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COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

OFFICIAL REPORT

SECOND SERIES

VOLUME XVI

1943

First Session: 16th March to 24th March, 1943

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List of Members of the Legislative Council

President:

HIS EXCELLENCY THE GOVERNOR, SIR HENRY MOORE, K.C.M.G.

Ex Officio Members:

CHIEF SECRETARY (HON. G. M. RENNIE, C.M.G., M.C.).
ATTORNEY GENERAL (HON. W. HARRAGIN, C.M.G., K.C.).
FINANCIAL SECRETARY (HON. L. TESTER, C.M.G., M.C.).
CHIEF NATIVE COMMISSIONER (HON. E. B. HOSKING, O.B.E.).
DIRECTOR OF MEDICAL SERVICES (DR. THE HON. A. R. PATERSON,
C.M.G.).
DIRECTOR OF AGRICULTURE (HON. D. L. BLUNT) (1).
DIRECTOR OF EDUCATION (HON. A. T. LACEY, O.B.E.).
GENERAL MANAGER, K.U.R. & H. (HON. R. E. ROBINS, C.M.G.,
O.B.E.).
DIRECTOR OF PUBLIC WORKS (HON. J. C. STONACH, C.M.G.).
COMMISSIONER OF CUSTOMS (HON. A. W. NORTHROP).
COMMISSIONER OF LANDS AND SETTLEMENT (HON. C. E. MORTIMER,
C.B.E.).

Nominated Official Members:

HON. H. M. GARDNER, O.B.E. (Conservator of Forests).
HON. S. O. V. HODGE, C.M.G. (Prov. Commissioner, Coast).
HON. C. TOMKINSON (Prov. Commissioner, Central).
HON. K. L. HUNTER, O.B.E. (Acting Prov. Commissioner, Nyanza). (2)
HON. H. HARD (Prov. Commissioner, Rift Valley).
HON. T. A. BROWN (Solicitor General).
HON. R. DAUBNEY, C.M.G., O.B.E. (Director of Veterinary Services).
HON. G. B. HERDIS, C.M.G. (Postmaster General).
HON. R. PEDRAZA (Commissioner of Mines).

European Elected Members:

MAJOR THE HON. F. W. CAVENDISH-BENTINCK, C.M.G., Nairobi North.
HON. S. V. COOKE, Coast.
HON. F. J. COULDREY, Nyanza.
LT.-COL. THE HON. S. G. GHERSE, Uasin Gishu.
COL. THE HON. E. S. GROGAN, D.S.O., Ukamba.
LT.-COL. THE HON. J. G. KIRKWOOD, C.M.G., D.S.O., Trans Nzoia.
HON. W. G. D. H. NICOL, Mombasa.
LT.-COL. THE HON. LORD FRANCIS SCOTT, K.C.M.G., D.S.O., Rift
Valley.
HON. A. VINCENT, Nairobi South.
HON. MRS. O. F. WATKINS, Kiambu.
HON. E. H. WRIGHT, Aberdare.

Indian Elected Members:

HON. SHAMISUD-DEEN (Central).
HON. S. G. AMIN (Central). (3)
HON. A. B. PATEL (Eastern).
HON. K. R. PAROO (Eastern).
HON. R. KASIM (Western).

Arab Elected Member:

HON. SHERIFF ABDULLA SALIM.

Nominated Unofficial Members:

Representing the Interests of the African Community—
DR. THE HON. C. J. WILSON, C.M.G., M.C.
HON. H. R. MONTGOMERY, C.M.G.

LIST OF MEMBERS OF THE LEGISLATIVE COUNCIL—Contd.

Representing the Interests of the Arab Community—
HON. SOUD BIN ALL.

Clerk to Legislative Council:
MR. R. P. ARMITAGE (Acting).

Reporter:
MR. A. H. EDWARDS.

- (1) Mr. A. B. Killick, Acting Director of Agriculture, 22nd to 24th March, 1943.
- (2) Vice Hon. S. H. Fazan, C.B.E., seconded for special duty.
- (3) Returned at by-election 17th January, 1943, vice Hon. Isher Dass, deceased. Mr. S. T. Thakore acting member from 16th to 24th March, 1943.

ABSENTEES FROM LEGISLATIVE COUNCIL SITTINGS

16th March—

Hon. S. O. V. Hodge, C.M.G.
Hon. Member for Ukamba.
Hon. Arab Elected Member.

17th March—

Hon. S. O. V. Hodge, C.M.G.
Hon. Member for Ukamba.
Hon. Arab Elected Member.

18th March—

Hon. Director of Agriculture.
Hon. S. O. V. Hodge, C.M.G.
Hon. Member for Nairobi North.
Hon. Member for Ukamba.
Hon. Arab Elected Member.

22nd March—

Hon. Member for Ukamba.
Hon. Arab Elected Member.

23rd March—

Hon. K. L. Hunter, O.B.E.
Hon. Member for Ukamba.
Hon. Member for Eastern Area (Mr. A. B. Patel).
Hon. Arab Elected Member.

24th March—

Hon. K. L. Hunter, O.B.E.
Hon. Member for Ukamba.
Hon. Arab Elected Member.



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

FIRST SESSION, 1943

Tuesday, 16th March, 1943

Council assembled in the Memorial Hall, Nairobi, at 11 a.m. on Tuesday, 16th March, 1943, His Excellency the Governor (Sir Henry Moore, K.C.M.G.), presiding.

His Excellency opened the Council with prayer.

The Proclamation summoning Council was read.

ADMINISTRATION OF OATH

The Oath of Allegiance was administered to: K. L. Hunter, Esq., O.B.E., Acting Provincial Commissioner Nyanza Province, Nominated Official Member, and Mr. S. T. Thakore, Acting Member Central Area.

COMMUNICATION FROM THE CHAIR

HIS EXCELLENCY delivered the following Communication from the Chair:

Honourable Members of Legislative Council:

Before we proceed to deal with the business that appears on to-day's Order Paper I should like to take this opportunity of saying something on a subject which is I know uppermost in the minds of the country generally. I refer of course to the present shortage of native foodstuffs, particularly maize, with which we are faced at the present time.

I know many people are asking: How has this situation come about with such rapidity, why was it not foreseen, and is Government satisfied that the labour which is being temporarily discharged from farms and other constructional work, whether for the Services, the Gov-

ernment or private contractors outside the reserves, will be able to obtain the necessary food on return to the reserves themselves.

I will deal with these specific points later, but before doing so I think it might be helpful if I endeavoured to give a picture, which necessarily must be in the broadest outline, as to what the Colony has done by way of increased production as part of our contribution to the war effort. It seems to me that this may be of value for two reasons, first because there is a danger at the present time, when there is an acute shortage in one direction, for the impression to get abroad that we have fallen down on our production programme as a whole; and secondly, because we may not perhaps have sufficiently taken into consideration the consequential effect which this increased production has had on the growing of essential foodstuffs for his own consumption by the native.

