for one man to judge and decide on the application to open a new school is much more responsible than one man can bear. Many evils have been committed by single officers in such offices. They might not know the needs of the people. The people's thoughts might be a problem to them. An information on such might be given by a prejudiced member of the staff of that office, and many a time it was proved to be fictitious. I feel the remedy is overdue. Therefore the judgment and decision of the Director of Education alone is not sufficient. He in Committee should judge and decide on the application.

The Senior Crown Counsel, Eastern Provinces:

If that motion is carried, Sir, the word "He" throughout the clause will have to be deleted and substituted by "The Council" or "The Committee" and the word "his" throughout the clause will have to be altered to "their".

The Acting Deputy Director of Education, Eastern Provinces:

I oppose that, Sir. If the motion is carried the words "withhold his consent" in the second line will have to be deleted, and the words "with the consent of the Committee" substituted. In sub-section (b) the words "in his opinion" should be deleted and the words "opinion of the committee" substituted therefor. In sub-section (c) in the first line, the word "he", after inspection should be deleted, and the words "the Committee is satisfied" be substituted. In sub-section (d) the words "in his opinion" should be replaced by the words "opinion of the Committee".

His Honour the Chief Commissioner:

I think I will call upon the Member to move the amendments if he is not satisfied with the explanation of the Acting Deputy

Director. It will mean re-casting what the Committee is and it will be necessary to define the constitution of the Members of the Committee.

The Second Provincial Member for the Calabar Province (Mr Nyong Essien):

With your permission, I will ask him to give his opinion.

The Acting Deputy Director of Education, Eastern Provinces:

I suggest, Sir, that the Committee asked for is provided in clause 22, which allows a proprietor to appeal to the Regional Board, and if he is not satisfied with their decision, up to the Central Board. There is the Committee which is asked for. The Regional Deputy Director has not got any absolute power to forbid the opening of schools; he has a delaying power which he can exercise so that the proposal can be fully examined and then put before the Regional Board.

The Second Provincial Member for the Calabar Province (Mr Nyong Essien):

With that explanation in view I beg to withdraw my amendment.

The Provincial Member for the Owerri (Rivers) Province (Mr H. Bowari Brown):

In clause 21 (b), Sir, it is necessary that one should know what is meant by "fit and proper person". Is it moral fitness, physical fitness that is to be judged, because as we have just suggested the Director may not be able to make a personal contact; he will call on someone to give him the required information, and there is always a chance that his informant may be mistaken. A man may appeal to the Director, but meanwhile *i.e.*, during the time that the appeal is being heard, or is being dealt with — what happens to this poor prospective proprietor?

His Honour the Chief Commissioner:

Would the Member formulate his amendment as to how he thinks this clause could be better worded.

The Provincial Member for the Owerri (Rivers) Province (Mr H. Bowari Brown):

How is a Proprietor or Manager to know that he is not morally, mentally, physically or otherwise fit or unfit to be in charge of a school? A man should be informed if there is any chance of his getting through, because if there is no chance he would not perhaps worry himself to make a start at all and spend a lot of money, etc.

His Honour the Chief Commissioner:

I would remind the Member there is a saying: "You can try everything once". I do not think your amendment would really affect the meaning of the word in any way. Do you wish to press your amendment?

The Provincial Member for the Owerri (Rivers) Province (Mr H. Bowari Brown):

We all wish to leave a lot to the discretion of the Education Authorities in the initial stage, and we will see how things get on, consequently I withdraw it.

Clause 22.

The Member for Educational Interests (Mr A. Ikoku):

Your Honour, this clause stipulates that six months from the day of notification of intention to open a new school the Education Department should inform the applicant whether or not he should proceed, and if they say he should not, then he can appeal to the Regional Board in writing, and it goes on to say that the Regional Board will consider this appeal at the next Meeting. It does not tell us when the next meeting will be held. It may be quarterly, but we want to make certain by regulation that the applicant is protected in the matter of time limit. He may have put up a bush house for the school, and as we know temporary building materials are perishable or he may have spent a lot of money making forms and other school equipment, and he wants to know where he is and we think that some time limit should be set within which a Board or committee should hear the appeal, and so I suggest the following amendment: that sub-clause (1) the words "at its next meeting" be deleted and at the end of the sentence the following new sentence be inserted:—"A Board, or a committee of the Board appointed therefor shall within one month from the lodging of such appeal consider same".

The Acting Deputy Director of Education, Eastern Provinces:

Might I suggest, Sir, the amendment is not well proposed. We simply require by this clause that a proprietor shall satisfy us that his school is going to be a good one before permission is given to him to open it. Until he gets that permission why should he embark upon any expense? Why should he get up a building? Surely he can formulate his plans well in advance, put up his scheme properly and get permission to open his school before he starts spending money, and with regard to the suggestion that the committee of the board shall have to judge the case within one month from lodgement of the appeal, that is not practicable for the members which form the Board will be region wide. One may be in the Cameroons. How can he get there within one month?

The Member for Educational Interests (Mr A. Ikoku):

I am surprised at the suggestion that a proprietor of a new school is not put to any expense in preparing for a new school. Section 20 lists a number of things he must give satisfaction on. Section 20 (a) (3)—the situation of the school and plan of the buildings. If he is renting the land his rent starts from the time he has got the land and that is all expense. The same section sub-section

(5)—the numbers, qualifications and nationality of the staff. When you engage your staff you have their word and they have yours and you may find that in the end you have to re-submit a form because you have to engage a new staff. The teachers will not wait indefinitely for a new school to be opened. In the matter of equipment some things are definitely perishable. What, for instance, is the life of a mat roof?

His Honour the Chief Commissioner:

Would you give me the final wording of your amendment.

The Member for Educational Interests (Mr A. Ikoku):

The last line but one that the words "at its next meeting" shall be deleted and a new sentence after the fullstop, "a Board or Committee of the Board appointed therefor shall within one month from the lodging of an appeal consider same".

The Acting Deputy Director of Education, Eastern Provinces:

That is imposing on the Board an obligation it will not be able to fulfil.

The Member for Urban Areas other than Port Harcourt (Reverend O. Efiang, O.B.E.):

Your Honour, the question of a time limit in order that a form from the Education Department might pass through for the opening of a school has been a vexed question for years. So much so that some complaint was made before. It was formerly passed through the District Officer and before it got out of the District Office to the Education Office it took about three or six months and the people have suffered hardships by the delay, and I feel, Sir, that a time limit at any rate should be imposed here so that the workers may know definitely when they are going to know the result. I wonder whether the mover of this motion would accept the slight amendment of "three months" instead of "one month", because it would be very difficult to summon all these people within a short time. A proprietor should know that from the date of lodgement of an appeal he is going to get an answer, the maximum time being three months.

The Acting Deputy Director of Education, Eastern Provinces:

I would not oppose that.

The Member for Educational Interests (Mr A. Ikoku):

I had definitely left out that question because there is still a further appeal to the Central Board. I did not desire to press for a time limit. I feel that the question of a time limit is essential at a lower level.

His Honour the Chief Commissioner:

Will you accept "three months". The mover of the Bill is willing to accept that as being a practical proposition.

The Senior Crown Counsel, Eastern Provinces:

I do not know if this involves a consequential amendment. We will have to leave it to the legislature.

Clause 22 as amended.

The First Provincial Member for the Onitsha Province (Mr P. E. Chukwurah):

I want to ask whether a proprietor who has applied to open a school and it has been refused shall on appeal be permitted to obtain the services of a solicitor to help him in presenting his case.

The Senior Crown Counsel, Eastern Provinces:

There is no objection. A man may enlist the services of a solicitor for any purpose provided that it is not an illegal purpose.

His Honour the Chief Commissioner:

Does that satisfy the Member?

The First Provincial Member for the Onitsha Province (Mr P. E. Chukwurah):

Yes, Sir.

The Second Provincial Member for the Onitsha Province (Mr C. D. Onyeama):

There is nothing in the Ordinance enabling a Deputy to represent him. The Board may refuse to allow a representative.

The Senior Crown Counsel, Eastern Provinces:

I do not think the question involves appearing before a Board. I thought it was to help him in the preparation of documents.

Clause 23.

The Member for Educational Interests (Mr A. Ikoku):

A small point, Sir. In the middle of the third line, sub-section (1) appear the words "at any time". There is no doubt that departmental officers will exercise reasonable discretion but as a matter of legislation we should like to exclude public holidays and holy days from inspection. I would amend the clause to read "at any time during business hours". That might exclude an Education Officer from coming to a school at say the holidays. If he wants to inspect the school buildings during the holidays he has a perfect right to do so.

The Acting Deputy Director of Education, Eastern Provinces:

Might I suggest that the proposed amendment is a triviality and not worth pressing?

The Member for Educational Interests (Mr A. Ikoku):

It is very trivial, Sir, but I myself have experienced an Education Officer — I do not say he was a normal type — coming in to Arochuku and wishing to see the school on a Saturday

afternoon. I want to say that Arochuku is out of the way and if an Officer arrives on a Saturday he is greatly tempted to stress the letter of the Law. However, I will not press the amendment.

Clause 24.

The Acting Deputy Director of Education, Eastern Provinces:

Your Honour, I wish to move the following amendment:—

That the word "or" be inserted after the semi-colon at the end of sub-clause (1) paragraphs (a), (c), (d) and (f).

Clause 24 as amended.

The Member for Educational Interests (Mr A. Ikoku):

In clause 24 (1) (b) where an offence has been committed under this Ordinance in respect of that school, in the 1926 Code particular reference was made to what clauses in the Ordinance these offences referred to. This Draft Regulation leaves the question wide open, but we believe the intention is to specify the offences; under the 1926 Code sections 9 and 10. I do not suppose Members may have brought copies. The offence refers to prohibiting opening and obstructing an Education Officer from going to inspect. These are the offences referred to specifically and we feel surprised that these offences should not be so referred to here in this Ordinance; the relevant sections in this new Ordinance are 20 and 23, opening of new schools and inspection of schools. The amendment, Sir, I wish to put before the House for the word "under" in the first line of sub-clause (1) (b) of clause 24 which reads: "when an offence has been committed under this Ordinance in respect of this school", for the word "under" insert the words "sections 20 and 23".

The Acting Deputy Director of Education, Eastern Provinces:

I think that is unduly restricting the powers of the Regional Board, Sir. It may be that a proprietor has committed an offence in other clauses than 20 and 23. He may be an employer of unregistered teachers; he may be conducting a school with classes which are swollen far beyond all the regulations made under this Ordinance. I think it is unduly restricting the powers of the Board if we make this amendment.

The Member for Educational Interests (Mr A. Ikoku):

Minor offences may be prescribed and should be prescribed in the form of new regulations to admit cases referred to by my friend the Acting Deputy Director, but this is a rather serious offence concerning a school not opening or obstructing an Inspecting Officer from entering into and inspecting the school and the penalty for these serious clauses are just as they should be; but if not marking the register five minutes after the attendance period begins for instance is punishable under this clause, where are we?

The Acting Deputy Director of Education, Eastern Provinces:

A host of petty breaches may amount to gross inefficiency in the aggregate and in any case the Regional Board is a reason-

able body and will have three members chosen by the Unofficial Members of this House. They surely will be able to judge whether the offences committed under this Ordinance are considered sufficiently grave or not to warrant the closing of the school.

The Senior Crown Counsel, Eastern Provinces:

It only makes it lawful for the Regional Board to do this, it is not mandatory. Does the member wish to press his amendment?

The Member for Educational Interests (Mr A. Ikoku):

Yes, Sir, except that if my friend the Acting Deputy Director of Education wishes I would drop my amendment and accept a clue from him and amend that the word "an" be deleted and "grave" be substituted.

The Acting Deputy Director of Education, Eastern Provinces:

I would be willing to accept the deletion and the substitution of "grave" making it read "a grave offence".

The Senior Crown Counsel, Eastern Provinces:

In the absence of a definition of the word "grave" it is quite meaningless. What one thinks is grave another does not. One should not restrict the powers of the Board. They have an unofficial majority; they must deal with every case on its merits and there should be circumstances when they should exercise these powers and, in the case of trivial offences I do not think they will exercise these powers.

The Second Provincial Member for the Onitsha Province (Mr C. D. Onyeama):

I would like to draw the attention of the Member for Education to the fact that section 24 (1) prescribes the conditions under which a school may be ordered to be closed. Section 24 (2) deals with a grave offence—that is failing to close a school that has been ordered to be closed. If I understand him rightly the only time an order should be made for a school to be closed would be when offences against sections 20 and 23 have been committed; but I would remind him, Sir, that strictly speaking, if you were to adopt that amendment, it would mean that if a man refused to close a school, after an order then all he would suffer would be a fine of £100, but still the school remain open.

The Member for Educational Interests (Mr A. Ikoku):

That is not the case, Your Honour.

His Honour the Chief Commissioner:

Does the Member still wish to press his amendment?

The Member for Educational Interests (Mr A. Ikoku):

Yes, Sir. I move that sub-clause (1) of clause 24 be amended by inserting the words "under sections 20 and 23" between the words "order" and "any".

His Honour the Chief Commissioner:

The question is that clause 24 be amended accordingly. Will those in favour say "Aye" and those to the contrary "No". The "Noes" have it.

The Second Provincial Member for the Calabar Province (Mr Nyong Essien):

Your Honour, I am opposed to closing down schools in this country at any time. My reason for that is that it is very disadvantageous to this country. The evils of closing down schools in this country may be enumerated as follows:—

Closing down schools and colleges promotes and supports illiteracy, retards educational progress, victimises the innocent, punishes the wicked and thousands of the righteous. By "innocent" I refer to this country. As such, Sir, I propose that the marginal note should be deleted and the following be substituted therefor: "Power to remove proprietors of schools and substitute fit and proper ones therefor". I further propose that in the first line the words "or any school to be closed" be deleted and the words "remove all proprietors of schools and substitute fit and proper ones therefor" be substituted.

His Honour the Chief Commissioner:

Does the Member realise this means the complete re-drafting of the section and a complete change of tone in the Bill as a whole? It is such a major change.

The Second Provincial Member for the Calabar Province (Mr Nyong Essien):

Well, I realise that, Sir. Does Your Honour mind that? Closing down schools, Sir, encourages illiteracy. Where and when the opening of a school has been approved and that school is opened, there is no reason why it should be closed when the Proprietor or Manager or Teacher contravenes any of the sections of this Code according to the rules in this section with its sub-sections. Closing down these schools punishes that area and the children; thrusts all children into illiteracy and so affects educational interests in this country. I stand to correction, Sir—I have read in Education Ordinances or Education Codes of other countries, in my study of the systems of their "Comparative Education", especially the leading countries of the world—America, Britain, France and Germany, although the last has now been pushed to the wall. In those books, Sir, I have not seen closing down of schools. Rather than close them down, I have observed that at times an Inspector visited a bad school with bad buildings, such buildings were not readily recognised but pointed out to him by the people of that locality, because the buildings were useless. When he went in he met the teacher and the children hard at work. In his examination he was satisfied and left that school to continue. Here, such buildings would be closed and the children would be

unjustly punished. As such I oppose closing down of schools in Nigeria. It being a primary duty of Government to educate the people, we should encourage opening of schools, and when such schools are opened we should keep them open, continuously, and for no reason of offences whatsoever should they be closed down.

The Acting Deputy Director of Education, Eastern Provinces:

I suggest, Sir, that the Regional Board will have the interests of the children at heart and will, if it decides a school should be closed, know what provision should be made for the education of those children, but there should be power of closing. It might be that the children are so packed together that diseases are being communicated from one to the other. We must safeguard the children against that danger. The Regional Board has a duty laid upon it.

The Secretary (Finance), Eastern Provinces:

May I suggest that the amendment is out of order because it is not consistent with the rest of the section? Sub-section (2) refers to a school being closed.

The Senior Crown Counsel, Eastern Provinces:

It is not practicable.

His Honour the Chief Commissioner:

I think I must rule that the mover's amendment is out of order.

Clause 24.

Clause 25.

The Member for Educational Interests (Mr A. Ikoku):

I quite realise the expense and difficulty of summoning the Central Board at short notice and at short intervals, but we should like to ask for some time limit. It may be a long time limit for hearing an appeal lodged with the Central Board. I think the Central Board meets about once a year and I have seen a regulation where it is suggested that the Board meets at least twice in three years and so it would be extremely difficult, Sir, for an applicant, if he should have to wait for about a year or so before his case is submitted. I should like to suggest the following amendment. In the third line after the word "appeal" strike out "at its next meeting or who shall appoint a committee for that purpose which", then substitute "within three months of the date of lodgement of appeal". That would be, Sir, such appeal within six months of the date of lodgement of the appeal and so give any such proprietor an opportunity of representing his case on such appeal.

The Secretary (Finance), Eastern Provinces:

May I point out something? If that amendment is allowed to go through the Central Board may have to sit every day of the year and if appeals are lodged every day the Central Board may be extremely busy.

The Member for Educational Interests (Mr A. Ikoku):

I accept that correction. I would like to say "within six months of the date of its last meeting".

The Secretary (Finance), Eastern Provinces:

I do not think it is quite suitable. An appeal lodged on the thirtieth of June would have to be heard by the thirtieth of December, but the Board might not meet till the first of January.

The Acting Deputy Director of Education, Eastern Provinces:

There are two things I would like to say against this amendment. One is it would mean that the Central Board would not have power to delegate the hearing of appeals to a Committee while the Central Board must have the power to delegate this work to a Committee, for there will be a lot of this work. Secondly I do not think we should lay restrictions on the Central Board at this level. We do not quite know how much business it is going to have. If you start imposing time limits it might result that the Board will have to appoint a Committee which will live almost entirely in Lagos. We would have regional cases judged entirely by Lagos. If a case gets up to the Central Board it must be a pretty serious case and therefore plenty of time should be given for the collection of all the facts about the case. I do not think this amendment will serve any useful purpose at all. It may even have a bad effect upon the quality of the judgment finally given.