To deal first with the four principal crops which were originally included in the Increased Production of Crops Ordinance, I think the following figures of non-native acreages are of interest:—

In 1939 the acreage under wheat was 53,500 acres, in 1942, 131,000 acres, an increase of 145 per cent.

In 1939 the acreage under flax was 3,000 acres, in 1942, 16,500 acres, an increase of 450 per cent.

In 1939 the acreage under rye was 300 acres, in 1942, 3,400 acres, an increase of 1,033 per cent.

In 1939 the acreage under maize was 90,000 acres, in 1942, 87,000, a decrease of 3.3 per cent.

[H.E. the Governor]

In the case of maize, although this represents a decrease in acreage compared with the 1939 figures, it shows a substantial increase compared with the estimated acreage put under maize in 1941. This increase in the maize acreage reflects the movement back into maize as a result of price guarantees and subsequent further inducements offered under the Increased Production of Crops Regulations.

So far as 1943 plantings are concerned, some 12 per cent of planting orders have not yet been issued and final figures cannot therefore be given, but on a comparison of planting orders so far issued for 1943 with these issued to the same farmers in 1942, it is estimated that wheat acreages will show a further increase over 1942 of 25.8 per cent, maize acreages 28.5 per cent, flax acreages 15.4 per cent, and rye acreages 350 per cent. It may also be of interest to you to have some figures in respect of wheat, in regard to which the progress has been very satisfactory, and in view of the present food shortage is so important. From 1940 plantings there were delivered 182,395 bags, the comparable figure in 1941 was 240,944 bags; and from the 1942 planting 400,000 bags are confidently expected.

As regards other European crops the output of tea has increased by two million pounds, or 14 per cent, and sisal by 4,400 tons, or 17 per cent. Pyrethrum has now become a first priority crop for war requirements, and it is hoped to increase the acreage from 38,000 acres to a minimum of 50,000 acres in 1943.

With regard to the animal industry, the number of pigs passing through the Pig Control increased from 24,300 in 1941 to 35,300 in 1942, while the number of cattle passing through the Live Stock Control rose from 78,600 in 1941 to 97,000 in 1942, the increase in the case of sheep and goats being from 17,000 to 132,000. The output of butter fat declined slightly owing to the unfavourable season in 1942, but it remained well over four million pounds as compared with 2,400,000 pounds in 1938.

Turning to Native production, and speaking first in terms of the calendar year as opposed to the crop year, during 1942 557,000 bags of maize were supplied by the Nyanza Province for con-

sumption outside the Province, and in addition 77,000 bags of mtama and 18,500 bags of mwimbi. From the Central Province during the same period, 160,000 bags of maize were sold for consumption outside the native areas, and 100,000 bags of beans. Potatoes rose from 19,000 bags in 1941 to 46,000 in 1942. The output of dried vegetables from the Kerugoya factory reached the figure of 750 tons in 1942, representing 7,500 tons of fresh vegetables produced by the natives of that area, while the value of native-grown fresh vegetables produced in the Kiambu District for consumption on the Nairobi market and elsewhere rose from £35,000 in 1941 to £120,000 in 1942.

I think you will agree that the Colony has no need to be ashamed of the above figures, particularly when it is remembered that we have had simultaneously to meet the demands of the fighting forces for manpower both European and African, and that as a result many European farms are carrying on with much less than normal supervision at a time when the quality of African labour available has often been poor. Despite the heavy calls on the African for the fighting services, the total number of Africans employed for wages in agriculture, including squatters, women and children and casual labour, is estimated at some 203,000, an increase of some 12,000 over 1941.

Another difficulty with which the farmer has had to compete is the securing of the necessary agricultural machinery. Admittedly the supplies available have been inadequate, but I should like to emphasize here that the actual obtaining and shipping of supplies is quite outside the control of the local Government. All that could be done was done, and indeed the Government can claim the credit for the exercise of considerable foresight by sending a cabled indent as long ago as March, 1942. This indent has been accepted and the articles manufactured, and all the indications are that its arrival should not now be long delayed and that we are in fact likely to get our supplies at an earlier date than many other Dependencies. Undoubtedly, given more men and more machinery, larger acreages than those I have just quoted could have been cultivated, but I repeat that we have no reason to be ashamed of the

[H.E. the Governor]

results that have been obtained with the resources at our disposal.

Before leaving the subject of production I might perhaps mention our output of timber. In 1939 Kenya produced 16,200 tons of sawn timber. In 1940 we turned out 29,530 tons, in 1941 36,300 tons and in 1942 59,700 tons. In addition, the Kenya Forest Department delivered to the military forces in 1939 1,027,000 running feet of round poles, in 1940 2,819,000 running feet, in 1941 8,460,000 running feet, and in 1942 approximately 10,000,000 running feet. Our efforts to collect wild and ceara rubber are worthy of mention. I refer both to timber and rubber for this reason—because they are high priority products so far as the war effort is concerned, and they involve considerable demands on labour.

I will now turn to the immediate problems with which we are confronted by the present shortage of native foodstuffs.

The short answer to the question why we are so short of native foodstuffs at the present time is that the deliveries of maize of the 1942/43 crops, both from European farms and native reserves, have fallen far short of the amount required and of the amount that it was estimated would be forthcoming as recently as late November and December last. So far as European maize is concerned, I have already referred to the drop in the maize acreage that took place in 1941, and although it can be argued that had the guarantees offered under the Increased Production of Crops Regulations been put into operation earlier the increase in European acreage for 1942 might have been larger, the fact remains that there was an extension of maize acreage to 87,000 acres and that it was on that acreage, plus an allowance for squatter maize, that a total of 500,000 bags was expected to be available for the Maize Control. So far as the native reserves are concerned a total of a million bags was expected from native sources for the Control. This gives a total figure of 1,500,000 bags, which was estimated fully to cover our local civil and military requirements.

That was the position in July when Maize Control was instituted. Subsequently, the deliveries to the Control from European farms were estimated by

the Kenya Farmers' Association at 386,000 bags, but since during July the native production estimates had gone up by 134,500 bags, the total delivery expected from European and native sources remained approximately the same.

These were the figures on which the Maize Control Board was working until the 21st October. On that date the Agricultural Department reduced the estimate of native deliveries to 1,025,000 bags, and the member of the Kenya Farmers' Association on the Maize Control Board intimated that European deliveries might be expected to reach only 361,000 bags. On the 23rd November the total estimated deliveries which stood at that date at 1,395,000 were further reduced to 1,147,700 bags, a reduction which related almost entirely to the native crop. Subsequently to this the European figures were further reduced by the Board on the advice of the Kenya Farmers' Association to 300,000 bags.

After that the situation further deteriorated. The actual figures of delivery from the 1st July, 1942, up to the 1st March, 1943, are 287,168 bags of European maize and 462,358 bags of native maize, making a total of 749,526 bags. The Chairman of the Agricultural Settlement and Production Board estimates that 320,000 bags in all will be delivered from European sources to the Control from the 1942/43 crops, and it is not considered safe to estimate for more than 480,000 bags as total deliveries from native sources. In brief, total deliveries to the Control which up to the end of October were expected to reach 1,500,000 bags are now expected to reach only 800,000 bags. Even after making allowances for the increased amount of maize that has been fed to pigs and stock, and the failure of the short rains, an estimated delivery of only 320,000 bags from European farms to the Control is disappointing, and I trust that as a result of the review of stocks held on farms that is being undertaken by District Production Committees, there will be some increase in deliveries.

In the case of Native maize we are confronted with an estimated shortfall of 654,000 bags—350,000 bags from the Nyanza Province, 230,000 bags from the Central Province, and 70,000 from other

[H.E. the Governor]

Native areas. This large figure is, of course, the principal factor which has brought about the present situation, and it is due to a combination of causes.

I am informed that a shortfall of some 380,000 bags can definitely be ascribed to the failure of the short rains crop which, although planted, did not mature owing to drought conditions. This leaves a shortfall of 274,000 bags to be accounted for.

It must be remembered it was not until the end of December that it was definitely known that the short rains had completely failed and that the Agricultural Officers appreciated how seriously depleted the deliveries were likely to be, for supplies in October, November and December were substantial and it is deliveries which we were counting on from January to June which have dried up. There is no doubt that the total failure of the short rains, and consequent depleted supplies of foodstuffs alternative to maize, plus the appearance of locusts in certain areas, caused native growers to hold up a considerable portion of maize grown from the long rain crop which otherwise would have come forward.

It must be remembered too, that the native maize which comes into the market is but a very small percentage of the total crop grown, and that it is only the surplus not required for food within the reserves which normally comes on to the market. The incidence of a severe drought therefore can rapidly reduce this exportable surplus almost to vanishing point.

A further consideration is the fact that there is more money in circulation in the native reserves than ever before, at the very time when, owing to shipping difficulties, there are fewer piece goods, bicycles and other articles for the native to spend his money on, with the result that more money has been probably spent per head than usual in the purchase of food from *dukas* and shops both within and without the reserves.

I will now turn to the action taken as soon as these shortfalls were reported in October last. On the 21st October, the day the Board first received an intimation that the estimate of deliveries should be reduced by 105,000 bags, the Chairman of the War Supplies Board was advised that the Control could not supply the

Services with maize after April, 1943. The Service authorities at once took steps which, if successful, would have amply covered their own needs by importations, and expressed their willingness to assist the civil authority with any surplus they might acquire should the necessity arise. As estimates of deliveries continued to drop, the home authorities were notified on the 16th November that it might be necessary to import maize for the civil population. On 23rd November, when a further cut in estimated deliveries was conveyed to the Board, the military authorities were immediately informed that no supplies of maize from the Control except on repayment in kind could be made after the 31st December. The home authorities were asked to arrange imports for the Kenya Government to arrive in March and subsequent months. I am glad to say that the first instalment has already arrived in Kenya, and I should like to take this opportunity of acknowledging the great assistance we have received from the home authorities in the matter.

I deeply regret that we should have had to meet the present position temporarily by importation, at a time when it is of paramount importance to make the best and most economical use of shipping. In addition there is also the consideration of price. But I would remind hon. members that we are not alone in having to face special difficulties induced by drought, and that near-by African territories including the Union of South Africa and the Rhodesias are confronted with a similar failure of their maize crop.

I should like particularly to acknowledge the assistance given to us by the military authorities, both by reduction of their ration scales so as to make as equitable an adjustment as possible in the apportionment of available supplies, and also by their willingness to assist us in the storage and pooling of imported foodstuffs.

I am sure you will appreciate that in war time it is impossible for me to give details relating to the subject of importations or the possible sources of supply. The question of cost also presents difficulties for the same reason since, according to the source of supply and method of transport the cost of the various consignments envisaged is likely to vary

[H.E. the Governor]

The Government, however, has decided that until the problem of costs can be seen as a whole no precise plan of allocation of costs can be formulated; but whatever the cost of imported cereals may be, the price of such cereals issued as maize meal or in substitution thereof will not be increased beyond the present prices of maize meal until the 1st September and thereafter prices of maize meal or the substitute thereof will not be raised more than one shilling in excess of the price at which maize meal would have been sold had it been based on the local price for maize.

I hope that I have said enough to show that immediate action was taken both by the civil and the Service authorities to secure importations as soon as it was clear that such a step was necessary.

The question may be asked, however, as to why simultaneously with the action taken to import additional supplies, immediate rationing and curtailment of rationed labour forces was not put into operation.

As regards rationing, I need hardly remind you of the difficulties of introducing any such system in the absence of reliable statistics. Commodity Distribution Boards were set up in Nairobi and Mombasa on the 31st October with a view to ascertaining more closely the requirements of the urban dweller, and in the case of farm and contract labour it was decided to await the completion of the special Labour Census that was due on the 15th December.

On the 5th December steps were taken to cause employers to register individually with specific traders and to make returns of their estimated requirements by 7th January, in order that should the prospect of a permanent shortage of maize throughout the season eventuate it would be possible very closely to ration maize, since unfortunately the statistics of requirements according to areas had proved unreliable and the returns originally required under the Maize Control Regulations were unsatisfactory. It is a regrettable fact to record that the returns arranged to be submitted in January were not very intelligently completed by a considerable section of the public with the result that, in spite of additional skilled assistance in the Maize Control Office, the scheme is even now not fully effective.

In considering the position of the Maize Control in regard to rationing it must also be recognized that on the institution of the Control, stocks of maize held in the country were extraordinarily low and that owing to the prolonged rains in July and August, deliveries were far less than usual, with the result that distribution had to be effected on practically a day to day and hand to mouth system to meet urgent military demands and the demands of labour in connexion with which trouble was brewing. At no time has it been possible for stocks in the hands of traders and millers to be built up or for overall full requirements to be met.

Finally, I come to the question of the position in the native reserves themselves, and the extent to which they will be self-supporting and able to absorb labour returning to them. Fortunately a great deal of the labour involved comes from the Nyanza Province where it is expected that, even with this return of population, no difficulty will be experienced in feeding the reserve population and indeed, owing to recent rains, exports of food from the Province are still a possibility before the next maize crop appears. Special reports have been called for from all District Commissioners as to the food position in their districts, and reports so far received indicate that no large-scale importations are likely to be required. The position in the Central Province, however, is not free from anxiety and is being carefully watched. There is a risk of serious shortage in the Kiambu Reserve and in certain parts of the Fort Hall Reserve. These two areas provide a special problem, since quite apart from the question of the failure of the short rains, they have, as shown by the figures I have given you, largely turned over to the cultivation of European vegetables for the Nairobi market and have purchased their own food requirements from the resultant cash. Owing to the stringency of supplies in Nairobi and the introduction of rationing there, this means of obtaining their food supplies has been abruptly cut off. Instructions have been issued by District Commissioners requiring all growers to cultivate a maximum acreage of native foodstuffs, and in the case of Kiambu the local administration is fully alive to the situation and special steps have been taken to deal with it.