His Honour the Chief Commissioner:

Does the Member press his amendment?

The Member for Educational Interests (Mr A. Ikoku):

We would want to avoid appointing a Committee to hear a case already heard by the Regional Board. I would amend my amendment if the date of hearing is within twelve months and the question of time limit is important but not as important as the question "Who hears the appeal?"

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

If the Member agrees to the extension of the time to twelve months there is a reasonable hope that the Central Board will meet at least once a year.

The Member for Educational Interests (Mr A. Ikoku):

The Proprietor of any school closed by section 24 may appeal to the Central Board in writing who shall hear such appeal within twelve months of the date of its last sitting and shall give any such Proprietor an opportunity of representing his case on such appeal.

The Senior Crown Counsel, Eastern Provinces:

In section 25 the word "representing" at the beginning of the fifth line is wrong. It should surely be "presenting"—"and give any such Proprietor an opportunity of presenting his case".

His Honour the Chief Commissioner:

I do not think it is necessary to propose that amendment.

The Senior Crown Counsel, Eastern Provinces:

No, Sir.

Clause 26.

Clause 27.

The Acting Deputy Director of Education, Eastern Provinces:

Sir, I beg to move the following amendment:—

That in sub-clause (2) line 3 after the word "laid" the words "first on the respective tables of the House of Chiefs and Houses of Assembly and then" be inserted; and

That in the fourth line a comma shall be inserted after the word "thereof"; and

That in the fourth line the words "such regulations" shall be inserted after the word "and".

Clause 27 as amended.

Clause 28.

Clause 29.

The Second Provincial Member for the Owerri Province (Mr D. N. Achara):

Your Honour, I wish to ask for information. Do the conditions laid down here include all Junior and Primary Schools. "The Governor in Council may make regulations . . ." are they to be made to Voluntary Agencies?

The Acting Deputy Director of Education, Eastern Provinces:

"Schools" include all schools—Junior Primary, Senior Primary and Secondary Schools.

Clauses 30 and 31.

His Honour the Chief Commissioner:

Gentlemen it is usual with the Schedule to put the question only in regard to the whole Schedule, but as this is a very long one I propose to avoid confusion by calling each section, and finally to put the question regarding the whole Schedule as amended if these amendments are carried.

Schedule A.

Regulation 1.

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following amendment:—

"That in Regulation 1, in the definition of 'Middle School' after the words 'Northern Provinces' the following words be inserted 'mainly for pupils who have attained the age of twelve years but have not attained the age of eighteen years'."

Regulation as amended.

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following amendment:—

“That in Regulation 1, in the definition of ‘Secondary School’ after the words ‘full time education’ the word ‘mainly’ be inserted.”

Regulation as amended.

Regulation 2.

Regulation 3.

Regulation 4.

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following amendment:—

“That in Regulation 4 sub-paragraph (1) (a) the word ‘Lands’ be altered to read ‘Land’.”

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following further amendment:—

“That in the same Regulation sub-paragraph (1) (d) the words ‘Voluntary Agencies working in the area’ be deleted and replaced by the words ‘the Regional Board concerned’.”

Regulation 4 as amended.

Regulation 5.

Regulation 6.

Regulation 7.

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following amendment:—

“That in Regulation 7, sub-paragraph (d) the words ‘or other unavoidable cause’ be inserted after the words ‘infectious disease’.”

Regulation 7 as amended.

Regulation 8.

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following amendment:—

“That in Regulation 8, in the proviso, after the word ‘certificated’ the following words be added ‘or Trained Uncertificated or Specially Approved’.”

Regulation 8 as amended.

Regulation 9.

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following amendment:—

“That in Regulation 9, sub-paragraph (a) after the word ‘Director’ the following words be added ‘in consultation with Local Education Committees or, where they do not exist, in consultation with Voluntary Agencies conducting schools in the area’.”

Regulation 9 as amended.

Regulation 10.

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following amendment:—

“ That in Regulation 10, sub-paragraph (d) the words ‘ whole time ’ be deleted.”

Regulation 10 as amended.

Regulation 11.

Regulation 12.

Regulation 13.

Regulation 14.

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following amendments:—

“ That in Regulation 14, sub-paragraph (2), the words ‘ multiplied by thirty-five ’ be altered to read ‘ multiplied by thirty-five in urban areas and by ‘ twenty-five in non-urban areas.’; and

“ That in Regulation 14, sub-paragraph (2), proviso (ii), the word ‘ twenty ’ be altered to read ‘ fifteen ’.”

Regulation 14 as amended.

Regulation 15.

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following amendment:—

“ That in Regulation 15, sub-paragraph (1), the word ‘ both ’ and the words ‘ and as providing education for pupils drawn from a wide area ’ be deleted; and that sub-paragraph (2) be renumbered (3); and that a new sub-paragraph (2) be inserted which reads:—

‘ If a grant-aided Senior Primary School providing a full senior primary course is recognised by the Director as providing education for pupils drawn from a wide area an additional grant not exceeding fifteen per cent of the Grant payable under the normal method of assessment may be paid ’.”

Regulation 15 as amended.

Regulation 16.

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following amendment:—

“ That Regulation 16, sub-paragraph (1) be re-worded as follows:—

“ The rates prescribed by Tables III and IV in respect of recognised expenses other than salaries and of assumed local contributions respectively and the multiples prescribed by Regulation 14 shall remain unaltered for the year 1949, during which year the rates in Tables III and IV and the multiples shall be revised by the Director in consultation with

the Central and Regional Boards and after approval by the Governor-in-Council the rates and multiples so revised and approved will remain unaltered for a period of three years'."

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following further amendment:—

"That Regulation 16, sub-paragraph (2) the words 'and multiples' be inserted after the word 'rates' each time where the latter word appears."

Regulation 16 as amended.

Regulation 17.

Regulation 18.

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following amendment:—

"That Regulation 18 be re-worded as follows:—

'Grants may be made to an approved Voluntary Agency or Native Authority or Local Authority in respect of allowances to Certificated Headmasters of certain Primary Schools as prescribed by Table VI'."

Regulation 18 as amended.

Regulation 19.

Regulation 20.

Regulation 21.

Regulation 22.

Regulation 23.

Regulation 24.

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following amendment:—

"That in Regulation 24, sub-paragraph (b), the words 'or other unavoidable cause' be inserted after the words 'infectious disease'."

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following further amendment:—

"That in Regulation 24, sub-paragraph (c), after the semi-colon the following proviso be added:—

'Provided that, in the case of a school established before the 1st January, 1948, if the Director is satisfied that the Proprietor is unable to provide the minimum number of graduate teachers required by the said Table, he may at his discretion, for a period of not exceeding three years, approve a grant in respect of the school.'"

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following further amendment:—

"That in Regulation 24, sub-paragraph (e) (iii) the

following words be deleted ' and that the Proprietor of the school is approved by the Director '."

Regulation 24 as amended.

Regulation 25.

Regulation 26.

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following amendment:—

" That in Regulation 26, sub-paragraph (d) be altered to read:—

' (d) a sum for other expenses, not including boarding expenses, equal to £3 multiplied by twenty-five for each class of the schools, less an assumed local contribution of £6 multiplied by twenty-five for each class of such school.'"

Regulation 26 as amended.

Regulation 27.

Regulation 28.

Regulation 29.

Regulation 30.

Regulation 31.

Regulation 32.

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following amendment:—

" That in Regulation 32, sub-paragraph (1), in the fourth line the words ' or vocational ' be inserted after the word ' probationary '."

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following further amendment:—

" That in Regulation 32, sub-paragraph (2) a new section (c) be added reading ' (c) a headmaster's allowance of £25 per annum.'"

Regulation 32 as amended.

Regulation 33.

Regulation 34.

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following amendments:—

" That in Regulation 34 the words ' Girls Primary Boarding School ' be added after the words ' Modern School '."

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following further amendment:—

" That in Regulation 34 the words ' any of ' be inserted after the word ' for '."

Regulation 34 as amended.

Schedule A as amended.

Tables to Schedule A.

Table No. I.

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following amendments:—

“ That the headings to the tabulated Scales of Salaries in Table I should be altered to read as follows:—

- (a) In the first tabular scale: ‘ Scales of Salary for teachers employed by Voluntary Agencies.’
- (b) In the second tabular scale: ‘ Scales of Salary for particular categories of teachers employed by Voluntary Agencies.’
- (c) In the third tabular scale: ‘ Scales of Salary for vocational teachers employed by Voluntary Agencies.’ ”

“ That in Table I a new tabular scale be added with the heading:— ‘ Scales of salary for teachers employed by Native Authorities and Local Authorities ’ and reading as follows:— ‘ The scales approved for the purposes of these Regulations are those approved for teachers in Native Administration Service by the Chief Commissioners of the Regions in which the teachers are employed.’ ”

“ That in Table I in the first sub-table Note (ii) of the special conditions for the grade named Teachers’ Senior Certificate should be altered to read as follows:—

‘ Holders of First and Second Class Certificates under the 1916 Code may be placed on the Senior Certificate scale but holders of the Second Class B Certificate may not proceed beyond a maximum salary of £230 per annum.’ ”

“ That in Table I in the scales of salaries for particular categories of teachers, in the heading of the fourth column the word ‘ suggested ’ be deleted and replaced by the word ‘ approved ’.”

Table No. I as amended.

Table No. II.

Table No. III.

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following amendment:—

“ That in Table III the Notes should be altered to read:—

‘ To calculate the amount of grant payable by Government towards non-salary expenses multiply the relative rate by thirty-five for each class teacher in a Junior Primary Department or School or Elementary School in an urban area; by twenty-five for each class teacher in a Junior Primary Department or School or Elementary

School in a non-urban area; by thirty for each class teacher in a Senior Primary Department or School or Middle School; or in Schools where a reduced multiple has been allowed under Regulation 14 (2) (ii) by such reduced multiple for each class teacher."

The Provincial Member for the Ogoja Province (Dr F. A. Ibiam):

I would like to make an amendment. In the third column "Rate of Contribution by Government" to read "2s. 6d per pupil" and not "2s."

The Acting Deputy Director of Education, Eastern Provinces:

I should like to say, Sir, that these rates are all based upon the official calculations which are inter-related and if this rate of contributions was raised for this Region — if contributions of Government were raised — the Regional Local Contribution would have to be raised also to meet the case. It is very complicated. The suggested amendment would have to be followed by the revision of the rates of Local Contribution throughout. In view of that, I would ask the Member for Ogoja to withdraw his motion.

The Provincial Member for the Ogoja Province (Dr F. A. Ibiam):

It is true, Sir, that it may involve a lot of work in recalculating the whole sum. Grant for Region — estimated Local Contribution — the people say is too small. The Region says the Local Contribution is small because it does state that it does not give enough grant for schools for which these grants are made, and I think if you increase this to 2s. 6d and also have to give a further consideration about the rate of Estimated Local Contributions, I do not think you will be taxing Government funds too much.

The Acting Deputy Director of Education, Eastern Provinces:

There is provision for revision of these rates of contribution, Sir, and I think it will be better to leave this.

The Provincial Member for the Ogoja Province (Dr F. A. Ibiam):

If it is guaranteed that these rates will be reviewed in due course I will withdraw my amendment.

Table III as amended.

Table IV.

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following amendment:—

"That in Table IV the Notes should be altered to read:—

'In order to calculate the total amount of Local Contribution to be made towards a class teacher's salary in a Primary School the rate of assumed Local Contribution should be multiplied by

thirty-five in the case of a teacher in a Junior Primary Department or School or Elementary School in an urban area, by twenty-five in the case of a teacher in a Junior Primary Department or School or Elementary School in a non-urban area, and by thirty in the case of a teacher in a Senior Primary Department.'."

Table IV as amended.

Table V.

Table VI.

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following amendment:—

“ That in Table VI the second and third groups be deleted and the description of the type of school in the first group be re-worded as follows:—

‘ School, or Department of a school separately organised, providing full Junior or Elementary Course or full Senior Primary or Middle Course or combined Junior and Senior Primary Course ’.”

Table VI as amended.

The Member for Educational Interests (Mr A. Ikoku):

Your Honour, I have a further amendment to Table VI. Allowances to Headmasters, where there are 480 and more pupils. This is a Table setting out allowances to Headmasters not to other teachers in the land. I admit there are many Headmasters but certainly there are not anything like as many as the total teaching staff in the country and the present rate of allowances is £10 for every Headmaster of a school and I think £5 for smaller schools. The figures set down here are not high enough and I should like to propose that the figures “ 3, 5 and 10 ” be deleted and the figures “ 5, 10 and 15 ” be substituted therefor. I should like to add that a Headmaster of a school of 480 or over has a little more responsibility than an ordinary Housemaster of a secondary school and when you come to that Table you will see that the allowance to a Housemaster or a Senior Master is a little too liberal in comparison with that to the Headmaster of a large primary school.

The Acting Deputy Director of Education, Eastern Provinces:

I oppose that, Sir, because the expense laid upon Government by this proposed Ordinance is extremely heavy and it will be as much as Government can do to provide the Grants which are prescribed in the Tables as they stand, and until the accounts for the first year have been seen, it will be most unwise to increase these rates of Headmaster allowances. Government perhaps will not be able to meet the obligation laid upon it by such an amendment, so the amendment might prove ineffective for that reason. Headmasters' allowances are not being paid now. We hope there will be a retrospective payment though it is not certain yet whether the money will be there to do it.

His Honour the Chief Commissioner:

May we ask if this is also subject to revision?

The Acting Deputy Director of Education, Eastern Provinces:

The whole of this Table is subject to revision by the Governor-in-Council under clause 27, sub-clause (2) in the Ordinance, so the position can be reviewed in the light of experience.

The Member for Educational Interests (Mr A. Ikoku):

If my Honoured Friend agrees to revise the matter four years after the first year I am satisfied.

The Acting Deputy Director of Education, Eastern Provinces:

There is no time limit stipulated in clause 27 (2).

The Member for Educational Interests (Mr A. Ikoku):

I will not press for the amendment but before we pass on to Table VII, on a point of explanation, why is Table V after Table VI?

His Honour the Chief Commissioner:

It is a printer's error.

The First Provincial Member for the Owerri Province (Mr M. W. Ubani):

Your Honour, I would like to know what is the position with regard to Headmasters' allowances.

The Acting Deputy Director of Education, Eastern Provinces:

It is undetermined, Sir, I think — in other words Government does not know whether it has money to pay them or not this year. That I understand is the position.

His Honour the Chief Commissioner:

It is hardly a matter which affects the Bill.

Table VII.

Table VIII.

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following amendment:—

“That in Table VIII the heading of the first column be altered to read:—

‘Number of pupils on the roll on 30th September of the year preceding the year of assessment’.”

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following further amendment:—

“That in Table VIII in the first column the figures be altered as follows:—

‘180-359’ to be altered to ‘180-239’;

‘360-599’ to be altered to ‘240-479’;

‘600 and above’ to be altered to ‘480 and above’.”

Table VIII as amended.

Table IX.

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following amendment:—

“ That in Table IX, column 5, in the third special condition, a full stop be inserted after the word ‘ staff ’ in the seventh line, the following words being deleted from and including the words ‘ for distribution ’ to the end.”

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following further amendment:—

“ That in Table IX, column 6 in the fourth line, after the figures ‘ 2, 3 and 4 ’ the word and figure ‘ and 5 ’ be inserted.”

Table IX as amended.

Table X.

The Acting Deputy Director of Education, Eastern Provinces:

I beg to move the following amendment:—

“ That in Table X in column 2 the figure ‘ 20 ’ be altered to ‘ 25 ’.”

Table X as amended.

The Member for Educational Interests (Mr A. Ikoku):

The same Table, Your Honour, column 2. The heading of the column where we have “ An allowance not exceeding per annum ”. I move that the words “ not exceeding ” be deleted. Previous Tables set out an allowance per annum.

The Acting Deputy Director of Education, Eastern Provinces:

I oppose that, Sir, because there is a qualifying condition in column 3 which allows for the paying of less than the full rate. Conditions are specified in which the full rates may not be paid when the number of pupils or students justifies only lower rates.

The Member for Educational Interests (Mr A. Ikoku):

That is precisely my point, Your Honour, that conditions are prescribed and the words “ not exceeding ” are redundant. I do not want to say that the words are unintelligible: they are redundant.

Amendment not carried.

Schedule A as amended.

Schedule B.

His Honour the Chief Commissioner:

The House will now resume.

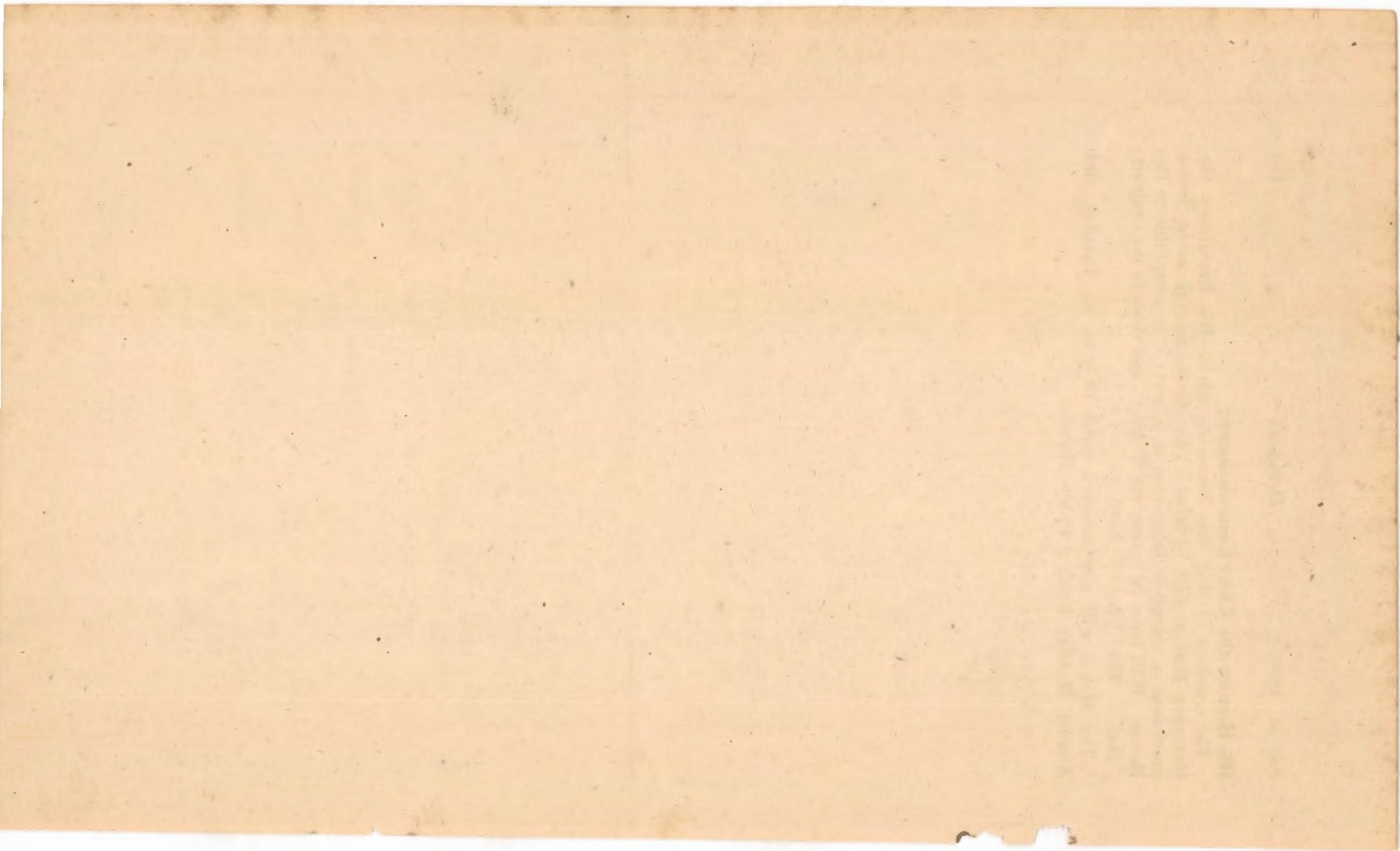
The Acting Deputy Director of Education, Eastern Provinces:

Sir, I beg to report that a Bill for “ An Ordinance to make better provisions in regard to Education in Nigeria ” passed through Committee with forty-seven amendments.

His Honour the Chief Commissioner:

The question is that this House do advise His Excellency the Governor that a Bill entitled "An Ordinance to make better provisions in regard to Education in Nigeria" is acceptable to the House. Will those in favour say "Aye" and those to the contrary "No". The "Ayes" have it.

The House will now adjourn until 10 a.m. on Tuesday, 3rd August, Monday being a Public Holiday.



Debates in the Eastern House of Assembly

Tuesday, 3rd August, 1948

Pursuant to notice the Members of the Eastern House of Assembly met in the Garrison Hall, Enugu, at 10 a.m. on Tuesday, the 3rd of August, 1948.

PRESENT

OFFICIAL MEMBERS

- The Chief Commissioner, Eastern Provinces,
Sir Bernard Carr, Kt., C.M.G.
- The Secretary, Eastern Provinces,
Commander S. E. Johnson, R.N.
- The Resident, Owerri Province,
Mr J. S. Smith.
- The Resident, Rivers Province,
Mr A. T. E. Marsh.
- The Acting Resident, Calabar Province,
Mr H. L. M. Butcher.
- The Acting Resident, Onitsha Province,
Mr E. R. Chadwick, O.B.E.
- The Acting Resident, Ogoja Province,
Mr J. G. Mackenzie.
- The Secretary (Finance), Eastern Provinces,
Mr G. B. G. Chapman.
- The Deputy Director of Medical Services, Eastern Provinces,
Dr C. Wilson.
- The Acting Deputy Director of Education, Eastern Provinces,
Mr W. E. Holt, O.B.E.
- The Deputy Director of Agriculture, Eastern Provinces,
Mr M. Park.
- The Deputy Director of Public Works, Eastern Provinces,
Captain R. Rodger.
- The Senior Crown Counsel, Eastern Provinces,
Mr S. A. McKinstry.

UNOFFICIAL MEMBERS

- The Member for Urban Areas other than Port Harcourt,
Reverend O. Efiang, O.B.E.
- The First Provincial Member for the Cameroons Province,
Mr J. Manga Williams, O.B.E.
- The Member for Professional, Salaried and Wage-earning
Classes,
Mr E. N. Egbuna.
- The Member for African Commercial Interests,
Mr G. H. H. O'Dwyer.
- The First Provincial Member for the Onitsha Province,
Mr P. E. Chukwurah.
- The First Provincial Member for the Owerri Province,
Mr M. W. Ubani.
- The Provincial Member for the Ogoja Province,
Dr F. A. Ibiam.
- The First Provincial Member for the Calabar Province,
Mr Asuquo Okon.
- The Second Provincial Member for the Onitsha Province,
Mr C. D. Onyeama.
- The Member for Port Harcourt,
Mr L. R. Potts-Johnson.
- The Second Provincial Member for the Owerri Province,
Mr D. N. Achara.
- The Provincial Member for the Owerri (Rivers) Province,
Mr H. Bowari Brown.
- The Member for Educational Interests,
Mr A. Ikoku.
- The Second Provincial Member for the Calabar Province,
Mr Nyong Essien.

ABSENT

OFFICIAL MEMBER

- The Resident, Cameroons Province,
Mr A. F. B. Bridges.

UNOFFICIAL MEMBER

- The Second Provincial Member for the Cameroons Province,
Galega, Fon of Bali.

PRAYERS

At the request of the President, Reverend O. Efiang, o.B.E., Member for Urban Areas other than Port Harcourt, opened the proceedings of the House with prayers.

CONFIRMATION OF MINUTES

The Minutes of the meeting held on the 31st of July, 1948, having been printed and circulated to the Members were taken as read and confirmed.

BILLS

A BILL FOR AN ORDINANCE TO MAKE FURTHER PROVISION FOR
THE ADMINISTRATION OF JUSTICE IN CRIMINAL MATTERS BY
NATIVE COURTS

The Senior Crown Counsel, Eastern Provinces:

Sir, I beg to move the following resolution:—

“ Be it resolved:

That this House do advise His Excellency the Governor that a Bill for ‘An Ordinance to make further provision for the Administration of Justice in criminal matters by Native Courts’ is acceptable to this House in principle.”

This Bill, Sir, has a very distinct legal flavour. Its principal object is to remedy certain defects in the Law relating to Native Courts which emerged as a result of the West African Court of Appeal decision in the case of Tsofo Gubba versus the Gwandu Native Authority, tried on the 5th of May last year. The Bill, Sir, is, if I may say so, very important to the North, but it is also of importance to the rest of Nigeria. This case was one where an accused person by the name of Tsofo Gubba was convicted by the Court of murder under Islamic Law. As perhaps you are aware Mohammedan Law and the Mohammedan Religion are the handmaidens one of the other, and the offence of manslaughter, as we know it is unknown to Islamic or Mohammedan Law. The Native Court, presided over by the Emir of Gwandu, held that upon the facts before them the appellant was guilty of murder and he was sentenced to death. The case went to the Supreme Court on Appeal and the Supreme Court upheld the decision of the Native Court. From there a further appeal was taken to the West African Court of Appeal, and the West African Court of Appeal held that the facts of that particular case did not in fact constitute murder under the Criminal Code, but manslaughter. They then looked around for some means of punishing the appellant for manslaughter but because of the limitation imposed by section 36 of the Native Courts Ordinance whereby the Appeal Court may only impose a sentence which the original Court could have imposed, they had to decide reluctantly that they had no power to convict the appellant of manslaughter and, as there was no alternative, he was allowed to go scot-free.

It is the difficulty of applying Moslem Law *vis-a-vis* the Criminal Code which is Government's chief concern in relation to this Bill. Another important effect of this decision is that where a Native Court tries an offence which is also an offence under the Criminal Code, the Native Court is required to exercise its jurisdiction in accordance with the provisions of the Criminal Code. That is of very great importance, as Members will realize. If a man is charged, shall we say, with stealing a corn cob by Native Law and Custom, as frequently happens in every part of the Eastern Provinces every day, the Native Court, before it can convict the man of stealing the corn cob must satisfy itself that all the legal ingredients as defined in the Criminal Code are proved by the prosecution. I do not want to weary you, but take for example just what is theft or larceny under the Criminal Code? It is comparable to the English Law of Larceny. If I may just mention briefly the ingredients of stealing, the English definition is a person steals who "without a claim of right made in good faith fraudulently takes and carries away the goods of another with intent, at the time of such taking, permanently to deprive the owner of his ownership therein". Now, gentlemen, I ask you, is any Native Court, except perhaps those in the Western Provinces, presided over by legal men capable of applying the technical law of the Criminal Code in all those respects to a case where a man steals a corn cob?

Clause 3 seeks to give effect to the principal object of this Bill. Subject to the limitations imposed upon its jurisdiction a Native Court may, notwithstanding that an act constitutes an offence under the Criminal Code, proceed to determine it according to Native Law and Custom, subject to certain safeguards which I shall show you in a few moments. Now, I think it may be helpful if I go through the Bill clause by clause and explain to the House the reasons for each clause.

Clause 1 is divided into two sub-clauses, one is merely a short title. Sub-clause 2 limits the life of the Bill — it will expire on the first day of July, 1953 unless the Legislature sees fit to extend it. The reason for that you can probably guess, from His Honour's opening speech to this Assembly in which he told you definitely that Government was actively considering the transfer of the powers of Native Authorities to some form of Local Government, and when that takes effect, the whole system of Native Courts will have to be completely revised. That is the reason for leaving this Bill in operation for only a limited period. It is for a limited period of five years.

Clause 2 I do not think I need bother you with. As I have already indicated, clause 3 is the most important of all. There is nothing hidden or ambiguous in any of the wording; it is quite simple English. "Subject to the limitations imposed by or under the Native Courts Ordinance". Most of you are aware that, in these Eastern

Provinces the jurisdiction of all Native Courts is divided into Grades B, C and D. We have no Grade A Courts in the Eastern Provinces — they are the Courts which have the right to hear capital offences in the North. The object is merely to militate against the West African Court of Appeal judgement — notwithstanding that the Criminal Code requires certain essential ingredients to be proved, a Native Court may convict the man of stealing a corn cob under Native Law and Custom as it has always done.

Clause 4 is one of the consequential results of this decision. It was found, as I have already explained, that the West African Court of Appeal could not convict this man of manslaughter because the particular wording of the Native Courts Ordinance only allowed them to “pass such sentence as the Court of first instance could have passed”, and they could not substitute any other decision. In this case their hands were completely tied; they could not convict for manslaughter because the Court below did not know the crime of manslaughter. Under Islamic Law it is either murder or nothing. Sub-clause 2 is consequential — the appellate tribunal is given power to order further evidence to be adduced before it. Section 36 of the Ordinance, which sets out the powers on appeal, is repealed by sub-clause 4.

Clause 5 is a new provision, and I am confident it will be welcomed by the legal Members of this House. It enables the Attorney General to act in any case tried before a Native Court, where the appellant has not exercised his right of appeal. It empowers the Attorney General if he thinks fit — and I may say it is the intention to delegate these powers to Crown Counsel — to require the Native Court to send a copy of the proceedings to a Judge of the Supreme Court. But you may ask how is the Attorney General to know when a case is unsatisfactory? I think the answer is that if for any reason an Administrative Officer, who has a case before him in connexion with a review thinks justice is not being done, or where he sees that it is obvious that an injustice has been done, it will be competent for such Administrative Officer to send a report on the case to the Attorney-General or to any Law Officer or Crown Counsel. The procedure laid down is that if the Supreme Court finds anything wrong with the decision — it may do one of several things — it may make an order as in (a), (b) or (c) of sub-clause 2. It may also direct a retrial before the Supreme Court on any charge under the Criminal Code. If there has been imposed a sentence of death, it may substitute for the conviction of the Native Court a conviction for manslaughter and pass sentence accordingly. Paragraph (b) does not apply to the Eastern Provinces but only to the Northern Provinces. If it is satisfied there has been no injustice, it may confirm the decision of the Native Court. An important proviso then follows. It is important because the Supreme Court may not exercise its powers until the time for appeal has expired.

As you know the time for appealing is thirty days. Sub-section 3 goes on to provide that the Supreme Court may, if it thinks fit, hear the appellant himself or hear him by a Legal Practitioner. Sub-clause 4 gives an opportunity for any person aggrieved by an order made by a Judge to appeal to the West African Court of Appeal, subject to the conditions laid down by and in accordance with the West African Court of Appeal Ordinance and the Rules made thereunder. Sub-clause 6 gives the Attorney-General the statutory right to delegate his powers under this clause to any Crown Counsel.

Gentlemen, I ask that you give this Bill, as I have no doubt you have already done, your serious consideration because this is an important matter to this Group of Provinces, even although the matter is of greater importance to the North. As I have said, this is by way of a stop-gap measure. We cannot abolish Native Courts overnight; something has to be ready to take their place and that is the principal reason why the Bill is to be in operation only for five years, by which time it is hoped that the Native Courts will have undergone almost complete reform. I commend the Bill to your favourable consideration.

The Secretary, Eastern Provinces:

Sir, I beg to second.

The Second Provincial Member for the Onitsha Province (Mr C. D. Onyeama):

Sir, I rise to oppose this Bill, and the reason why I desire to oppose it is as follows. There is a fundamental principle of law that any person shall not be tried twice for the same offence. The whole of sections 4 and 5 expose a man who has been tried and convicted in the Native Court to the risk of being retried and reconvicted by reason of an order either of the Supreme Court or the West African Court of Appeal, but beyond that, or apart from that, we also have to consider the whole reason for judicial decisions. Where a Judge gives a judgment he strives, as far as is possible to bring the existing Law into some degree of conformity with public opinion. It strikes me, Sir, and I think everyone will agree, that it would be strange to suggest for a single moment that any kind of Law — Statute or Common Law — is good for all times. That means to say that from time to time you must have amendments and if you have not sufficient amendments to meet with the forward march of public opinion, then the Law will lag behind, and the duty then devolves on Judges as interpreters of the Law to keep the Law abreast of modern ideas.

My learned friend has referred to the case of Tsofo Gubba *versus* the Gwandu Native Authority, and I think it proper to draw the attention of this House to certain parts of the judgment. Now the Appeal Court held in effect that no person is liable to be tried or punished in a Native Court except under the provisions of the Criminal Code or some other Ordinance. In other words, Sir, the

idea is to have in this country one system of criminal jurisprudence. No person can live under such a system of Law as to be exposed at the same time to two systems of punishment. If you are going to have the Criminal Code, then have the Criminal Code. If you are going to have Mohammedan Law or Native Law and Custom it means that anyone in this country can be exposed to the risk of being tried under two systems for the same offence. "We have therefore reached the conclusion that where by virtue of the provisions of the Native Courts Ordinance and of the appropriate one under section 8 thereof the Native Court may exercise its jurisdiction in relation to an act which constitutes an offence against the Criminal Code whether or no it is also an offence against Native Law and Custom". It is required to exercise the jurisdiction in a manner not inconsistent, that is in accordance with the provisions of the Code. If you try a man under Mohammedan Law for murder you must have in your mind's eye the Criminal Code and the necessary ingredients to convict him of murder; furthermore, Sir, this Bill is dangerous in this effect, that it becomes possible for the learned Crown Counsel to choose under which system a man shall be tried. If for instance he considers there is not enough evidence to get a conviction under the Criminal Code he may decide to have the man tried in the Native Court where the standard of proof required is not of such a high degree. The whole idea of Law is that it should be certain, especially Criminal Law — it is all right in civil matters where, if a man makes a claim he knows the system of Law applicable, but a criminal trial is something that exposes him to the loss of his life or imprisonment for a considerable time and you cannot properly administer justice and allow people to be subjected to this uncertain kind of Law; furthermore we are all agreed, I think, that a Native Court's jurisdiction in criminal cases should be whittled down, but this Bill plans increase of jurisdiction. It may be that in the North where they have a system of Law which is known, there will be no hardship, but in the East there certainly is to my knowledge no system of criminal jurisprudence in Native Law and Custom. We have been given an example of a man who takes a corn cob and is charged with stealing; well, if such a man appeals to the District Officer and he is satisfied that this man is guilty of stealing, he convicts him. The man has his remedy by appeal to the Resident and then to the Chief Commissioner.