[H.E. the Governor]

In conclusion, while I can hold out to you no prospect of an early relaxation of the controls and restrictions recently imposed, I believe that the position is being and will continue to be met, and that with patience and good will on all sides we shall get through the difficult few months that lie ahead of us. The difficulties of introducing any form of rationing of a population of mixed races with different dietary needs are immense, and I have no doubt cases of hardship and inconvenience will arise. I would, however, appeal to the public generally to assist the various Controllers in their difficult tasks, to endeavour to comply with rather than to evade the regulations, and to remember that in an experiment of this sort we must largely progress by a process of trial and error.

Honourable Members, in opening this Session of Council, I earnestly trust that with the blessing of Almighty God its deliberations may lead towards the promotion of the prosperity and welfare of this Colony and Protectorate.

MINUTES

The minutes of the meeting of 17th December, 1942, were confirmed.

PAPERS LAID

The following papers were laid on the table:—

By Mr. RENNIN (Chief Secretary):
Report of Committee appointed to consider the advisability of introducing a system of probation to the Colony.

By Mr. TESTER (Financial Secretary):
Information concerning boards and committees, in pursuance of the oral reply given on 16th December, 1942, to Question No. 50 by the hon. Member for Uasin Gishu.

By Mr. MORTIMER (Commissioner for Lands and Settlement):
Return of land grants 1st October to 31st December, 1942.

By Mr. DAUBNEY (Director of Veterinary Services):
Annual Report of Veterinary Department, 1941.

BILLS

FIRST READING

On the motion of Mr. HARRAGEN (Attorney General) the following Bills were read a first time and notice given to move the subsequent readings at a later stage of the session:

Increased Production of Crops (Amendment) Bill.

Increase of Rent and of Mortgage Interest (Restrictions) (Amendment) Bill.

Land and Water Preservation Bill.

Trade Unions and Trade Disputes Bill.

Mining (Amendment) Bill.

Soldiers (Exemption from Civil Process) (Amendment) Bill.

Excess Profits Tax (Amendment) Bill.

Registration of Documents (Photostatic Copies) Bill.

Pyrethrum (Amendment) Bill.

Traders Licensing (Amendment) Bill.

ADJOURNMENT

Council adjourned till 10 a.m. on Wednesday, 17th March, 1943.

Wednesday, 17th March, 1943

Council assembled in the Memorial Hall, Nairobi, at 10 a.m. on Wednesday, 17th March, 1943. His Excellency the Governor (Sir Henry Moore, K.C.M.G.) presiding.

His Excellency opened the Council with prayer.

MINUTES

The minutes of the meeting of 16th March, 1943, were confirmed.

ORAL ANSWERS TO QUESTIONS

No 1—INCREASED PRODUCTION OF CROPS ORDINANCE, 1942

Mr. COOKE (Coast):

Will Government state:—

(a) What liability, if any has been incurred in respect of guaranteed minimum return under section 4 of the Increased Production of Crops Ordinance up till the end of 1942?

(b) The total amount paid in grants under the same ordinance up till the end of 1942?

(c) The total amount of the advances under the ordinance made by the Land and Agricultural Bank of Kenya to the same date?

(d) The total number of prosecutions and convictions under the ordinance?

Mr. BLUNT (Director of Agriculture):
(a) The contingent liability incurred in respect of guaranteed minimum return under section 4 of the Increased Production of Crops Ordinance for the Crop Season 1942 was £462,232.

A final figure for actual disbursements in connexion with this crop season cannot yet be furnished as certain claims are still under investigation, but eleven claims already sanctioned amount to £1,172 and it is estimated that total disbursements will not exceed £5,000.

(b) £35,207 15s. 0d. was paid in grants up to the end of 1942.

(c) £37,137 13 83 was paid in advances by the Land and Agricultural Bank of Kenya up to the end of 1942.

(d) Two prosecutions under the Ordinance have been instituted, of which one was withdrawn and the other is pending; there have been no convictions.

No. 2—TRADERS LICENSING ORDINANCE, 1936

Mr. KASIM (Western Area):

According to the Traders Licensing Ordinance a trader who holds a trading licence of Sh. 45 can stock goods to the value of Sh. 2,000 only, and one holding a licence for Sh. 112/50 can stock goods to the value of Sh. 6,000. In view of the prices of piece goods having increased by about 300 to 400 per cent, would Government please review this provision and so amend the ordinance as to allow the traders to carry stocks corresponding to the increased value of goods?

Mr. TESTER: The answer is in the negative. The Government is at present opposed to any modification of trading licence fees.

INCREASED PRODUCTION OF CROPS (AMENDMENT) BILL

SECOND READING

Mr. BLUNT: Your Excellency, I beg to move that the Increased Production of Crops (Amendment) Bill be read a second time.

I do not propose to refer in detail to the principal ordinance which was passed early last year or to the results of the provisions of similar legislation introduced by rules. You, Sir, in your speech yesterday gave the Council a number of figures showing how acreage of various crops have increased during the past year, and those increases are without a doubt due in a large measure to the existence of the principal ordinance. I would only like to mention two figures. The first is the increased area of scheduled crops which, under the terms of the ordinance in 1942, amounted to approximately 36,000 acres, and the estimated acreage that will be brought under crop resulting from the terms of the ordinance in 1943, which is between 35,000 and 40,000 acres. If you consider that these acreages are in confined areas, that by and large the coffee and sisal industry do not come into it very much, these acreages as you said yesterday, sir, represent a tremendous effort on the part of the farmers in this country. And we have to remember that these increased acreages have been achieved in spite of difficulties with machinery. I do not think

[Mr. Blunt]

It can be suggested that the ordinance as it stands has failed in any way to produce the goods that were expected. I should like to take this opportunity of paying tribute particularly to the chairman and members of Production Sub-Committees. The working of this ordinance is dependent entirely on local knowledge and local work if it is to be satisfactory, and a large body of busy farmers have given their time in no small measure to help to ensure that the terms of the ordinance have been properly carried through; and the further we go the greater the burden that we place on these people, for anything we do in connexion with increasing production in the country has to have its roots in the districts where the acreage is being increased and in the work that these bodies do. I have great pleasure in paying the highest tribute that I can. This legislation, when it was introduced first in the form of rules and subsequently in the form of the 1942 Ordinance, was rather in the nature of a shot in the dark. We had no such legislation from other countries on which to base our requirements; furthermore, the position changes almost from day to day in regard to the priority of crops and the need for particular crops, so that it is only natural that a considerable number of amendments are necessary after the first season's experience with the ordinance. Most, if not all, of the amendments which appear in this bill have been suggested by and discussed with the Production Sub-Committees, and many of them originated from those committees. They are designed to make the terms of the ordinance more practical and workable.