I do not know if they have any system of criminal jurisprudence in the West, but in the East we have none and I do not see what good this Bill can do except to allow the Native Courts to convict persons of unknown offences and say "this is an offence under Native Law or Custom" and sentence him accordingly. I have in mind a certain case years ago where a man was charged with wearing a red cap contrary to Native Custom. He was sentenced to six months. To my knowledge nothing could be done about it. He could not appeal to the Supreme Court because there is no right of appeal to that Court and it is well known that officers are extremely

reluctant to transfer Native Court cases to the Supreme Court. The District Officers might ask for information from the Law Officers and the result is quite often that the sentence is confirmed in Native Court cases. I am sorry I do not think this Bill is acceptable to me, and I recommend that this House rejects this Bill *in toto*.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

Your Honour, I think no useful purpose will be served by my delivering a lengthy discussion of the merits and demerits of this Bill as it stands. It is quite clear and I am certain my learned friend the Senior Crown Counsel will agree with us when I say that in certain circumstances the provisions of this Bill might prove oppressive. We in the East at any rate have come to regard the criminal jurisdiction of the Native Courts as one which ought not to be increased in its scope. There is no doubt that the Native Courts are capable of dealing with trivial matters, and there is no doubt that in these matters they have always discharged their duties rather well, but when it comes to increasing their jurisdiction as this Ordinance most assuredly does, then those who are concerned deeply about the effect of this particular legislation must be apprehensive. It is quite clear that under the Native Court system, the principles applied are those based on Native Law and Custom. True Native Law and Custom very elastic in parts and true in certain circumstances may be co-extensive with what we know as Equity, but surely to make it possible for Native Courts to administer at one and the same time two different systems of Law is to say the least exposing the ordinary citizen to very grave risks. It may mean that a Native Court which has not the ability to define what a particular offence is, may nevertheless try such an offence even though it is governed by the Criminal Code. If the Native Court was justified to deal with the matter which is regulated under the Criminal Code, it has two alternatives — to try and find out what the ingredients of that particular charge are and the nature of proof necessary. If in the course of that investigation it fails either through inexperience or ineptitude it can turn round and say surely there is nothing to prevent us trying this case under Native Law and Custom because Law and Custom does provide for such contingencies. Times out of number when an appeal or petition has been filed against the decision of the Native Court, Solicitors have been in the habit of trying to raise, at any rate contending, that under the Criminal Code such and such a decision cannot be upheld, and invariably they have been met with the logical answer that “the trial in this case has been conducted in accordance with Native Law and Custom, and we cannot see that the principles which obtain when you decide a case under English Law — under the Criminal Code — are to be applied when deciding cases under Native Law and Custom”. We have therefore learnt that there is a great deal of difference between these two systems and the mere fact that in the application of Native Law and Custom

appertaining to Muslims certain defects have arisen which make the Judicial and Legal Departments feel that justice has not been done, is no justification, Sir, in my view for promulgating an Ordinance which will definitely have the effect of exposing a person to trial on the same facts under two different systems of Law by the same Court. Nevertheless there is principle involved — a very important one, Sir, and it is felt that if we must have Native Law and Custom and if we must apply them in the Native Courts as is done now, the mere fact that within five years Government has under contemplation the possibility of reviewing the Native Court judicial system is no justification for the amendment now suggested.

The case which was referred to by my learned friend which was the cause of this Ordinance actually seldom occurs, and surely if under Islamic or Muslim Law a person can only be convicted of murder and if certain reasons occur and the Court of Appeal feels it has got to reduce murder to manslaughter, that would be no justification for increasing the jurisdiction of the Native Courts so as to make it possible for them to try people under whatever Law they choose. It seems that a better way would be to allow an accused to elect by which Court he would be tried.

I feel, Sir, it is a pity that the Legal Department took such a serious view of the matter. The Native Courts jurisdictions in criminal matters should be allowed to remain as they are. If the time has come when matters connected with the Criminal Law and Administration thereof should be placed on a definite footing the Code should be brought up to date and if possible made of general applicability. The Criminal Code has evolved through the ages, it has been the result of years and years of experience and though there is no reason for saying, Sir, that even the Criminal Code as it is is perfect, one thing is indisputable, it is definite.

Sir, one may be excused in saying that in a Native Court you presume a man guilty as soon as he comes before the Court, whereas the other system which we all know presumes a man to be innocent unless you can prove him guilty; the latter is a much better system and the country is sufficiently advanced to take to it generally. This is an Ordinance, Sir, which as has been pointed out very eloquently by my learned friend on my left, requires the Native Courts to administer two systems of Law and at the will and discretion of the Native Court. It is dangerous. It seems to me, Sir, that although, in the main this would apply to the Northern Provinces and to certain portions of the Western Provinces, nevertheless the principle is such that one cannot honestly support it and it is a matter of which the consequences will be very far reaching if we allow this Ordinance to go through as it is.

This amendment is one which I think this House should advise His Excellency the Governor is a serious departure from the accepted principles of Criminal Jurisprudence, and for that reason the House is unable to recommend it.

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

Your Honour, I do not think that I can take the case against the Bill.

There is a point I should like to emphasise, Sir, and the point is that of Native Law and Custom. Well, Sir, I say it is very very small. Time and again, Sir, the Courts have expressed a view that Native Law and Custom, at least in the East, is in a very fluid state; it is not static; each member of a Native Court is a repository of Native Law and Custom. (Laughter)

You will find one member today saying " Well, this is the Native Law and Custom ". Tomorrow the same member will say " Oh no, that is not Native Law and Custom, this is Native Law and Custom ". So we absolutely do not know what Native Law and Custom is. Well, if it is difficult to say what Native Law and Custom is with regard to Civil Cases, Sir, I think the effect would be very disastrous if in Criminal Cases, under which a person might be deprived of his liberty, one could not say definitely what Native Law and Custom is.

In so far as this Bill seeks to make a person liable to be tried under two systems of law, I am very much against it. I see, Sir, that in clause 3 a Native Court is allowed to try a person for a criminal offence under the Native Law. Sir, some time ago I had a case in Calabar — a case which was tried by the Native Court. The person was found guilty of stealing; he was convicted; he appealed to the Native Court of Appeal, who confirmed the conviction and then he appealed to the Magistrate's Court. I had to argue the appeal for him. I pointed out to the Magistrate that in so far as that was a criminal offence and in so far as the trial did not conform to the provisions of the Criminal Code, the conviction was bad. Well, the Magistrate told me it might well be that the man had been tried under Native Law and Custom. I pointed out to him it was a serious matter — and that the Criminal Code should apply to everybody and that there should not be two systems of trial for any criminal offences. I was thrown out; my arguments were not listened to, and the man was convicted. I quote the case that has arisen — the case up in the North that forced the Authorities to look into trials in the Native Courts. Well, Sir, I think it would be better to allow the Native Court no jurisdiction to try a criminal case under Native Law and Custom, especially as we know there is no such thing as Criminal Native Law and Custom.

This is the contribution I should like to make to this Bill, Sir. If one knows exactly that there is a codified Native Law and Custom, something you can get your hand at, then the case would have been more understandable. I oppose this Bill, Sir, on the grounds that I have already stated.

The First Provincial Member for the Cameroons Province (Mr J. Manga Williams, O.B.E.):

Your Honour, before I talk about the Bill I wish to defend our country that it would be considered we had no Native Law and Custom. For thousands of years before the Europeans entered into this country had there been no law and custom, then I think one could not have compared us to anything other than animals. I still maintain that we have Native Law and Custom, not because I am a member of the Native Administration and have been its President for forty years. When I was quite a boy I had very little inclination to political affairs. In my father's house people used to come — various members of other Authorities, who met there and held Courts and in the way of their investigation of matters I really felt that they were advanced as well as thorough in their consideration of a case before a man could be punished. On the other hand I wish to explain, and I hope I will not take up too much time with this talk, that they had no corporal punishment; they had no prisons. The most of their punishments were imposed by fines. Of course a man might resist and to avoid his escape he might be put in stocks until the case had been heard and judgment given but we had no prisons.

Now we come back to the Bill as I wish to shorten my explanation. If I really understand the nature of this Bill and the object of it, it is to give a convicted man who is dissatisfied with a judgment given in a court the right to appeal as much as he can to either the Magistrates' Court or the Appellate Court, as well as the chance of collecting all the minutes so that the Court going into the matter can see whether this man should be retried or that the judgment be upheld or that the judgment be confirmed. If this is so I am not against this Bill because it gives a man a chance of appealing either to the District Officer, the Resident, the Magistrate or to the Appellate Court and so on. In that case he still has a chance to have a proper judgment. We have been talking about these two systems of judgment and it is true that there are some cases that should only be dealt with by the Native Courts if they are not so serious, whilst under the Criminal Code, which is the European way, or the English way of judgment it becomes a serious matter. It is true, but at the same time if the Native Courts are maintained and being guided in the way they should go, they will be of great service but if a man simply will have in mind that his case may be better considered by a Higher Court and that his case can be tried in the actual way of justice he requires, he should be allowed to have it. In that case I really feel that up to now there is nothing that leads me to think that because we have two systems of judgment that there should be any opposition to the Native Courts, but I really know that this Bill will be most helpful to the judgment of the Native Courts. I remember I went to a Magistrates' Court sometime ago and it was for one case. One

man had been charged with stealing. They had so many people involved and as they went into the matter the man who stole admitted before the Court that he had stolen and no other person had any hands in the stealing of the goods concerned. It appeared that the policemen were very much interested in this case and they made another case for a second person and said he might have been an accomplice or might have had a hand in the stealing of these goods, and although the convicted man himself said it was he himself who had had all the benefit of the matter, the second person was sentenced to a punishment and up to now I feel it was an injustice. I feel so well, it was in a Magistrates' Court, it was not in a Native Court. Had I the money I would have helped the man to carry the case as far as he could. So that in that case justice is not a thing that one can claim. In that case I feel that to make time for others I agree that this Bill be passed.

The Second Provincial Member for the Calabar Province (Mr Nyong Essien):

I say, Sir, with due deference to this House that a Legislator is to be compared with a Shoemaker. He makes a shoe and very fine it may appear yet the judgement of the shoes and of the comfort given by them is in the hands of the wearer. The wearer of the legal shoe is the person or persons, inhabitants and citizens over whom the law operates; they have the feeling to know whether that law suits the community or not. As such, Sir, I am one of the wearers of those shoes and this new shoe which comes in now I am one of those who oppose it, Sir.

My own experience, Sir, as a President of a Native Court for many years and as a member, I know we have our own Native Laws and Customs. Any group of men without Native Laws and Customs is a group of brutes in a state of nature; even animals have their own laws.

Our Native Laws today, as a learned Member of this House said, have been distorted, disorganised, confused, and made to assume the position and nature of non-existence. Nevertheless we have Native Laws and Customs. They help to mould the progress of our country, in so far as Administration of Justice is concerned. This Bill today, is just like placing a cart before a horse. The cart is intended for the horse to draw to the benefit and profit of the owner. If that cart is placed before the horse, Your Honour, it becomes an impediment to the progress and success as well as the happiness of the owner. Why I say so, Sir, is this, that this is not the time to introduce a Bill of this nature. It would serve its purpose very well if the Native Courts had been improved up to the standard required by unbiased justice.

Time without number my colleagues of the Legislative Council and I suggested that improvements be made in the Administration of Justice in the Native Courts. I am grateful that year by year improvements are being made towards the proper Administration of

Justice in the Native Courts, but the Bill now discussed is too premature. Native Courts do need Judges who are quite sensible of administration of unbiased justice. Where justice suffers perversion and mal-administration that community cannot progress or advance; in fact they are in a state of nature. In the Native Court justice suffers because, permit me to say, Sir, I am one of those members of the Native Court and I know we are very very ignorant of our Native Laws and Customs. If these Native Laws and Customs are mal-administered, how much more the Criminal Code. If the Native Courts had been improved so as to get one Judge, as it is in the case of a Magistrates' Courts and Supreme Courts, then such Judges would have been trained to qualify by passing examinations in Native Laws and Customs. Such examinations could not be introduced unless Native Laws and Customs are codified. Not only do Native Courts require Judges who are fully qualified in Native Laws and Customs, but Judges who are qualified in the proper Constitutional Laws of the country. The Native Courts require Lawyers, Your Honour, fit and proper Judges who do know their responsibility and who are quite sensible of their responsibility in the Administration of Justice and in the best interests of their own people. But today we have no Code and Native Courts do not rise up to that standard, therefore, Sir, this Law is just like a razor that is put in the hands of a little child to commit murder and suicide at the same time.

So, Sir, I contribute to the opposition against this Bill. Permit me, Sir, to say, with due apology to my learned friends, that one of the clauses of the Magna Carta reads thus:—

“ To none will we sell,
To none will we deny,
To none will we delay,
Right and justice.”

The Bill under discussion is of such a nature as to deny the people of this right of theirs. I beg to oppose it.

The First Provincial Member for the Owerri Province (Mr M. W. Ubani):

Your Honour, I rise to oppose this Bill on the grounds that its introduction now is immature in view of the fact that both the Government and the people are seriously contemplating drastic re-organization of Native Authority Council and Courts to work up to efficient Local Government Institutions. In view of this I should recommend that this Bill be suspended meantime.

The West African Court of Appeal has made a revelation of detecting a defect in the original Ordinance, to the effect that Native Courts cannot convict of a Criminal offence which is punishable under the Criminal Code except in accordance with the Code. This defect has been discovered and I should have thought that the proper thing to do was a complete overhauling of the old Ordinance for a new one whereby the idea of a Native Court

handling criminal cases punishable under the Criminal Code would be absolutely devoid. We have but one Criminal Code in this country patterned after the English Criminal Law and Procedure. It should be handled only by those learned and qualified in Criminology. Why should additional burden be imposed upon the Native Courts which have been known throughout the Eastern Provinces for that matter as inefficient. The inefficiency is due to the ignorance of those who sit in these Courts. If there are too many outstanding criminal cases in the country for which a provision is to be made through the Native Courts for the disposal of such cases I should suggest the establishment of more Police Magistrate Courts. Most Provinces if not all are working under strength, *e.g.*, in Owerri Province, there is only one Magistrate in Aba who does not, I believe travel. The Magistrate at Owerri visits Umuahia/Bende Division and the Magistrate at Onitsha visits Orlu and Okigwi. Why not appoint more Magistrates one for each Division. As for Police establishment Owerri is working under strength at present with four European Officers and five African Officers, and 287 Rank and File. To bring the establishment to its full strength two more European Officers, one more African Officer and eighteen more Rank and File are required.

His Honour the Chief Commissioner:

Might I ask the Member to confine himself to the contents of the Bill. This is not a general discussion on Justice or the Police.

The First Provincial Member for the Owerri Province (Mr M. W. Ubani):

I have made these references to show that there is no need for imposing more responsibilities upon the Native Courts if only the Police Magistrate Court could be brought up to its full strength to deal with the surging criminal cases. We have the Magistrate Courts and Supreme Courts where the learned Magistrates, Judges and Barristers have to deal with criminal matters and I think that is what is really needed. There is no point in saddling the Native Courts with the work which they are not qualified to handle. For this Honourable House to support this Bill, I think will be committing ourselves to something which will initiate a state of terrorism, anarchism and oppression amongst the people.

This state will exist because as soon as an unscrupulous Native Court convicts someone of a criminal offence, the only avenue open to the relatives of the accused especially when there is no means with which to prosecute the case further, will be to seek vengeance by fair or foul means even in some cases by open attack on the members who presided. I do not know whether one of the causes of the recent Man Leopard Society which is yet green to us all, was not the result of great injustices perpetrated in the Native Courts. I think the application of this Bill by the Native Courts will be certainly subject to abuse. I should support this Bill if the Native Courts will now be open to Barristers but that is not the case.

The Bill is generally for the whole country. The original Ordinance Schedule (section 8) made provision for the grades of Courts with their powers of jurisdiction. In this Bill before the House there is no provision made for the grades of Courts and as far as this Bill stands may I just pose a question whether the Native Courts in the Eastern Provinces for that matter have proved so efficient and ripe to handle criminal cases such as murder or manslaughter. I think it is suicidal to drag these inefficient Native Courts into this confusion.

Taking for instance, the Native Courts in Owerri Province are all under Grade D with civil jurisdiction in which the debt, demand or damages do not exceed £25 and criminal jurisdiction which deals with causes which can be punished by imprisonment for three months or in case of theft of yam product or livestock by imprisonment for six months, twelve strokes or a fine of £5, or the equivalent by Native Law and Custom. I think, Sir, that this should have been enough or better still to specify the kinds of causes which the Native Court can deal with, *e.g.*, cases of simple assault, larceny and criminal trespasses on land.

I do not support this Bill, Sir, at this stage of the Native Courts. The integrity of the Native Courts is any thing but satisfactory and leaves much to be desired. I submit, Sir, that if there is anything that helps to retard progress in this country it is the system of Native Courts. It is a matter of importance and I am submitting with all emphasis at my command that the introduction of this Bill be shelved at present until the work of the projected reorganization for Local Government in the Eastern Provinces has been well in hand. I do not want the ability of the Africans to be underrated because as soon as this Bill passes and the ignorant Native Courts are found incapable of dealing with criminal cases with all the ingredients of Criminal Code according to the learned Crown Counsel, it will reflect back upon the African as being incapable to administer Justice.

In conclusion I beg to quote His Honour's speech before this House on 28th July, 1948, which says *inter alia*, on the question of the Eastern Provinces Local Government reorganization:—

“ You will observe that I have made no mention of Native Courts, the reform of which I realize is a matter of great interest and concern to you. This omission is deliberate for although, as you are aware, reforms have taken and are taking place throughout the Eastern Provinces, and although it is the intention that reform should continue, I suggest to you that one of the first duties of the new Local Government Councils, when formed, should be to advise in regard to the whole question of Native Courts ”.

With these few remarks I strongly support the opposition.

His Honour the Chief Commissioner:

In order to correct the misunderstanding which seems to be in

the mind of the last speaker, this is not repealing the Native Courts Ordinance and replacing it with another, it is merely a supplementary Ordinance.

The Member for Urban Areas other than Port Harcourt (Reverend O. Efiang, O.B.E.):

Your Honour, I realize that the time at our disposal is very limited and we have much to do today, so I will be brief in my remarks.

I first of all wish to congratulate Senior Crown Counsel for his assiduity and the complete manner in which he sought to impress with the usefulness of this Bill, but we regret, Sir, that we have not been convinced. Our legal friends on this side of the House have given masterly speeches on the provisions of this Bill and I do not intend therefore to elaborate on any of these things.

While we are satisfied that the Bill is being proposed in order to add or increase the Native Court criminal jurisdiction under the Criminal Code beside the criminal jurisdiction they already have under Native Laws and Customs, we feel Sir, that the difficulty of the Native Courts today and the qualifications of the members all put together do not warrant this proposal. It is also said, Sir, that this Bill is only a stop gap to last just for a short time, and I think that is just one of the reasons why we should see that no serious emergency will arise during this short interval. We therefore should not be prepared to accept this Bill.

Again, Sir, the origin of this Bill does not recommend itself to us as it originates from one solitary case in the North which was determined according to Islamic Law. We have nothing to do with Islamic Law and we do not know much about it, but we feel that if this Law is suitable for this short time it might be suitable to the North but not to the East. As I see it the accused would be exposed to great dangers and those who are to exercise these extended facilities are absolutely unprepared, but they would like, of course, to try their hands and in trying their hands great injury could be inflicted upon people. I want to say however, Sir, I am not of the opinion that there are no Native Laws and Customs. There are. What we really want to see is the codification of some of these Native Laws and Customs in order to regularise them.

With these few remarks, Sir, I think the introduction of this Bill at this time ought to be seriously opposed.

The Secretary (Finance), Eastern Provinces:

Sir, we have heard some extremely erudite legal arguments about this Bill but I shall try to avoid involving myself in them. I might make a mistake if I get involved in legal arguments and it is not what I am trying to bring out. We have heard from this House that this Bill will create a state of terror, injustice and

oppression. Perhaps I have missed something which others see. I fail to see it, Sir, but I do say there might well be a state of chaos, terror and anarchy if this Bill does not go through. It seems to have been overlooked, Sir, that the point of this Bill is not merely to put right just one case which happened in the North; there has been an overriding judgment which affects every case in the Eastern Provinces. The argument that this is merely a matter concerning Muslim Law is entirely incorrect.

The result of that judgment, as I see it is that the Native Courts at present have only jurisdiction under the Criminal Code and that they are bound, without this Bill, to follow the ingredients of the Criminal Code; they cannot touch Native Law and Custom. I cannot accept the argument that there is no such thing as Native Law and Custom; everybody knows that there is. Were there none we would have chaos and terror now. It is argued that Native Courts have not yet reached the stage when they can administer the Criminal Code. Very well, at the present moment unless this Bill is passed they must administer the Criminal Code and we can have no justice in the Native Courts at all. Members ask for Magistrates and Judges. We all agree that the Native Court system is unsatisfactory and that it has been for some time, but do we intend to hold over cases until we get more Judges and Magistrates? Are we going to leave this country without law and order?

We cannot revise the existing system of criminal jurisdiction until we can obtain something better in its place. One of my friends, I think it was the Second Member for the Calabar Province, referred to Magna Carta and I think the words he referred to should be referred to again. The words were "That to no man shall we deny justice", but justice has two sides, the side of the man who suffers and the side of the man who offends. Are we going to do injustice to the man who suffers by letting the man who stole his goods go unpunished? No, Sir, this Bill will avoid the state of terror of which Members are so afraid. It will see that justice is done. Rough justice, if you like, but at least some justice. If this Bill does not go through there will be a denial of justice to the man who suffers. Before Members vote on this Bill will they really consider seriously whether they should throw out a measure which does provide some justice though only for a short time and until they themselves will use their own strength and their own power from their Local Government Organization, which they have it in their hands to get, to revise this system and put in its place the ideal system of justice they want; in the meantime do not let us have chaos and terror ruling in the Eastern Provinces. I ask them to consider very carefully before they throw this out. It is a Bill that is being proposed as a matter of expediency to protect the rights of the people for whom they are going to vote.

The Provincial Member for the Owerri (Rivers) Province (Mr H. Bowari Brown):

Your Honour, I do not think there should be so many long speeches about this Bill. At any rate as far as I am concerned. I know, Your Honour, and this House know my views on the subject of Native Courts and Native Laws and Customs. I have always held the view, Sir, that we have Native Laws and Customs and there is no doubt about that, but there are no Native Laws and Customs extant in the Native Courts. The Law as administered in the Native Court is not reliable and it applies to different persons under the same circumstances in different ways. One man is convicted upon evidence on which perhaps another man is acquitted, and this is the method usually applied in the Native Court. It is not that there is no Native Law and Custom, it is the members or branches of the Native Court that are the real cause of trouble and until this has been improved I feel we shall not be very safe to increase the powers of our Native Courts. Already, Sir, I think it is well known that procedure in the Native Courts is governed by Native Law and Custom and such other Ordinances as Benches of Native Courts may be allowed to exercise, and we have, I think, a number of sections under the Criminal Code which Native Courts are allowed to apply — quite a large number of them, and I do not think that all the Native Courts have misapplied these sections. There are certainly some Native Courts that are capable of exercising their jurisdiction under these sections but others are not sufficiently competent to do so. Nevertheless, taking the Native Courts as a whole in the Eastern Provinces today, we cannot say that they are working satisfactorily. There is this one point, Sir, that this Ordinance will be tried for a period of five years. I would say that that being the case it should not yet be passed. It should await the developments that we are hoping to have in the form of Local Government. By that time it may be possible for us to evolve some better system for applying in our Native Courts real Native Laws and Customs. The question of codification is, I think, a matter not only for this House to undertake, but for the legal men in the country. They could help in their own way so that codification of our Native Laws and Customs can be effected as was done by Lawyers in the Sister Colony of the Gold Coast.

Your Honour, I do not see any grounds for a long discussion on this matter. I agree *in toto* with what the legal Members on the other side have said about this Bill. I oppose this Bill, Sir.

The First Provincial Member for the Onitsha Province (Mr P. E. Chukwurah):

Your Honour, I wish to oppose this Bill on these grounds. First that by clause 4, sub-section 2 it provides that after conviction in which the Native Court gives a judgment according to Native Law and Custom and which judgment none of the parties did not approve, the West African Court of Appeal or another Court has the right

to set it aside, and secondly because it provides for a second trial to be imposed. In the first place we are told this is an effort to remedy an anomaly which exists mostly in the North which has been brought out in the case between the Gwandu Native Court and Tsofo Gubba, and perhaps such anomalies exist in the Eastern Provinces, but the sub-clause 2 of clause 4 provides to make us foreign in our own native land because when we have been tried according to Native Law and Custom, and there is no doubt that the judgment was given according to Native Law and Custom, the person is still subjected, even if he did not appeal, to a second trial. I think that our people will not give this their support. I beg to oppose this Bill.

The Second Provincial Member for the Owerri Province (Mr D. N. Achara):

Your Honour, about three weeks ago this Bill was taken up at our Provincial Meeting and our constituencies opposed it on the ground that it was not yet time for a Bill like this to be passed until the Courts had been graded. Personally I feel that the type of members we have in the Native Courts are not able to handle some of the criminal offences which may be dealt with in the Magistrates' Courts and other Courts higher than the Native Courts. I think that is my only reason for opposing it. When the time comes for this to be possible, that is when we have better qualified men to dispense justice in our Native Courts, then I think the people who will be Members of this House at that time will have nothing to say except to give the Bill their blessing. I do not agree with one statement made by one of the first speakers. I think it is very wrong to say we have no Native Law and Custom. We have. I believe that before the coming of the Europeans into the land people enjoyed justice. The only reason why justice is perverted in the Native Courts today is the inordinate desire to get money. If that desire could be set aside our people could handle their cases properly, so I do not know why a statement like that has been made. Our people have their Native Law and Custom. If this proposed Bill is brought into effect now, it will not produce the desired result since those dealing with cases in Native Courts are not all efficient. My own opinion and the opinion of the Owerri Province is that the time is inopportune for this Bill to be introduced. I therefore oppose it.

His Honour the Chief Commissioner:

I am afraid I gave a wrong ruling just now. I was under the impression that if a Member rose to second a Bill he was unable to rise again.

The Secretary, Eastern Provinces:

I merely wished to say, Sir, that there seemed to be an impression among certain Members of this House that the Bill seeks to increase the jurisdiction of the Native Courts and it is perfectly plain that it does no such thing. It is allowing the Native Courts to apply two codes of Law, it is true but it makes no difference to the grading

of the Native Courts or their jurisdiction. I thought I would like to make that clear, Sir.

His Honour the Chief Commissioner:

Does any other Member wish to address the House?

The Member for Urban Areas other than Port Harcourt (Reverend O. Efiang, O.B.E.):

I require a point of clarification, Sir. It is before us now that the Native Court can try according to Native Law and Custom and under the Criminal Code and we would like to know before a prosecution has taken place if the Court will make a statement and say whether they are going to try a case according to Native Law and Custom or according to the Criminal Code. I would like this to be clarified, Sir.

The Senior Crown Counsel, Eastern Provinces:

I will do my best to answer all the points raised, briefly, by the opposition. I must correct some very grave misapprehensions about this Bill due to misinformation. This Bill in no sense whatever increases the jurisdiction of any Native Court. I do not know why Members should be under that misapprehension, but the Bill does not increase the jurisdiction of any Native Court. At the same time, Sir, I do not want to hurt anyone's feelings, but it seems to me that the Unofficial Members have approached this Bill with a preconceived idea: "We do not like Native Courts, therefore we must oppose this Bill". I may say that that is not the right way to approach the matter, and I am going to spend just a few minutes dealing with the points raised by my three learned colleagues in the House. The first is that no person should be tried or put on trial twice. I may say that this Bill does not do this — it does not make any change in the Law. No one is in danger of being tried twice for the same offence. A trial followed by an appeal is one case. This Bill introduces no new principles of Law, under it an appellant is not, in fact, being tried twice or put in jeopardy twice, it is one trial followed by an appeal. It is true that an appellate tribunal will have certain wider powers which they did not have before, but this certainly does not offend the principle that a man is not to be tried twice for the same offence. No change has been introduced.

I do not quite follow the other argument that when this Bill becomes Law that the people will live under two systems of Law. With every respect that is not correct. It is quite true that there are a few instances where Native Courts at present exercise jurisdiction in matters which do not amount to crimes at all under the Criminal Code, these can, however, be left out of the question.

Next was the comment of a Member that Native Law and Custom varied in each particular area. We know that police if they investigate a case bring it before the Magistrate in the usual way. In rural areas local cases not of a serious nature go before the Native Court. As far as I know I have no power to require that a case should be heard before one or the other class of Courts.

The reign of terror and chaos referred to might well arise if this Bill does not become Law, for example in the North there will be two systems of Law. An accused who has committed manslaughter if brought before the Native Court is liable to be sentenced to death; but if brought before the Supreme Court is liable only to a sentence of imprisonment. Can we have such a state of affairs? It is just that which this Bill seeks to avoid.

I ask the Unofficial Members to consider very carefully before they decide to throw this Bill out. We must have something to carry on with. This is purely a temporary measure and is in no way going to effect the principle whether Native Courts should be abolished or not, and it is very essential and desirable that this Bill should be passed to enable this *ad hoc* difficulty to be put right.

His Honour the Chief Commissioner:

The question is that this House do advise His Excellency the Governor that a Bill for "An Ordinance to make further provision for the Administration of Justice in criminal matters by Native Courts" is acceptable in principle. Will those in favour say "Aye" and those to the contrary "No".

DIVISION

For

The First Provincial Member for the Cameroons Province
 The Senior Crown Counsel, Eastern Provinces
 The Deputy Director of Public Works, Eastern Provinces
 The Deputy Director of Agriculture, Eastern Provinces
 The Acting Deputy Director of Education, Eastern Provinces
 The Deputy Director of Medical Services, Eastern Provinces
 The Secretary (Finance), Eastern Provinces
 The Resident, Ogoja Province
 The Resident, Onitsha Province
 The Resident, Calabar Province
 The Resident, Rivers Province
 The Resident, Owerri Province
 The Secretary, Eastern Provinces
 The Chief Commissioner, Eastern Provinces

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Against

The Second Provincial Member for the Calabar Province
 The Member for Educational Interests
 The Provincial Member for the Owerri (Rivers) Province
 The Second Provincial Member for the Owerri Province
 The Member for Port Harcourt
 The Second Provincial Member for the Onitsha Province
 The First Provincial Member for the Calabar Province
 The Provincial Member for the Ogoja Province
 The First Provincial Member for the Owerri Province
 The First Provincial Member for the Onitsha Province
 The Member for African Commercial Interests.
 The Member for Professional, Salaried and Wage-earning Classes
 The Member for Urban Areas other than Port Harcourt

 13

His Honour the Chief Commissioner:

The result of the voting is "Ayes" 14, "Noes" 13. The "Ayes" have it. The House will now resolve itself into committee to consider the Bill clause by clause.

House in Committee.

Title.

Clause 1.

The Second Provincial Member for the Onitsha Province (Mr C. D. Onyeama):

I would like to make an amendment to clause 1 by adding after the word "Ordinance" in sub-clause 2 the words "shall not apply to the Eastern Provinces and" In view of the objects and reasons it seems to me that the Bill has been introduced to put right some defects in the North. It is clear that no murder cases will be tried in the East.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

I second that.

His Honour the Chief Commissioner:

The question is that clause 1 (2) be amended by inserting the words "shall not apply to the Eastern Provinces and" between the words "Ordinance" and "shall" in the first line. Will those in favour say "Aye" and those to the contrary "No".

DIVISION

<i>For</i>	<i>Against</i>
The Second Provincial Member for the Calabar Province	The First Provincial Member for the Cameroons Province
The Member for Educational Interests	The Member for Urban Areas other than Port Harcourt
The Provincial Member for the Owerri (Rivers) Province	The Senior Crown Counsel, Eastern Provinces
The Second Provincial Member for the Owerri Province	The Deputy Director of Public Works, Eastern Provinces
The Member for Port Harcourt	The Deputy Director of Agriculture, Eastern Provinces
The Second Provincial Member for the Onitsha Province	The Acting Deputy Director of Education, Eastern Provinces
The First Provincial Member for the Calabar Province	The Deputy Director of Medical Services, Eastern Provinces
The Provincial Member for the Ogoja Province	The Secretary (Finance), Eastern Provinces
The First Provincial Member for the Owerri Province	The Resident, Ogoja Province
The First Provincial Member for the Onitsha Province	The Resident, Onitsha Province
The Member for African Commercial Interests	The Resident, Calabar Province
The Member for Professional, Salaried and Wage-earning Classes	The Resident, Rivers Province
	The Resident, Owerri Province
	The Secretary, Eastern Provinces
	The Chief Commissioner, Eastern Provinces

His Honour the Chief Commissioner:

The result of the voting is "Ayes" 12, "Noes" 15. The "Noes" have it.

Clause 2.

Clause 3.

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

I have an amendment to make with regard to clause 3. I am moving that the whole of the clause be deleted. Why I make this amendment, Sir, is that we have been assured in the first place that there is no increase of jurisdiction of the Native Courts, and secondly that the matter is now what it was before the promulgation of this Bill. Now clause 3 (1), Sir, that "a Native Court may try and punish under Native Law and Custom" is unnecessary because it appears to me that that is what Native Courts have hitherto been doing.

With regard to clause 3 (2) we have been assured that there is no increase of jurisdiction, but I am saying, Sir, that this particular clause gives power to the Native Court to try certain offences under the Criminal Code which they were not empowered to try before.

Now Sir, one would ask, "What is the meaning of 'subject to any limitation imposed on its jurisdiction'?" I think that is to say: "subject to any limitation as regards punishment a Native Court may try any offence whatever under the Criminal Code but it may not give more punishment than is specified under the Ordinance". For instance, the Court that has jurisdiction to punish for six months cannot punish for more than six months, whatever is the offence to be tried; the limitation is as regards punishment. I am moving that the whole of that clause be deleted — (a) sub-clause 1, because it is unnecessary, and (b) sub-clause 2, because it offends the principle that has been stated to this House as being the object of this Bill.

The Second Provincial Member for the Onitsha Province (Mr C. D. Onyeama):

I beg to second that.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

Both Senior Crown Counsel and the Secretary (Finance) have expressed the view that there is no increased jurisdiction so far as Native Courts are concerned. By that I understand that hitherto the Native Courts have not applied and have not exercised these powers which would appear *ultra vires*.

I may have misinterpreted the Law. It is rather difficult for me to question the decision. The last three lines of sub-clause 3 (2) should be noted. If the intention of the Ordinance is not to confer some sort of jurisdiction, in view of the assurance we have had from

both the gentlemen I mentioned, object to this clause being kept on the record, Sir. The clause should be deleted as it appears unnecessary.

The Provincial Member for the Owerri (Rivers) Province (Mr H. Bowari Brown):

Sir, I know the Native Courts are supposed to administer Native Law and Custom and in addition to that we administer certain sections of the Criminal Code, etc.

These are embodied in the warrant constituting each Native Court, Sir. That being so it does not appear quite clear to me whether section 3 is not giving Native Courts power to exercise their jurisdiction over and above those which are mentioned in their warrants. If a Court does exercise jurisdiction generally confining itself entirely to the sections of the Criminal Code in its warrant, I fear there is some danger and therefore I would say that section 3 (1) appears to me rather unnecessary.