If I may turn to the bill itself and deal shortly with the various amendments, in clause 2 it will be observed that, in addition to the crops originally specified in the principal ordinance, we have now added oats, rice, rubber, pyrethrum, barley and potatoes, and provision still exists to add by rule any further crops which it may appear desirable to bring under the terms of the ordinance because they may become of first priority or for any other reason. In (b) of clause 2 the words "non-native, or any body corporate," have been substituted for the words "European or Indian or body corporate." It would

appear that by confining the ordinance to Europeans and Indians there may be people in the Colony who should come within the terms of the ordinance but who are not in fact within it—non-native in this case of course includes Arabs. Clause 3 provides that a variation in the requirements may be made if necessary to fit circumstances, by rule so that it will not be necessary in every case to have an amendment by a bill. It makes the ordinance much more elastic, and hon. members will agree that it is the best way of dealing with these changing circumstances. Under (b) of that clause provision is also made, which did not exist in the past, to give grants for bringing land under irrigation. That, I think hon. members will agree, is desirable, particularly with a view to the production of rice which is one of the highest yielding cereal crops we can possibly grow.

Turning to clause 4, provision is there made for forms to be made to fit requirements instead of their being specified by schedule to the ordinance so that they cannot be altered, and the provision now will be such forms "as are from time to time prescribed," which gives more elasticity and enables the forms to be altered when necessary. Similarly in sub-clauses (4) and (5), the schedule of forms has been cut out and provision made for such forms which at any particular time may be used. Clause 5 amends section 11, and an additional provision is inserted in the second and third lines of sub-clause (1) "whether or not such farmer has submitted a programme of production." Under the section as it stood, only those persons who had submitted programmes could be brought in the terms of the requirements under the ordinance, and if a man did not submit his form nothing could be done about it. Now provision is made "whether or not he has submitted" his form he is still brought within the terms. In the next sub-clause provision is made for an officer or servant of the board authorized by the chairman to sign on his behalf. That I think all will agree is only commonsense as the chairman cannot be expected to sign all papers. The third sub-clause is an important provision in that up to the present an order once given could not legally be revoked or varied. Provision is now made that it

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can be revoked or varied at the discretion of the board, and obviously it is desirable. If, for instance, a mistake is made in the original order it is only reasonable on representations being made that the mistake should be altered.

Clause 6 again is an important clause, and the new words there, "subject to the approval of the board," have the effect that the board may say to a farmer how much of a particular crop guaranteed within the terms of the ordinance he may keep for his own use and, conversely, how much he must dispose of. I am sure that, particularly under the present circumstances, you will agree it is desirable that this provision should be put in. Clause 7 (a) makes provision again for alterations in the schedule, and in (b) provision is made that a breaking grant may be paid over when once the land has been properly broken and prepared; in the original ordinance that breaking grant could not be paid until the land was actually planted unless specific permission was got from the board. It is clear, now that we are getting down to working well up to time with this ordinance, that when breaking is done in one year and the crop put in the next it is unreasonable, if a man has broken land and got it in a proper state of cultivation, that he should have to wait three or four months before he is able to sow it to get his grant. In Clause 8 (a) the words "or grant" are deleted. The effect of that is that in future a grant may be used for other purposes than those specified in the case of grants now. It is only reasonable, I think hon. members will agree, in the case of breaking land that if a man is going to get a certain figure per acre, he may want to expend that on buying trek oxen, a tractor, or some machinery, and provision is now made that he can do that and not be tied down to the purpose of breaking ground. In (b) provision is made that an advance may be used for the purpose of paying insurance premia, and (c) is consequent upon the provision for the variation or revocation of an order.

Clause 9 deletes the reference to the fourth schedule, as there will, if these amendments are agreed to, be only one left in the ordinance. The fourth schedule deals with the notification that the Bank, on making an advance, has to register

with the Registrar General. The amendments in clause 10 are necessitated by the fact that grants and minimum guaranteed returns are now specified by rule. In clause 11 (a) the words "or exceed" are put in there by way of clarification. As the provisions of the section read, it might have been argued, though whether successfully I do not know, that if a man got more than his guaranteed minimum return he could claim for the difference between that return and the minimum guaranteed return. That was clearly not meant, and this amendment clarifies it. (c) of clause 11 is important. Its object is to allow the board to declare from time to time the price at which produce shall be reckoned when the farmer keeps it for his own use. Clearly the price at which farmers shall be allowed to reckon their own produce should not necessarily be the same as the guaranteed price. For one thing, the quality of the produce a farmer will keep will generally be lower than that which he will sell; it is customary to keep tailings for stock, for instance. Another reason for the provision is the fact that where a man keeps a crop on his farm no question of transport is involved, whereas when delivering it he has to provide transport to put it f.o.r. Therefore it is only reasonable that the board should be in a position to determine the value at which crops kept by a farmer should be reckoned in determining whether or not he has got his minimum return. Clause 12 contains a new subsection to section 23, and it is inserted in order to make it clear that any agency appointed to handle crops under the terms of the ordinance must give such information to the board as lies within its power and which the board may from time to time require. It will be quite clear that if the board is to deal properly with the crops it has it must be able to call on an agency at any time to state how much of a crop has already been delivered and to answer any other question which the agency may be capable of answering in connexion with that crop.

The amendment in clause 13 speaks for itself, I think; the addition there of the words "and preventing and controlling attacks by or spread of plant pests and diseases." It is true that we have other legislation under the Diseases of Plants Prevention Ordinance which

[Mr. Blunt]
 give wide powers for the control of diseases, but it will be agreed that it is desirable that in an ordinance of this kind these powers should also rest with the board. Turning to clause 14 (1), that I am afraid is not quite satisfactory as it stands in the bill. It suggests that the insurance which farmers are required to take out on a crop should be limited to the guaranteed minimum return in respect only of crops on which an advance is given. Actually as it stands in the bill, I think it would not be practicable for the reason that if a crop actually reaped is less in value than the guaranteed minimum return, the insurance company would not be prepared to insure it for a higher figure than it was worth, and I suggest an amendment, an amendment will be necessary in select committee, possibly on the lines that a man should be required to insure up to the amount of the advance or the value of the crop which he reaps, whichever is the less. Clause 15 brings within the terms of the ordinance certain cases which it has been found difficult to deal with up to the present. (1) in the first place brings in land not now covered in the terms of the principal ordinance and allows the board to issue orders in the various cases specified: (a) where a person cannot be found or is not in the Colony; (b) is devised for those cases where the owner of land is too old or infirm or for any other reason is unable to carry out the terms of an order which may be issued to him; (c) deals with the case of the death of a farmer and the interim period between death and when the executors or trustees have power to carry on with that land. After all, if a man dies when a crop is growing, it is no good leaving it until the executors and trustees are able to act—somebody must carry on with that farm; (d) is a very wise provision, as under it a shamba may be taken over for the purposes of the ordinance if it is considered to be in the interests of the Colony, but there is a proviso that this shall be on the recommendation of a local district Production and Man Power Sub-Committee. The last paragraph in this clause puts in a cover for members and servants of the board for any acts done by them under the terms of the ordinance in good faith and without negligence, and I consider that reasonable.

Clause 16 is amended by the addition of the words "where the land in respect of which the order was served has either by the act of the parties or by the operation of law come into the possession of any other person." There are cases in which land comes into the possession of another person other than those covered by (a) and (b), that is by death or by sale or transfer. In such cases, whether a chargee or mortgagee, the Land Bank for instance might take possession, and it is made quite clear that in any of those cases the board will still be able to deal with such land. Clause 17 is purely formal. We have finished with the date of the commencement of the ordinance and want it applied to the present. Clause 18 is the rule-making section, and there it will be noted that a considerable number of additional provisions that are not in the original ordinance have been inserted. In the first place (a) provides that rules may be made with regard to irrigation and other works which were introduced earlier in the ordinance. (b) is the principal and most important section. It provides that rules may be made for the compulsory fertilization of land and prescribing the source from which such fertilizer shall or may be obtained, and also for granting subsidies or other forms of financial assistance to enable such fertilizers to be obtained. Rules may also be made under (b) for grants to be given in respect of the production of manure or compost. (c) enlarges the general powers existing to make rules, and is very wide, "generally requiring farmers at the order of the board to do or to abstain from doing any such acts which may, in the opinion of the board, be necessary to preserve the fertility of the soil, to provide increased yields per acre, and generally to stimulate and increase the production of crops." I think Council will welcome this provision. We have, perhaps, as was inevitable in the early stages of the work under the principal ordinance, been rather led away, with the idea that we must increase our acreage. I have spoken on several occasions before, here and elsewhere, on the importance I attach to increasing rather the yields and not the acreages that we should put under crops. I should like to say that I feel that we are now reaching, if we have not already reached, about the limit of the acreage we should

[Mr. Blunt]
 hold their criticism until we see the results. To-day we are under abnormal circumstances, and abnormal circumstances merit abnormal methods. I regard this whole scheme of increased crops as the fundamental bedrock of the progress and stability of this country.

MAJOR CAVENDISH-BENTINCK (Nairobi North): Your Excellency, I beg formally to second and to reserve my right to speak.

MR. VINCENT (Nairobi South): Your Excellency, while not attempting in any way to detract from or to disparage the excellent and detailed explanation the hon. Director of Agriculture has given us regarding this bill, I would like to preface my remarks by stating that I had hoped that the hon. Member for Nairobi North would have been given an opportunity of introducing this bill. He operates it; it was he who to a very great extent conceived the scheme and who has carried it out with great ability, and I consider it would have been a very generous and a very welcome gesture of co-operation on the part of Government, at the present time, but evidently it was not to be. I am sorry that in the amendments there is no measure for closer planning for marketing which eventually will become so essential. I am aware that to-day—and I have said so before—the Ministry of Supply will purchase all we can offer, but there will come a time when, if we have not our planned marketing ready, the whole of this scheme will be jeopardized, and I would like Government to bear that continually in mind: I regard this as one of the most important features of the scheme. Unless you tie up marketing you must, under normal circumstances, fail, and I warn this Council once again that this is so.

I was very glad to hear the hon. Director of Agriculture's remarks on the fertilization of the land, referred to on page 6, clause 18 of the bill. We have surely learned our lesson that it is fatal to-day to delay, and the sooner his sentiments and these paragraphs are given effect to, the sooner we shall reap our reward. Any money which is spent by either the farmer or the Government by means of a subsidy, will be well and wisely spent. I know there is still a certain amount of doubt in the minds of people, for whose opinion I have a very great regard, as to the wisdom of this scheme, but I would like them to with-

hold their criticism until we see the results. To-day we are under abnormal circumstances, and abnormal circumstances merit abnormal methods. I regard this whole scheme of increased crops as the fundamental bedrock of the progress and stability of this country.

Finally, I notice that clause 19 of the principal Ordinance repeals the duration of the principal Ordinance. I put it to this Council that it is beyond any question of doubt whatsoever that this ordinance should be kept on the statute book for at least two years following the end of the year in which peace is declared. We cannot run any risks. The whole of Europe and the whole of the devastated territories will need food. What is more important, it will stop chaos here; it will stop doubt over a period which will be probably the most anxious in our history, and I therefore do hope that if this bill goes to select committee that they will take great care and consideration over this matter. I consider it is exceedingly dangerous to cut out the duration clause; we have continual changes of Secretaries of State for the Colonies; and we may have changes in Governors and in Chief Secretaries and of officials who understand and appreciate the very great importance of this measure, and I therefore think that we should ensure against the possibility of changing horses or torpedoing what I describe as a wonderful scheme, and that we should cut out any element of doubt now. That will enable us when peace is declared to know our policy, the bedrock policy of the country, and it will allow us to take stock of the situation and go forward accordingly.

MRS. WATKINS (Kiambu): Your Excellency, there is one point I should like to bring to the attention of this Council and that is the question of manpower. We have had in our district lately the death of four of our older farmers because they could not carry on—

HIS EXCELLENCY: Order, order! I do not want to interrupt the hon. member, but to what clause of the bill is she applying her remarks? We are concerned with very definite business this morning, which is amending an existing Ordinance, and I must ask hon. members to confine themselves to the business before Council. If she would refer me to the clause she is referring to?

MRS. WATKINS: I was referring to the impossibility of criticising the Ordinance through the spirit and its matter without some illustration of the point of view taken if we cannot have some more of our men back. If it is out of order, I will accept your ruling.

MR. COOKE: Your Excellency, I take it we are in order in discussing the principles of this Bill, although it is an amending Bill, because I should like to say something about the easy complacency of my hon. friend the Director of Agriculture, which I certainly resent. We had the principal ordinance only last year; it was a child born with all suitable rejoicing, and now we have after one year an amending bill, and my hon. friend, in his calm and even tones, informs us that these amendments are necessary.

I was surprised to hear from him this morning the very remarkable fact that since the principal ordinance came into force there had been only two prosecutions, and in not one there had been a conviction. Well, Sir, that seems to me to account for all the gloomy facts and figures disclosed in Your Excellency's address yesterday. I cannot possibly see how an Ordinance of this importance can possibly be administered unless it is administered firmly under the various regulations that have been brought in. My hon. friend will not convince me that all the farmers in this country have grown wings and that they are really a lot of angels who obey at once all orders that are given by the District Production Committees. Only a few weeks ago in a Rotary Club meeting we had an address by the Secretary of the Settlement and Production Board in which he told us that he had seen signs of bad farming—bad husbandry—in two very important districts of this country. I will not disclose which those districts are as it might cause a furor, but there you are; you have the Secretary himself seeing with his own eyes that there is bad farming going on, and apparently no action is taken. I do not see how my hon. friend the Attorney General could possibly administer criminal law if he never brought to book the various criminals who infest this country at the present moment. Certainly good advice would not stop them from their crimes. It seems to me quite absurd to think that you can just put on paper this marvellous new Ordinance and

then sit down and hope everything will be for the best. I quoted before, and I quote again now, the lines of Pope:—

"For forms of Government let fools contest

What e'er is best administered, is best."