The Secretary, Eastern Provinces:

The question of the powers of the Native Courts is as the last speaker has said, limited definitely by the Native Court Warrants, and if the Member will read the actual wording of the Native Court Warrants he will see that any criminal jurisdiction is limited to actions which can adequately be punished by imprisonment of not more than a stated term or a fine of not more than a stated sum.

The Senior Crown Counsel, Eastern Provinces:

That is correct, Sir. The jurisdiction exercisable by a particular Native Court is limited to the jurisdiction mentioned in the warrant. Only certain offences and cases can be tried. No person can be arbitrarily tried by a Native Court unless its warrant gives that Court the power to do so. Under the present system of warrants they have very limited powers. They have jurisdiction in preadial larceny and in certain other offences where jurisdiction has been expressly conferred upon them — such as cases where people refuse to perform communal services and the like. The whole of clause 3 is subject to the first eight words in the first sentence — “subject to any limitation imposed on its jurisdiction” Native Courts invariably have limitations imposed on them. Other jurisdiction is occasionally conferred by order of the Governor-in-Council as the last speaker has correctly said this is the most important clause of the Bill.

His Honour the Chief Commissioner:

Does the Member wish to press his amendment?

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

Yes, I do wish to press the amendment, Sir.

The First Provincial Member for the Cameroons Province (Mr J. Manga Williams, O.B.E.):

I just wish to say that I have never visited Native Courts of the Eastern Provinces apart from the Cameroons where all judgments or sentences given to a man for punishment by imprisonment, the relative records are sent together with the prisoner to the District Officer to be inspected so that he knows exactly why that judgment has been passed before he be sent to prison. Now, as to this Bill, I think it is just about the same thing that the accused cannot be easily sent to prison without the knowledge of the District Officer or a higher Court. In that case I still feel that the appeal is still safe.

His Honour the Chief Commissioner:

The question is that this House do approve that clause 3 be deleted. Will those in favour say "Aye" and those to the contrary "No". The "Noes" have it.

The Second Provincial Member for the Calabar Province (Mr Nyong Essien):

Your Honour, I have another amendment to suggest in this section. My first amendment is at the end of the words in sub-section (1) of clause 3, that is: "provided that a Judge or Judges of the Native Courts are qualified Legal Practitioners".

His Honour the Chief Commissioner:

That has very little relation to the Bill.

The Senior Crown Counsel, Eastern Provinces:

It has none, Sir. The qualification of Judges are laid down by the Supreme Court Ordinance.

The Second Provincial Member for the Calabar Province (Mr Nyong Essien):

Another amendment comes between the words in line 3 of sub-paragraph 2 of sub-clause 3, line 3 after the words "act or omission" insert the words "except a case or cases of murder or manslaughter".

The Senior Crown Counsel, Eastern Provinces:

It would not be in order, Sir. Native Courts in our Provinces have no jurisdiction in murder or manslaughter cases and this amendment would imply that they had.

His Honour the Chief Commissioner:

I cannot accept the amendment. Remember that the first words of sub-clause 2 is "subject to any limitation imposed on them", and does not apply to a case of murder. It will be a limitation imposed on the jurisdiction if you put that in. I think your amendment is out of order.

The Second Provincial Member for the Calabar Province (Mr Nyong Essien):

With that explanation I will withdraw my amendment Sir.

The Second Provincial Member for the Onitsha Province (Mr C. D. Onyeama):

I desire to move a further amendment to clause 3 by the addition

of a proviso after the word " Ordinance ", to provide that persons charged with a felony before a Native Court below Grade B may elect to be tried before the Magistrates' or Supreme Court and he shall be so informed at the time of trial. If he chooses to be tried by the Native Court he may be so tried and if he chooses to go before the Magistrates' Court he may do so. I am sure there is nothing wrong with that. A man has a right to say: " this is a serious matter and I want to go before a Magistrate or Puisne Judge ".

As it is today in a Magistrates' Court if you are charged with felony you are told " if you want to go before a Judge you may ". There is no harm in doing that in Native Courts.

The Secretary, Eastern Provinces:

The net result of that would be that every person charged with stealing a banana would elect to go before the Magistrate and I think this House can imagine the chaos there would be and there would be not a hope of hearing cases within a reasonable period.

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

I support the amendment moved by the Second Provincial Member for the Onitsha Province.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

I also support the amendment. I think it is only fair and one which will receive the strong support of this House. After all, Sir, the view expressed by the Secretary, Eastern Provinces does not take into consideration the fact that in electing to be tried by the Supreme Court or the Magistrates' Court a man would be exposing himself to the infliction of a higher penalty. A Magistrate may sentence a man to a term of imprisonment for two years and an accused would not be likely thus to expose himself to that penalty by electing to be tried by the Magistrate, if he has not good reasons to do so. Every person should be entitled to choose the Court in which he is to be tried having regard to the risk he would suffer if he elects it and I commend this amendment to the serious consideration of the official side of this House.

The Provincial Member for the Owerri (Rivers) Province (Mr H. Bowari Brown):

I would support that amendment, Sir. The right of appeal for a person who is charged before the Native Court lies only in the power of the District Officer. A person is convicted; he is taken before the District Officer. If in the District Officer's view the sentence is wrong he (the convicted man) may come away free so that after all it would appear that the District Officer is the Native Court. For that reason, Sir, if there is a chance for a man to decide that a District Officer shall hear his case or a Magistrate, or a Judge, he should be allowed to make his choice quite freely.

The First Provincial Member for the Owerri Province (Mr M. W. Ubani):

I think, Sir, taking criminal cases to the Magistrates' Court should be regarded as the correct thing to do in the interest of justice and in consideration for the right of an accused to elect the court of trial. We have all agreed that this practice will enable the Native Courts to go into criminal proceedings and if this is so as has been stated by the learned Crown Counsel it should be allowed to apply to other cases and every accused should be given the option of electing in what court he should be tried.

The Second Provincial Member for the Calabar Province (Mr Nyong Essien):

Sir, I support the amendment, in view of the fact that neither this House nor the House of the Legislative Council can restrict the right of an accused person to select a court of his trial. We in this House are here to encourage freedom of choice legally, morally and otherwise. Therefore the offender or criminal in the Native Court has got a right to choose which should be the court by which he would be tried.

The Secretary, Eastern Provinces:

Sir, there are adequate safeguards in the Native Courts and offenders can appeal. I think Members are forgetting that point.

The Resident, Owerri Province:

The argument that an accused would choose to go to a Magistrates' Court only because he would fear injustice in the Native Court does not accord with my experience at all. It would be done in the hopes of postponing the trial and of finding, when the trial does take place, that the expense and bother to the complainant would finally make him drop out of the race, and the case would be dismissed. There are two parties to an injustice, and the complainant would suffer.

The First Provincial Member for the Cameroons Province (Mr J. Manga Williams, O.B.E.):

I find there is no refusal where a man having a case in the Native Court and the case being an action that he may find would be difficult for the Native Court, to appeal that he wishes his case to be heard either by the Magistrates' Court or the Supreme Court. Further, there used to be so many trivial cases taken to the Magistrates' Court that were referred back to the Native Court. On the other hand I wish to mention that some cases must be heard in the Native Courts, cases arising out of our Native Laws and Customs. We have those, such as the paying of dowry for a wife and another man comes and steals the wife away from the husband, and we all know that if we should go to the Magistrates' Court the Magistrate would look at the case and say: "This is your African business, take it back to your own Native Court".

His Honour the Chief Commissioner:

May I remind the Member that the amendment is to provide that

an accused person may elect to be tried before the Magistrates' or the Supreme Court.

The First Provincial Member for the Cameroons Province (Mr J. Manga Williams, O.B.E.):

If a case like felony comes before the Native Court and the man chooses to go before the Magistrates' Court he is quite free to do so, there is no need to make special provision for this.

The Senior Crown Counsel, Eastern Provinces:

I may be open to correction, Sir, but the majority of cases of felony with which the Native Courts deal, as far as my own experience goes are very limited — the only felonies they are likely to deal with are cases of praedial larceny and if it is right that a man who steals a banana should be tried by a Magistrate, the Native Courts would never have to exercise any criminal jurisdiction at all. The comparison with an accused before the Magistrate charged with a serious crime who may elect to be tried before the Supreme Court is not quite fair. It would render this whole Bill an absurdity if that proviso were inserted because it would mean that any person brought up for stealing any article which forms the subject of praedial larceny would say: "I want to be tried by the Magistrate" and Native Courts would become quite redundant. I do not accept the amendment, as it would stultify the whole Bill.

His Honour the Chief Commissioner:

The question is that this House do accept the amendment to clause 3. Will those in favour say "Aye" and those to the contrary "No".

DIVISION

<i>For</i>	<i>Against</i>
The Second Provincial Member for the Calabar Province.	The First Provincial Member for the Cameroons Province
The Member for Educational Interests	The Senior Crown Counsel, Eastern Provinces
The Second Provincial Member for the Owerri Province	The Deputy Director of Public Works, Eastern Provinces
The Member for Port Harcourt	The Deputy Director of Agriculture, Eastern Provinces
The Second Provincial Member for the Onitsha Province	The Acting Deputy Director of Education, Eastern Provinces
The First Provincial Member for the Calabar Province	The Deputy Director of Medical Services, Eastern Provinces
The Provincial Member for the Ogoja Province	The Secretary (Finance), Eastern Provinces
The First Provincial Member for the Owerri Province	The Resident, Ogoja Province
The First Provincial Member for the Onitsha Province	The Resident, Onitsha Province
The Member for African Commercial Interests	The Resident, Calabar Province
The Member for Professional, Salaried and Wage-earning Classes	The Resident, Rivers Province
The Member for Urban Areas other than Port Harcourt	The Resident, Owerri Province
	The Secretary, Eastern Provinces
	The Chief Commissioner, Eastern Provinces

His Honour the Chief Commissioner:

The votes on the motion are "Ayes" 12, "Noes" 14. The "Noes" have it.

The Second Provincial Member for the Calabar Province (Mr Nyong Essien):

Sir, I rise to a point of order. Members in this House should not be prejudiced against the votes of this Assembly. They should be allowed to decide by themselves and express their opinion freely.

His Honour the Chief Commissioner:

If a Member is not present in the House when a vote is taken he loses his opportunity to vote.

On this occasion I was prepared to allow the Official Members to abstain from voting, but in view of the mover's strong protest as to the result of the amendment to the Bill I did not feel that I should do that. I will give you the assurance that your amendment is placed before His Excellency the Governor and that the general opinion of the House is conveyed to him. (*Applause*).

His Honour the Chief Commissioner:

We are now dealing with clauses 2 and 3. Does any other Member wish to address the House on clauses 2 and 3 before I repeat the question?

Clauses 2 and 3.

Clause 4.

Clause 5.

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

I have an amendment to make to clause 5 (1). After the word "directs" in the second line I propose this amendment: "Upon the application of an aggrieved party". Why I make this amendment, Sir, is because there is no provision in clause 5 or in any other clause by means of which the conclusion of a trial by a Native Court is to be brought to the notice of the Attorney-General, and the fact that this power has been delegated to the Senior Crown Counsel does not make any difference. Now the Attorney-General might not know that there is any matter requiring his attention and so may not exercise the power given to him under that clause. I am therefore proposing the amendment to enable an aggrieved party to bring the matter to the notice of the Attorney-General, or to any other person to whom the power may have been delegated.

The Senior Crown Counsel, Eastern Provinces:

I am in sympathy with this amendment, but it seems to have the further effect that if you put in the words "if the Attorney-General so directs on the application of an aggrieved party" it would seem to suggest he may do it on the application of an aggrieved party only. There is nothing to prevent the aggrieved party petitioning the Attorney-General or me and I would not like to put in anything that limits that power. Anyone, not only the aggrieved party,

ought to have the right to draw attention that the outcome of a criminal case tried by the Native Court is not satisfactory and in such a case the Attorney-General would if he thought fit exercise his powers, but if we put in those words it would seem to suggest but one meaning, *i.e.*, it is to be done only when the aggrieved party applies and no one else.

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

I am in no way seeking to impose any limitation on any party. I was trying to find a way by which the matter could be brought to the notice of the Attorney-General. If I might amend by a further amendment . . .

His Honour the Chief Commissioner:

I think that any amendment would impose a limitation because in the present case it may be brought by the Attorney-General, the District Officer, the Magistrate or by anybody, but carry on with your amendment if you wish. I think anything you put in is almost bound to limit. Is not that your argument, Mr Crown Counsel?

The Senior Crown Counsel, Eastern Provinces:

Yes, it suggests a limitation.

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

Supposing I say: "On the application of any person"?

The Senior Crown Counsel, Eastern Provinces:

There is no objection to that.

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

I wish to propose an amendment that after the word "directs" in the second line of clause 5 (2) be inserted the words "on the application of any person".

The Senior Crown Counsel, Eastern Provinces:

I think it adds nothing and takes away nothing.

The Secretary (Finance), Eastern Provinces:

It takes away the discretion of the Attorney-General to act on his own initiative.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

I do not think it is usual for the learned Attorney-General to act on his own on these matters, Sir, and then I am inclined to agree that the clause as it stands without amendment does give wide scope for any person to apply. The Senior Crown Counsel did indicate when he opened the debate on this Bill that that section would allow the District Officer if he thought substantial injustice has been done to refer this matter to the Attorney-General. I may be right and

I may be wrong but I think only the District Officer has been mentioned and that sets one thinking. In order to place the whole matter beyond any shadow of any doubt would I suggest it would be better to have the proposed words inserted. This will enable that the ordinary person has the right to appeal and he may if he so wish to appeal. I think from what I hear on the other side, nobody would oppose it.

The Second Provincial Member for the Onitsha Province (Mr C. D. Onyeama):

I might suggest I have something different in mind — another amendment — to insert the words after Attorney-General “on his own motion or on the application of any person” so the clause will now read:—

“After the conclusion of a trial by a Native Court for any offence if the Attorney-General, on his own motion or on the application of any person, so directs the Court shall send to the Registrar of the Supreme Court for the Judicial Division in which the Native Court is situated copies of all documents, minutes and notes of evidence taken in the case”.

It enables him to do it himself and also enables any person to apply to him. The whole idea is to make certain that if a man is convicted he might bring his case to the notice of the Attorney-General and ask him to use his discretion.

His Honour the Chief Commissioner:

Does that suit the original mover of the amendment?

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

Yes, Sir.

The Senior Crown Counsel, Eastern Provinces:

I would not oppose it.

Amendment carried.

His Honour the Chief Commissioner:

Does any other Member wish to move a further amendment to clause 5?

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

There is a matter on which I seek enlightenment. That is the proviso to clause 5 (2) (c):—

“Provided that in the case of a conviction by a Native Court, a Judge shall not make any order under this sub-section unless the time limit for appeal has expired and the convicted person has not appealed”.

I do not quite appreciate the significance of that.

The Senior Crown Counsel, Eastern Provinces:

If the parties are going to appeal this section will not operate. It is only where they do not appeal and the time limit has elapsed

then the Judge may exercise his power. After thirty days, when there has been no appeal, the Judge can take action.

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

Thank you very much.

Clause 5 amended.

The House resumed.

The Senior Crown Counsel, Eastern Provinces:

Sir, I beg to report that a Bill for "An Ordinance to make further provision for the Administration of Justice in criminal matters by Native Courts" has passed through committee stage with one amendment.

His Honour the Chief Commissioner:

The question is that this House do advise His Excellency the Governor that a Bill entitled "An Ordinance to make further provision for the Administration of Justice in criminal matters by Native Courts" is acceptable. Will those in favour say "Aye" and those to the contrary "No". The "Ayes" have it.

The House will now adjourn to 3 o'clock this afternoon.

House resumed at 3 p.m.

A BILL FOR AN ORDINANCE FURTHER TO AMEND THE LABOUR
CODE ORDINANCE, 1945.

The Senior Crown Counsel, Eastern Provinces:

Sir, I beg to move the following resolution:—

"That this House do advise His Excellency the Governor that a Bill for 'An Ordinance further to amend the Labour Code Ordinance, 1945', is acceptable to this House in principle."

Sir, the objects and reasons which appear at length are set out in the published Objects and Reasons which form an attachment to this Bill.

There are a number of small verbal amendments which are contained in clauses 2 and 7 to 21 inclusive. I do not think, Sir, it is necessary for me to say anything about these. Most of them merely delete the figure (1) which for some reason crept into the principal Ordinance. The first clause which is of any real significance is clause 3 of the Bill which enables an employer to deduct from the wages of workers under certain circumstances subject to the approval of an authorized Labour Officer. No deductions can be made without the consent of an authorized Labour Officer, and that, it is hoped, will prevent an arbitrary use of the power to deduct from workers' wages. This amendment has received the sanction of the Trades Union Congress and other interested bodies.

Clause 4 is an attempt to make the interpretation of sub-section (2) of the principal Ordinance a little bit easier. I can

assure Members that as the Law now stands it is extremely difficult to interpret the section dealing with the giving of notice — the length of notice to be given to employees under the various contracts.

Clause 5 introduces a new provision. The Law as it exists makes it obligatory on the employer to pay the transport expenses of a worker — an additional safeguard is being inserted to prevent a worker arbitrarily changing his residence during the course of his employment to a place more than nine miles distance from his work.

Clause 6 is to enable the employer to take disciplinary action short of dismissal.

The object is as stated in the Objects and Reasons given by the Attorney-General says, "this clause brings in a new provision which enables disciplinary action to be taken by employers. The only action possible under section 36 is termination of contract which may be too drastic in certain circumstances."