My hon. friend the Member for Nairobi South in that forcible manner of his told us that in abnormal times we must do abnormal things and take abnormal action. For goodness sake, let us in the administration of this Ordinance take action which is not abnormal, but let us take ordinary normal action; and where people have quite conclusively failed to carry out the provisions of the Ordinance, let them be punished. That is my chief criticism of my hon. friend the Chairman of the Settlement and Production Board, that he is, if I may say so, almost too nice in the manner in which he considers it his duty to carry out his duties, and I do not believe that the position will be any better this time next year unless there is brought into the carrying out of the Ordinance a much more ruthless and much more realistic turn. That is the reason why I criticise the bill, as I do not like to see the complacency which seems to exist in the Settlement and Production Board about the present state of affairs.

MAJOR CAVENDISH-BENTINCK: Your Excellency, I have very little to say in amplification of the remarks made by the hon. Director of Agriculture, but I should like to inform the Council that when the bill goes to select committee it is my proposal to ask that that committee should go into the question of some amendment, either in this bill or possibly be asked to make some recommendation in respect of section 22 of the principal ordinance. Under that section, "for the purposes of this section, any crop produced on the land of a farmer by any resident labourer within the meaning of the Resident Labourers Ordinance, 1937, or by any native servant within the meaning of the Employment of Servants Ordinance, 1937, for his own use or consumption shall not be deemed to be a crop produced by the farmer," and this exempted entirely from the ordinance. I feel that experience has shown that in some way or another we will have to ensure that crops which are produced by

[Major Cavendish-Bentinck] the resident native labourers on the land of a farmer are marketed under some form of controlled marketing system. Now that we have guaranteed prices for native produce I do not think it would be unfair in any shape or form on the native to require him to sell his produce through the landowner on whose land he is working, whose tenant he is, so he will get a fair price. The important thing is that we shall then be in a position to control all this produce. At the moment this type of produce is wandering all over the country, and nobody is able to pin it down in any shape or form.

The hon. Member for the Coast has let me off lightly on this occasion: he has not been able to attack very violently the figures you, sir, produced yesterday, but he did say a good deal about our complacency. I have no doubt that the hon. Director of Agriculture will bear me out that we are far from complacent: we have too many difficulties to deal with and we are conscious of shortcomings in various respects, but I do submit that the mere fact that we have not half our farmers languishing in gaol as a measure of increasing production is not a certain sign that we are not cognisant of shortcomings and of trying to remedy bad husbandry and so on. I do not believe the standard of success of operating an ordinance is measured by the numbers who have been convicted and are languishing in gaol. I am afraid that I hold precisely opposite views, that if you have powers and exercise them without recourse to the law, you are doing a better job.

COL. KIRKWOOD (Trans Nzoia): Your Excellency, I welcome the bill before Council, and as I understand that it is going to a select committee I will not detain you very long. As regards the deletion of Part VI of the principal ordinance, I intend to raise that in select committee. This has reference to the duration of the ordinance, and I think it is a mistake to delete it, for one of our troubles has been the failure of Government's policy to give reasonable guarantees, which has led to some failures recently.

MR. HARRAGIN: Your Excellency, a point has been made by two hon. members on the other side of Council with

regard to the duration of this bill. The present Part VI reads: "This ordinance shall continue in force until the 31st day of December, 1943 and shall then expire," provided that by proclamation it may be kept in force. I believe we are with hon. members in our object, which is that farmers shall have confidence in that they will not imagine that Government will permit this ordinance to expire in the way it is provided now. As hon. members are aware, planting orders have already been given which will only take effect in 1944, so that it must be obvious to everybody in this Council that to pretend that the measure will come to an end in 1943 is on the face of it absurd. For that reason, that particular portion of the ordinance is to be deleted, and it will only cease to exist when it is actually repealed in this Council.

MR. BLUNT: Your Excellency, I think there are only two points to which I would like to refer. The first is that made by the hon. Member for Nairobi South, when he pointed out the necessity for closer planned marketing. From what I said in this Council on the motion proposed by the hon. member some time ago he will appreciate that I am very much at one with him on this matter, but it is a large question the necessity for the solution of which does not appear to arise at the moment. We have markets for our guaranteed crops, and I doubt very much if we in this Council can foresee sufficiently accurately what is going to be the state of affairs after the war should we put anything in the way of marketing into the form of legislation at this stage. I am by no means against his view. We must have planned marketing after the war, but he will probably agree that it would be extremely difficult to work out that planned marketing in this small country now. The hon. Member for the Coast accused me in particular of complacency. I am not quite clear what he was referring to in this accusation. If I had suggested that the original bill was perfect in every way and needed no alteration now, he might have accused me of complacency but, in fact, we have amended the original ordinance in places where it appeared to be necessary, thereby admitting it was far from perfect as he suggested. If he is referring to his suggestion that I implied that all farmers in Kenya are growing wings, as I think

[Mr. Hunt]

he put it, that is certainly not so. I am as well aware as anybody else that there is a lot of bad farming going on, but I would like to say this: that, more particularly in the case of some Production Sub-Committees, where the chairman of those committees are good farmers themselves, keen and interested, those committees have had a very considerable effect in raising the general level of farming within their own areas, and some of them take delight in going round and making other people farm better.

The question was put and carried.

MR. HARRAGIN moved that the bill be referred to a select committee consisting of: Mr. Hunt as chairman, Mr. Brown, Mr. Izard (Provincial Commissioner; Rift Valley), Major Cavendish-Bentinck, Col. Kirkwood, Col. Ghersie and Mr. Thakore (Central Area).

MR. BROWN seconded.

The question was put and carried.

INCREASE OF RENT AND OF MORTGAGE INTEREST (RESTRICTIONS) (AMENDMENT BILL)

SECOND READING

MR. MORTIMER: Your Excellency, I beg to move that the Increase of Rent and of Mortgage Interest (Restrictions) (Amendment) Bill be read a second time.

The principal ordinance which it is now proposed to amend was enacted in 1940 as part of the comprehensive measures which Government introduced with a view to the prevention of inflation. With one solitary exception the bill was unanimously supported by all hon. members of this Council, and experience has shown that the support was amply justified. At a time like the present when the ordinary laws of supply and demand have ceased to operate, a policy of *laissez faire* could lead only to inevitable chaos. Our Kenya law was taken over almost directly from the English Act on the same subject; an Act which had been in operation since 1915. I make no apology for the fact that our Kenya ordinance has been three times amended and that this Council is now asked again to consider further amendments. This enactment deals with a very complex situation and with many difficult problems for which no simple single solution can be found. However careful the legal

draughtsman may be, he is sure to find when his bill has been put to the practical test of experience that something has been omitted or that something would have been better expressed. The English law has been amended many times, and I am informed that a great mass of case law has already gathered round it. This is merely to show that it has not been an easy task to frame the amendments which are now placed before the Council, amendments which it is hoped will have the effect of removing defects in the present law without creating hardship upon any section of the community. But because a thing is difficult, it does not absolve us from the obligation to make an effort to achieve the desired result.