I do not think Members will quarrel with that. The last and final amendment is effected by clause 22 of this Bill the object of which is set out in paragraph 7 of the Objects and reasons. The Wage Fixing and Registration Ordinance, 1943, (No. 40 of 1943) provides for the making of recommendations by a Labour Advisory Board established under that Ordinance. The object of this Bill is that where recommendations of a Labour Advisory Board have been made under that former Ordinance they shall continue to be valid under the Labour Code Ordinance, 1945. These are the principal objects of the Bill and I do not need to weary the House by discussing them at any greater length.

The Deputy Director of Public Works, Eastern Provinces:

Sir, I beg to second.

The Member for Educational Interests (Mr A. Ikoku):

Your Honour, this is a perfect example of the knotty problem that I referred to a few days ago in the House of having to set before Members an amending Bill which has no meaning whatsoever to the non-legal Members, and if the clauses we are intending to amend were attached to the drafts of the amending Ordinances it would add a little more meaning to the amendments proposed.

The Secretary, Eastern Provinces:

May I point out, Sir, these are no last minute amendments; they have been in Members hands for some considerable period and Members, I hope, had access to the existing Laws to study the alterations.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

The Labour Code, which this Ordinance seeks to amend, was an innovation and because it dealt not only with the question of the obligations on the part of the employer but those of the employee

as well it was thought at that time quite natural that as time went on quite a number of amendments would have to be made to conform with the changing conditions and it would be idle to say this was unnecessary.

I have been advised at any rate, Sir, not to raise any objections regarding the amendments as a whole, but I should like to point out I am not very happy about clause 3 of this Ordinance. It enables an employer to deduct an amount from the wages of his employee. Occasionally it might lead to hardship.

It would be extremely difficult under the Labour Code for an employer to say: "I can dismiss you, terminate your employment, but I think the better thing to do is to impose a lighter punishment and deduct a little from your wages". There is nothing that a domestic servant or employee hates so much as a deduction from his wages. The pay packet is so small that one can hardly afford to lose one penny of it, and I am wondering whether the matter had been given very careful attention and consideration before it was decided or not. The labourer is worthy of his hire and if any employee is not satisfied with the conditions of service, I do not think this would do much to lighten his employment. One has to strive to live up to expectations and at any rate honestly do what he receives money for. It may encourage some individuals to slacken their effort if they know that the only punishment they might receive is the deduction of money from their pay-roll. In future you will find there will be a lot of trouble from the Unions on this matter. I do not think there should be any alterations at all and as I said before if anything can be done about it I think it should be done. On the whole I welcome these amendments. They are the result of experience and are based on the recommendations put up by various Labour Officers to deal with problems which have arisen in practice.

His Honour the Chief Commissioner:

Does any other Member wish to address the House before I ask the mover to reply.

The Senior Crown Counsel, Eastern Provinces:

The Member for Professional Classes appears to have misinterpreted the Ordinance. As the Law stands now an employer is not permitted to make any deduction from a worker's wage in respect of any act of his, any malicious or negligent act which damages the property of his employer. It follows therefore that the only remedy open to the employer now would be to dispense with the services of the worker and it is felt that in a trivial instance this might not be to the advantage of the worker or the employer, and therefore the Law should be altered to enable the employer to impose a fine for any such act provided that the sanction of the Labour Officer is first obtained.

If at Common Law a servant sets your house on fire you are perfectly at liberty to take legal action. In non-serious cases it

certainly seems to me to be to the advantage of the worker himself that action short of summary dismissal can be taken against him. If he is arbitrarily dismissed he is protected by this Ordinance and can take action against his employer in a Court of Law. This Bill would not preclude an employer from taking any other appropriate action under this or any other Law that he is permitted to take. That is the way I understand the object of this amendment, Sir.

His Honour the Chief Commissioner:

The question is that this House do advise His Excellency the Governor that this Bill is acceptable in principle. Will those in favour say "Aye" and those to the contrary "No". The "Ayes" have it.

House in Committee.

Title.

Clause 1.

Clause 2.

Clause 3.

Clause 4.

Clause 5.

Clause 6.

Clauses 7 to 21.

Clause 22.

House resumed.

The Senior Crown Counsel, Eastern Provinces:

Sir, I beg to report that a Bill entitled "An Ordinance further to amend the Labour Code Ordinance, 1945" passed through Committee with no amendment.

His Honour the Chief Commissioner:

The question is that this House do advise His Excellency the Governor that a Bill entitled "An Ordinance further to amend the Labour Code Ordinance, 1945" is acceptable. Will those in favour say "Aye" and those to the contrary "No". The "Ayes" have it.

A BILL FOR AN ORDINANCE TO AMEND THE CUSTOMS ORDINANCE, 1942

The Secretary (Finance), Eastern Provinces:

Sir, I beg to move the following resolution:—

"That this House do advise His Excellency the Governor that a Bill entitled 'An Ordinance to amend the Customs Ordinance, 1942' is acceptable in principle."

This Bill, Sir, at first sight looks rather formidable with its thirty-five clauses, and I have a great deal of sympathy with the Members of this House, who as they said a few days ago, and as has been repeated this afternoon, have not the Laws for their easy reference—not that they are particularly easy of reference. Unfortunately copies of the Laws are not available for

distribution and to have prepared typed copies in this case alone might well have suspended public business for a month or more. I shall endeavour to show, Sir, that that would not have been justified, because on analysis there is little of real principle involved in this Bill. Nevertheless I do now feel that it is my duty to explain it as fully as I can and as I see it.

Broadly speaking there are four points. Firstly some clarifications and definitions of words and phrases, secondly some improvements in administration, thirdly some necessary changes brought about by the new Constitution which we are now enjoying, and fourthly the correction of an anomaly referred to in the printed Objects and Reasons in explanation of section 6 of the Bill.

The fourth point seems to me, Sir, the only effective change in the Law as opposed to changes of administration or words or to the correction of obvious errors and deficiencies. I think it might be as well therefore if I get right on with that one first. The printed Objects and Reasons put the matter quite straightforwardly, but perhaps I had better state it again. At present if anything is exported with a view to re-importation, whether it has been exported for repair or for refitting, or whatever it might be, it becomes liable to any additional duty which may have been imposed whilst it was out of the country, quite regardless of its value on its return.

That, Sir, seems to be a little hard, but that is not the whole story. Sometimes things have to be sent away from this country for repairs, or whatever it may be, because nothing can be done about them here. It is proper, of course, that this country should collect the customs revenue on any repair or improvements that might have been effected elsewhere, but if we go further than that, as the Law now does, we discourage repair and improvements because such repairs and improvements come back quite ridiculously expensive. In fact we are encouraging a collection of old crocks and broken down machinery, and I feel sure that this amendment will therefore be welcomed by this House.

Now, Sir, still working backwards, I should like to dispose of sections 4 and 5 which simply recognise that in the new Constitution the Legislative Council legislates for the whole of Nigeria, whereas when the principal Ordinance was enacted it did not legislate for the Northern Provinces.

The remaining headings under which I classified this Ordinance — definitions and administrative convenience — go very much hand in hand and I think, Sir, I can explain many of the sections of this Bill as flowing quite naturally from section 2 of the Bill itself. Let me take the first definition in section 2 — “Customs Area” — it merely adds in effect the words “for the deposit of uncustomed goods”. That is fairly obvious, but the Law seems to be like that and it likes to leave nothing to chance. Similarly

the definition of "Transit Shed" has been amplified by the addition of the same words. Now in the principal Ordinance in a number of clauses there are a number of obligations imposed upon person who either own or occupy private warehouses; they must enter into bonds, etc., but as "Customs Area" is exactly what it says it is, it is a place or area in which there may be transit sheds or warehouses, and the owner of the particular area or place has as little concern as I have with the Customs Laws. Yet the sections of the principal Ordinance include him in obligations as well as the particular owners of the particular buildings in the area itself. The correction seems to be quite obviously necessary, and for these reasons, Sir, we have sections 18, 19, 20, 21, 22, 23 and 24 of this Bill which now put the obligations where they should lie and remove them where they should not. Next, the original definition "proof spirit" has been deleted and a new definition of alcohol by volume has been substituted. I may say, Sir, that I have made particular enquiries on this point; I can give the House this assurance that the change is one solely of administrative convenience which will in its way alter the rates of duty which have been approved and passed by the Legislature. This change gives rise to the consequential amendments of sections 13, 32 and 35 of this Bill.

Now, Sir, in the definitions of section 3 of the principal Ordinance the word "goods" is defined to include all kinds of articles, wares, merchandise and livestock. In several sections of the principal Ordinance, in spite of this comprehensive definition, the word "article" is used and that is, of course, quite incorrect as it is exclusive as part only of the definition of goods. This must be corrected and it is corrected in the amendments to sections 8, 9, 10, 11, 12 and 27 of this Bill which also recognise that the word "article" is single and the word "goods" is plural. I am afraid we even have to go so far as to maintain a reasonable standard of literacy by changing "is" to "are", just as my friend the Acting Deputy Director of Education had to uphold the honour of his Department by the correction of a spelling mistake in a Bill the other day. Administrative convenience also, Sir, disposes of sections 16 and 17 of this Bill. After a certain time when goods are deposited in a King's Warehouse, they become quite properly by Law, liable to rent and certain other charges according to Customs Law. The original Ordinance provides that these charges become due after seven days after any ship or aircraft arriving in this country has been cleared for quarantine. The amendments which are now proposed in this Bill provide for charges to be levied after a period running from five days after the discharge of cargo instead of seven days from pratique. This is a more definite time, and I think all will agree, a much more satisfactory administrative arrangement.

Sections 33 and 34 of this Bill deal with goods which are exempt from duty and provision is made to admit disinfectants which

modern science may demand shall be spirituous. I do not think we need fear this, Sir, as no one would enjoy a feast of disinfectants, or be led by it to any heights of alcoholic splendour. Then, in accordance with normal practice there is added a list of statutory authorities, which properly should import goods for their own use free of duty — Planning Authorities constituted under the Town and Country Planning Ordinance and the Lagos Executive Development Board.

Ignoring section 1, Sir, which is merely a short title, I have still not referred to quite a number of sections of the Bill, and I will deal with them in order.

Section 3 is merely an amplification of a marginal note and of no importance; as far as I can see is merely a helpful index.

Section 7. Sub-section (1) of section 20 of the principal Ordinance provides for the settlement of disputes as to Customs Duty, which is payable, or draw-backs which may be refundable, and it associates the importer, consignee or exporter of the goods involved in such disputes. Sub-section (3) for some curious reason only associated the importer with appeals in such disputes to the Governor-in-Council, but clearly the consignee or exporter should have the same rights under this sub-section. The amendment so provides.

Section 35 of the principal Ordinance provides that goods may be imported duty free by certain bodies or functionaries, for example the Diplomatic Consular representatives of Foreign Powers, for their own use, and provides penalties for abuse; but it does not provide for proper regularization of a transfer of such goods if duty is then paid at the current value of such goods. The amendments provided by section 14 of this Bill provide for the regularization of such transfer at the discretion of the Comptroller on the payment of duty suitable to the circumstances.

Section 15. The importation of Bullion or Coin is provided by section 69 of the principal Ordinance, but Currency Notes are not included in the definition; those words are now added as in fact Currency Notes are a common form of exchange.

Section 25. The Master of a Ship or Aircraft can be compelled to answer questions or produce books or vouchers for the purpose of the Customs Law. He incurs penalties if he refuses to produce books or documents but none if he refuses to answer questions. This curious error is corrected.

Section 26 provides that the occupants of an Aircraft who intended to import goods into Nigeria contrary to Customs Law shall be liable to penalties whereas the original Ordinance merely provided penalties if they were successful in importing contrary to Law.

Section 28. This really only makes the original section intelligible. It is an entirely grammatical change. Section 184

sub-section (1) of the principal Ordinance provides penalties for persons who, with intent, aid others to defeat the Law by warning others known to be committing an offence. The section referred to frustration of the execution of the duties of a Customs Officer. The amendment says that the frustration is of the Customs Officer in the execution of his duties. A nice point perhaps.

Section 29. The Comptroller may make rewards for information leading to fine or penalty of his own initiative. Previously His Excellency the Governor's approval was required. This is a matter of administrative expediency and beneficial in the reduction of delays.

Section 30. Section 229 of the principal Ordinance refers to Civil pecuniary penalties under the Customs Law and the word "conviction" which was used is therefore inappropriate; it is replaced by the word "judgment".

Section 31. Section 252 of the principal Ordinance provided for receipts to be issued to payers of duty, but did not provide for receipts for any other monies brought to account for the Comptroller. The amendment so provides.

Sir, I commend this Bill which provides for more efficient collection of the major revenue of this country.

The Resident, Ogoja Province:

Sir, I beg to second.

His Honour the Chief Commissioner:

Does any Member wish to address the House?

The question is that this House do advise His Excellency the Governor that a Bill entitled "An Ordinance to amend the Customs Ordinance, 1942" is acceptable in principle. Will those in favour say "Aye" and those to the contrary "No". The "Ayes" have it.

House in Committee.

Title.

Clauses 1 to 5.

Clauses 6 to 10.

Clauses 11 to 15.

Clauses 16 to 20.

Clauses 21 to 28.

Clauses 29 to 34.

Clause 35.

The Secretary (Finance), Eastern Provinces:

Sir, I beg to report that a Bill for "An Ordinance to amend the Customs Ordinance, 1942", passed through committee without amendment.

His Honour the Chief Commissioner:

The question is that this House do advise His Excellency the Governnor that a Bill entitled "An Ordinance to amend the Customs Ordinance, 1942" is acceptable. Will those in favour say "Aye" and those to the contrary "No". The "Ayes" have it.

A BILL FOR AN ORDINANCE TO PRECLUDE THE HEARING AND
DETERMINATION OF CHIEFTAINCY DISPUTES FROM CERTAIN
COURTS BOTH IN ORIGINAL AND APPELLATE JURISDICTIONS

The Secretary, Eastern Provinces:

Sir, I beg to move the following:—

"Be it resolved:

That this House do advise His Excellency the Governor that a Bill entitled 'An Ordinance to preclude the Hearing and Determination of Chieftaincy Disputes from Certain Courts both in Original and Appellate Jurisdictions' is acceptable to this House."

The title of this Bill, Sir, is self-explanatory and among the Objects and Reasons a certain amount of the back history giving rise to this proposed legislation has been set out. It originated, Sir, in the Western House of Assembly where a motion was universally adopted which read as follows:—

"Whereas a number of cases relating to the appointment of Chiefs is at present before the Supreme Court and whereas such cases cause substantial expense to the Chiefs themselves, to Native Authorities, and to the people, and whereas litigation of this nature tends to derogate from the authority of those entitled by Native Law and Custom to appoint Chiefs, and whereas the uncertainty arising from such litigation is contrary to the best interests of Local Government and retards the progress and development of the people now, therefore, be it resolved that in the opinion of this House, Government consider the introduction of legislation to exclude all matters relating to the appointment, selection and deposition of Chiefs from the jurisdiction of the Supreme and Magistrates' Courts".

As a result of that, Sir, a further motion was moved in Legislative Council at its last meeting in March by the Honourable T. A. Odutola, O.B.E., the Third Member for the Western Provinces. I do not wish to waste the time of this House by reading that Motion, but it followed very much on the same lines as that which was proposed in the Western House of Assembly. Finally a resolution was passed:—

"Be it resolved:

That this House endorses the Motion already accepted by the Western House of Assembly and supports the proposal for introducing relevant legislation in this connection".

As a result of that, Sir, this proposed legislation is now before this House. In putting his motion before Legislative Council the Honourable the Third Member for the Western Provinces referred to the serious social and political evils which have resulted in the promiscuous scramble for succession to vacant Chieftaincies and the tendency on the part of any candidate to rush to the Law Courts to establish his claim, when he had failed to do so in the manner prescribed by custom and tradition, especially where he has resources to do so.

There is no doubt whatsoever, Sir, that there has been in the Western Provinces a tremendous waste of time and money in referring such cases to the Courts, and I would ask this House to realize that the people who raised this matter know the position — they know their own troubles in the Western Region. They have put this matter up and got it as far as it is now in an effort to put their own house in order, and I suggest, Sir, that it is no part of the duties of this House to put any obstacles in the way. If the House does so, it would be regarded by the Western Region as an unneighbourly act.

I commend this Bill to the House.

The Secretary (Finance), Eastern Provinces:

Sir, I beg to second.

The Second Provincial Member for the Onitsha Province (Mr C. D. Onyeama):

Sir, I rise to oppose this Bill. I am fully aware of the solicitude of the Secretary for the welfare of the Western Provinces, but it seems to me His Excellency the Governor has thought fit to get our opinion on this matter. In clause 1 it shows that this Bill will not apply to the Eastern Provinces, unless we by motion or by resolution ask for it to apply to us, but the fact still remains that we have to consider the principle; we have to recommend to His Excellency that this Bill is acceptable in principle; in other words that we endorse the sentiment expressed by the Members of the Western House of Assembly. Speaking of the people, Sir, I think that I will always maintain that any man has a right to bring his claim before any tribunal which he knows will give him a fair judgment and to prosecute his claims to the last. If truth is not on his side we can only hope that he will lose, but if the machinery for determining truth is so deficient that the man who has got truth on his side will not win, then the fault really lies with the machinery and not with the Court. Therefore, Sir, I think I cannot for a single moment say that I agree that anybody who has a legitimate claim to a Chieftaincy or any other dispute should be deprived of his right to bring this claim before a Court.

Your Honour, I oppose this motion.

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

Your Honour, I rise to oppose this Bill. I am not going to say very much about my reasons for opposing it because I think that the Unofficial Members of Legislative Council dealt at length on that point.

I quite endorse the sentiments expressed by the Second Provincial Member for the Onitsha Province in saying that persons should be allowed to resort to the highest courts for the complete prosecution of their claim, and I think it would be putting back the hands of the clock of progress if any impediment should be placed in his way. But that is not the point I wish to emphasize in my opposition.

Now, I have gone through this Bill and I have studied it very carefully. I have not seen any provision made for the establishment of any machinery for the settlement of these disputes. The provisions are to preclude the Courts of Justice from dealing with these matters, but there has been no alternative suggestion made for the settlement of the disputes. Well, in my opinion, Sir it means these disputes are to stand outside the Law; they are to be without any redress, and it is difficult, Sir, to imagine disputes existing without any form of machinery for redress. That is the point I should like to emphasize in my opposition to this Bill, that there have been no alternative measures laid down for the settlement of these disputes, and not even in the Native Courts are these disputes to be settled. Now, Sir, the Oni of Ife, the Honourable Aderemi I, c.m.g., when he was supporting this motion in Legislative Council said: "The people of this country generally and of the Western Provinces in particular have nothing but admiration for the Courts of Law, but in my opinion what is needed and what to my thinking is the best solution of this problem is the appointment of a Regional or a Provincial Committee to deal with every Chieftaincy dispute as it comes up". He does not have any confidence in the Native Court, at least he does not suggest that these disputes should be settled in the Native Courts, but he suggests that a special body should be set up for the settlement of these disputes. Well, Sir, I think that the provisions of this Bill have overlooked this suggestion that a special Committee should be set up to go into these disputes. I think this is a most untenable position, and for that, if for no other reason, I oppose this Bill.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

Sir, as the mover of this motion pointed out this does appear to be the domestic concern of the Western people, but it might have been thought better if the Bill itself was not referred to this House for consideration. I think it is known what views we hold in this House and I think those views are on progressive lines. If we

must discuss this Bill in principle, then I must say most frankly I am opposed to it.

Surely people have long enjoyed the benefits, enjoyed the confidence of the Superior Courts in this country. To tell them they must no longer desire, must no longer enjoy the privilege of presenting their cases before these Courts is to tell them they should cease to live. I do not think that the constitution of anybody or group of persons to determine these Chieftaincy disputes can solve the problem. It has been suggested, one of the reasons for promulgating this Ordinance is to avoid expense, I would suggest it would be much more expensive to have these matters thrashed out of court than inside a court. At any rate it would be more expensive and unfair to have these matters dealt with by Chiefs who would in most cases be interested directly or indirectly.

This is really no matter that concerns us except on principle, and while I am opposed to it, Sir, I will do nothing to prevent it going through this House.

The Second Provincial Member for the Calabar Province (Mr Nyong Essien):

As a Chief by birth, intelligence and installation into that office, and as one polished by trying experiences in that capacity, I strongly oppose this Bill.

One of the grounds I have to give in this House is that human nature is subject to emulation and assimilation. Notwithstanding the fact that this Bill when passed into Law will be confined to the Western Provinces, we have got to remember that the history of one man is that of another; the history of one section is that of another; and the history of one nation is that of another. Human nature is the same the world over. Therefore, Sir, I oppose this Bill and reserve the other grounds till when I shall speak on it in the Upper House, otherwise called the Legislative Council of Nigeria. Your Honour, I beg leave to oppose this Bill under discussion in this August assembly.

The Member for Educational Interests (Mr A. Ikoku):

Your Honour, when the motion to introduce this Bill was moved at Kaduna last March we opposed it. By "we" I have in mind we from the Eastern Provinces, and at the finishing stage a division was taken and the Member for Calabar and the Fourth and fifth Members for the Eastern Provinces opposed the Bill. The three Lagos men also opposed the Bill. It is true, Sir, it has been said this is a Bill for the Western Provinces, but the principle of it, as the Second Member for the Onitsha Province has said, concerns us all. Nigeria is not yet a Federation and therefore we have every right to discuss any matter that is being introduced, although it was introduced in the first instance in relation to one Region, for it is bound to have its repercussions in other Regions, and then, Sir, when we come to deal with the Bill clause by clause

I can point out, or rather I can point out now that sub-section 2 of clause 1 states that the Governor may apply this Ordinance to any Region upon a resolution adopting this Ordinance being passed by the House or Houses of such Region and to the Colony upon being so requested by a majority of the Native Authorities therein. This clearly sets out the intention to introduce the Bill in other Regions when it is passed. It is true there is provision to the effect that it can only be introduced to other Regions by the vote of their House, but it does not mention the word "Unofficial Members" nor are we assured that the official Members will not have a majority vote in the matter. We of the Eastern Provinces have indicated unmistakably that we want no such Bill. We very much oppose this Bill as an attempt to establish a privileged class. The Law Courts are there for everybody. I do not think its aim and object, Sir, is the establishing of a privileged class of chiefs whether up in the North or the Western or the Eastern Provinces. I very strongly oppose this Bill.

The Provincial Member for the Owerri (Rivers) Province (Mr H. Bowari Brown):

Your Honour, when in March last the motion to introduce this Bill was moved in Legislative Council in Kaduna I was the only Member of the Eastern Region who voted in favour of the introduction of the Bill. It was then in the motion stage. Only a motion was made applying for permission to bring this Bill. On that principle I supported the motion. At that time it was said that this was a matter that concerned the Western Provinces only, and I did not then see any reason why they should not have it, but when the Bill is framed and brought before the House as now done, we would be able to decide whether we should oppose it or not.

Now, Sir, that it is in the form of a Bill and no longer a mere motion, I feel I must raise my voice on the opposition side for two reasons. The first is that at the time of application for introduction of the Bill I never expected that under any circumstances whatsoever would this Bill be extended to any other part of Nigeria. It would, I thought, be confined absolutely to the Western Region, but sub-clause 2 of clause 1 implies that in one way or another it will eventually be extended to this Region and I do not want such a privilege to be granted us in the East even though am a Chief in my own right. When there is any trouble about Chieftaincy I should like it to be taken to Court if necessary. Certain things in it leave me in doubt now that the introduction of this Bill is accomplished and no machinery whatsoever has been suggested as to how these disputes, which will no longer go to the Courts of Law, will be settled. There is nothing provided in the Law. Therefore, Your Honour, I now register my opposition to this Bill.

The Secretary (Finance), Eastern Provinces:

I may not have understood, Sir, quite what the First Member

for the Calabar Province was intending, but I am now perfectly clear from what the Member for the Owerri Province has said that there is an impression that this Bill does not provide for the settlement of disputes in the Courts of Law. I am sure, Sir, that that is a mistake, for the Native Court is not excluded. Then, Sir, fears have been expressed as to the application of this Bill to the Eastern Provinces. Surely those fears are quite groundless. I cannot imagine how, in any circumstances, this House would ever apply such a Bill to the Eastern Provinces, Sir. I do hope the Members of this House have sufficient confidence in each other to know that that would be impossible. Indeed, Sir, it is impossible, because if Members will refer to the definition of Chief in section 2 they will see that it is a Chief within the meaning of the Appointment and Deposition of Chiefs Ordinance, 1930. I stand to be corrected, but I do not think there is such a Chief in the Eastern Provinces nor can we envisage one: was it not said in Legislative Council at Kaduna that we in the East have no chiefs, we look each other in the face and say "Good morning" if we feel like it? These fears of application of this Ordinance to the East should not be entertained, but I am very apprehensive indeed that we should just throw this Bill out: it can do us no harm under any circumstances we can imagine, but the Western Provinces want this Bill. I want to emphasize what my friend the Secretary said about unneighbourly acts: to throw out this Bill would not only be unneighbourly, it would be downright unfriendly. We hope that within a very few months we ourselves will be proposing a Bill for the Eastern Provinces, and that Bill may have to be considered by the Western and Northern Provinces Houses. We shall expect them to be neighbourly towards us. Do not let us now be the first to commit an unneighbourly act or we may be very sorry indeed later. We may destroy all our hopes for the future. This Bill can do us no harm, the Western Provinces have asked for it and it is not for us to deny it.

The First Provincial Member for the Owerri Province (Mr M. W. Ubani):

Your Honour, I rise to oppose this Bill and I would like to discuss it from the point of view of the common man. I should say, Sir, that in considering a Bill such as this, the application of the Bill in relation to the rights of man should be considered. Nigeria is a dependent state following the patterns of its educators the British Government. The principle of British Government is well founded in equity, justice and fair play and bound up in the recognition of the rights of man. I feel, Sir, that if this is so, I am sure my friends from the Official wing will agree with me that it will be bringing something contrary to what we expect of them by allowing a Bill such as this to pass in its present state. The freedom of a free citizen should not be fettered under any circumstance whatsoever. Every citizen should be allowed to pursue his or her course to obtain justice from every angle, and

since this Bill if passed will be Nigeria-wide, it is not going to be applied only to the West, if this House petitions to the Governor it will be applicable to the East, although it may be argued that we have no such cause in the East, but when it has been passed it will become Nigeria Law which can be applied to any Region, and if that is so, Sir, I feel that the chances of our people to obtain justice in a Court of Law will be very much undermined and if that happens the essence of British Justice for which we have every respect will be no more.

With these few remarks I support the opposition.

The First Provincial Member for the Onitsha Province (Mr P. E. Chukwurah):

Your Honour, we in the East are in sympathy with the West for the loss of money and time which are the results of Chieftaincy disputes. While expressing our sympathy we feel that we cannot subscribe to any measure which will curb the liberty of individuals in securing justice when they feel they are being illtreated. I feel that this Bill is not a true solution of the problem. We shall not be erring in order to do good, but it may be the people in the West have spent a lot of money going to Court and are worried about it. If so, then I will suggest to the West that whenever there is a Chieftaincy dispute they should first of all reckon with the interest of the masses and get the contesting parties before the public opinion of the ordinary man and let them vote for them, and he who wins the vote, let him become the Chief. That will save a lot of trouble and waste of money. If this Bill is allowed to pass Chieftaincy in the West may be entrusted in the wrong hands of a privileged few. I hope the mover of this Bill at Kaduna or the man that suggested that something must be done about these disputes is not a Chief otherwise the people who originated it in the Western House of Assembly, most of whom are Chiefs might be trying to safeguard their position. What have the ordinary people said about it? So I am afraid that I cannot subscribe to a measure which may create a privileged class.

The Member for Urban Areas other than Port Harcourt (Reverend O. Efiang, O.B.E.):

Your Honour, much has been said in opposition to this Bill. It is, as far as jurisdiction is concerned, for the Western Region. I remember, Sir, the Bill for an Ordinance for the Appointment and Deposition of Chiefs of 1930. In that Bill, His Excellency the Governor is made the final Court of Appeal and that was applicable particularly to the West and the North. I do not know, Sir, whether this Ordinance we are seeking to introduce is to repeal that one or if that one has already been repealed. A point which has been made in the favour of this Bill is that it is going to save an enormous amount of money. I know, Sir, that a man would spend any amount of money in a case where the question of Chieftaincy is

involved, and they spent recklessly in order to get their rights. I, therefore will not say it would be money wasted, Sir. What strikes me very much is that it would preclude litigants from carrying on their prosecution in the Native Courts. If this Bill will then open a door, so that those people seeking to establish their Chieftaincy could do so in their own tribunal or arbitration and those who would like to prosecute theirs in the Judicial Courts may by all means please themselves, then the difficulty is resolved.

His Honour the Chief Commissioner:

May I remind the Member that the Native Courts are not precluded. If the Member will turn to clause 2 in the definition of Courts he will see there is no mention of a Native Court. I should like Members to have that quite clear. Native Courts are not precluded.

The Member for Urban Areas other than Port Harcourt (Reverend O. Efiog, O.B.E.):

Thank you, Your Honour. If the Native Court is not precluded then this is some extenuating circumstance, Sir, and yet it is a circumstance which should permit an appeal to be lodged elsewhere if the contending parties are dissatisfied with the decision of the Native Court, for I know, Sir, any amount of intrigues that would go on when a case of Chieftaincy is being determined. So many people would simply take sides and I think to avoid all that, the Courts should be left open. I think I will not say more, Sir, for others have already covered the ground. I feel at the same time I would not like to place any impediment in the way of the people of the West if they desire to get this Bill through.

The Provincial Member for the Ogoja Province (Dr F. A. Ibiam):

Your Honour, I opposed the motion which sought to bring this Bill into existence, and I oppose it now. Apart, altogether, Sir, from what my honourable friends have said against the Bill, I would like to point out, Sir, that this Bill seeks to perpetuate a policy which is causing much suffering in our country at present and that is bribery and corruption. Once you allow matter of this nature to be decided outside the well established Courts — the Magistrate and Supreme Courts — you are giving way to parties who will bring this suffering into whatever territory it is applicable; the man with enough money would be likely to get the position of Chief although he might not be the right person. Although the Native Courts are not precluded it certainly will have effect upon the judgment of these Courts whatever the judgment might be. With these words, Sir, I beg to oppose this Bill very strongly.

The Second Provincial Member for the Owerri Province (Mr D. N. Achara):

Your Honour, there is one thing that I want to say. It is this. There is no provision in the Bill for a place where a dispute of this

DIVISION

*For**Against*

The Senior Crown Counsel, Eastern Provinces
 The Deputy Director of Public Works, Eastern Provinces
 The Deputy Director of Agriculture, Eastern Provinces
 The Acting Deputy Director of Education, Eastern Provinces
 The Deputy Director of Medical Services, Eastern Provinces
 The Secretary (Finance), Eastern Provinces
 The Resident, Ogoja Province
 The Resident, Onitsha Province
 The Resident, Calabar Province
 The Resident, Rivers Province
 The Resident, Owerri Province
 The Secretary, Eastern Provinces
 The Chief Commissioner, Eastern Provinces

 13

The Second Provincial Member for the Calabar Province
 The Member for Educational Interests
 The Provincial Member for the Owerri (Rivers) Province.
 The Second Provincial Member for the Owerri Province
 The Member for Port Harcourt
 The Second Provincial Member for the Onitsha Province
 The First Provincial Member for the Calabar Province
 The Provincial Member for the Ogoja Province
 The First Provincial Member for the Owerri Province
 The First Provincial Member for the Onitsha Province

 10

The following Members abstained from voting:—

The Member for African Commercial Interests.
 The Member for Professional, Salaried and Wage Earning Classes.
 The First Provincial Member for the Cameroons Province.
 The Member for Urban Areas other than Port Harcourt.

His Honour the Chief Commissioner:

There are four abstentions, thirteen "Ayes" and ten "Noes".

The "Ayes" have it.

House in Committee.

Title.

Clause 1.

The Member for Educational Interests (Mr A. Ikoku):

Your Honour, sub-section 2 of clause 1 provides that the Bill shall come into operation in any Region by the vote of the Members of the House of Assembly of that Region, except in the case of the Colony where it provides that such vote shall be the vote given by the majority of the Native Authorities. I want to make two points, and if I fail on one to put forward the other.

The first is that this sub-section be deleted. If I fail, Sir, I will make another proposal.

The Second Provincial Member for the Calabar Province (Mr Nyong Essien):

I second that.

The Member for Professional, Salaried and Wage-earning Classes (Mr E. N. Egbuna):

In supporting this amendment, Sir, it appears to me we have been assured repeatedly that this section has nothing to do with the Eastern Provinces and in any case we have been told again that having regard to the definition of the word "Chiefs" there are no such Chiefs in this Region. I think in the main we can allow that to pass. If that is so, all I am concerned with is that this Bill which by the resolution we have more or less agreed is acceptable to the Western Provinces, and by merely deleting that section our fears and the fears of the people of the Eastern Region will be allayed. We will make quite sure it will never come here. I hope the people in the West will be happy about the position.

His Honour the Chief Commissioner:

Might I suggest that the Member may wish to frame his amendment not to interfere with any Region other than the Eastern Region. In other words, may I suggest that the Member may like to frame his amendment that the Governor might apply this Ordinance to the Northern Provinces and to the Colony only?

The Secretary, Eastern Provinces:

Could I suggest the wording? "The Governor may apply this Ordinance to any Region other than the Eastern Region".

The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

I suggest: "The Governor may apply this Ordinance to the Northern Region upon a resolution adopting this Ordinance". The only amendment there is "any Region" is altered to "Northern Region".

His Honour the Chief Commissioner:

The only alteration I would suggest is that as in sub-clause (1) the words "Western Provinces" are used, it might be advisable to use "Northern Provinces" instead of "Northern Region". Would that satisfy the mover of the proposed amendment?

The Member for Educational Interests (Mr A. Ikoku):

I prefer the amendment in the terms proposed by the Secretary, Eastern Provinces. On the whole, Sir, I prefer it to Mr Okon's amendment; it does deal specifically with the North whereas "any other Region" leaves it a bit vague in the minds of people.

The Second Provincial Member for the Onitsha Province (Mr C. D. Onyeama):

"The Governor may apply this Ordinance to the Northern Provinces upon the resolution adopting this Ordinance being passed by the Houses of that Region".

conclusion, Gentlemen, I would like to thank you most sincerely for all your help in making a success, and I think we can admit it is a success, of this House of Assembly in its first meetings. I could not have hoped to have had a more pleasant number of Councillors to work with. Personally I have enjoyed every minute, except those minutes just before I have had to make a speech, those minutes I did not enjoy, and I do not suppose I ever shall enjoy them, but I do honestly and earnestly thank you gentlemen for all your help and assistance, and I shall like to hear with great interest of the progress which is made in the years to come, and when you are in your grand new building, marble halls, panelled walls and fine seats and desks, do not forget that we were very comfortable in the Garrison Hall. (*Applause*).

The House will now adjourn *sine die*.