During the three years that the Ordinance has been in force it has been of great value in maintaining in large measure the stability of rentals of houses and small business premises and in preventing the disturbance of existing tenancies. Weaknesses in the law have been discovered by those people in the community, and these include members of all races, who can never resist the opportunity of placing their personal gain or advantage above the public good. Such people are ready to seize upon any technical defect in the law which will permit them to extort from those in their power pecuniary gain which the law-givers never intended that they should have. Further, the operation of the law has partially failed, not because of any inherent weakness in its provisions but because of the ignorance of many people of the protection which the law affords them. In other cases tenants, although fully aware of the relief that they might obtain for their grievances, have been afraid of taking action because of the consequences that might fall upon them. In yet other cases the difficulty and expense of setting the law in motion has deterred people from seeking the redress of their grievances and taking advantage of the protection given them under the law. The amendments now proposed were framed in an endeavour to remedy the defects and omissions which have come to light, to remove ambiguities and generally to tighten up the operation of the ordinance, without creating any injustice to any section of the community.

Turning now to the precise provisions of the amending bill, I refer first of all to the most important of them; that is

[Mr. Mortimer]

the establishment of a Rent Control Board. It is now generally recognised that one of the major omissions of the principal ordinance was its failure to set up any controlling authority to deal with the innumerable questions which were bound to arise in dealing with a complex situation of the kind with which this Ordinance had to do. It is true that courts are given by the law power to decide certain important questions, but the help of the courts has to be invoked and that is often an expensive and troublesome business. What is required is a controlling authority which will hear complaints and carry out investigations in a much less formal manner and in a simpler form than is possible for the courts, an authority that will give orders on matters of fact; orders that shall be authoritative and shall not be revocable, and at the same time not usurping the powers of the Courts to deal with matters of law. Clause 3 of the amending bill provides for the establishment of such a board, to be known as the Rent Control Board, and the same clause lays down the powers and duties of this board. The number of members is not specified as the appointment is the prerogative of Your Excellency. It is intended, however, that the board shall consist of a few members only, specially selected for their qualifications to deal with the matters that will come before them, and to form a sound and fair judgment upon many questions with which they will have to deal. The board will have wide powers of investigation and of obtaining evidence. Its decisions on matters which under the ordinance are referable to the board will be final on all questions of fact, but with an appeal to the court on questions of law. As it is, of course, impracticable for one board to deal with all the innumerable questions that will arise throughout the whole Colony, the board will have power to delegate its authority with the consent of the Governor to any person or body of persons that may be appointed.

The board's main duty will be to investigate complaints made either by landlord or tenant concerning tenancies of either dwelling houses or business premises. In all cases of doubt the board will have power to determine the standard rent and its decisions on this point will be final. In any cases which, under

the law, require a decision of the court, the board will conduct a preliminary investigation and, without the written consent of the board, no case under the ordinance may be instituted in the courts. This provision will no doubt save the court from wasting its time on frivolous complaints and will prevent legal action in cases where it is not justified. Another important duty of the board is to protect tenants against deliberate acts of annoyance or interference perpetrated upon them by landlords, with the object either of inducing the tenants to leave the premises and so leave the landlord free to let them to somebody else, or to induce the tenant to pay a higher rent than the "standard rent" which the law allows. Many examples of this kind of annoyance and interference have come to notice. In one case a landlord, under the pretext of repairing a roof which did not need repairing, stripped half the tiles off the roof and left them off during a rainy season in order to induce the tenant to clear out, so that he might let the property to someone else who would pay a higher rent. In another instance the tenancy was for half a house with a partition wall down the middle, the landlord himself occupying the other half. In the half that was left there were purdah women. The landlord tried to induce the family to leave; they took advantage of the protection the law affords them and declined to leave, and the landlord then proceeded to take down the middle wall of the partition and so destroyed the privacy to which purdah women attach the very greatest importance. In other cases where the tenancy included the provision of water and light by the landlord, the supply of water and light has been arbitrarily interfered with by the landlord in order either to induce the tenant to clear out or to pay a higher rent or to take over the obligation of supplying these services for himself. Many other forms of interference and annoyance have come to light which cannot at present be stopped without obtaining an order of the court, and what we now propose is that the board shall have power to deal authoritatively with such cases.

In order to reduce the possibility of the board having to waste its time on frivolous and trivial complaints, it is proposed to require that on a complaint being registered a deposit of Sh. 20

[Mr. Mortimer]

shall be paid by the complainant, this deposit to be refunded if the complaint on investigation is found to be justified.

Having now dealt with the major provision of the amending bill, I will now as briefly as possible explain the other proposed amendments, taking them in the order in which they appear in the bill.

First of all we have under clause 2 (b) a revised definition of "standard rent." The existing definition classified all houses under three headings; first, those which were let on the prescribed date where the standard rent is the amount of rent payable on that date; secondly, those houses which were built before the prescribed date but were not let on the prescribed date. The "standard rent" in this case is ten per cent of the ascertained market value of the landlord's interest at the prescribed date, on the assumption that the landlord is responsible and liable for the payment of certain specific charges. The third group consists of those houses which were built after the prescribed date. In these cases the landlord is at liberty to charge whatever rent he can get, and in many instances advantage has been taken of that liberty, and the "standard rent" is the rent at which the property was first let, whatever percentage that may form of the total value of the property. No restriction was imposed under the ordinance because it was desired to encourage the erection of new buildings in order to increase the housing accommodation available during the difficult time that everyone foresaw three years ago. The view is now held, however, that there is no reason to support such a landlord in obtaining a higher return on his investment than that which accrues to the owner of property erected before the prescribed date. In the bill, therefore, the second and third groups are merged and the "standard rent" is laid down at ten per cent of the market value of the landlord's interest in the property at the prescribed date, or, in the case of a building erected after the prescribed date, at the date on which the building was completed. The attractiveness of a gross ten per cent return on an investment should be sufficient to encourage all the building necessary whenever the provision of building materials and labour supplies makes it possible.

The next clause for examination is sub-clause (c) of clause 2 which removes a limitation imposed under the original ordinance. The existing definition of dwelling-house excludes from the provisions of the ordinance any house the standard rent of which exceeds £200. After three years' experience of the operation of the law it is considered that no reason or justification exists for the retention of this limitation. It is proposed, therefore, to abolish the restriction and make the law apply to all dwelling-houses whatever the standard rent may be. The next point to which I would direct attention relates to the rate of mortgage interest. The standard rate of interest on a mortgage under the present law is the rate payable on the prescribed date or, if the mortgage was created after that date, the rate prescribed in the mortgage itself, and these rates of interest cannot be increased. I refer now to sub-clause (d) of clause 2, and in considering this clause I must also refer to clauses 7 and 8, which contain an amendment of section 6 (1) of the principal ordinance, and the deletion of section 7. In these two sections reference is made to a permitted increase in the rate of mortgage interest, which section 7 says shall not exceed one per cent or a total of eight per cent per annum. As the ordinance does not in fact permit of any increase in mortgage interest, this reference is irrelevant and meaningless; the reason for its inclusion in the principal ordinance is that the English Act, which in certain circumstances permitted an increase in a mortgage rate, was not followed precisely, although a later section referring back to the section which did permit an increase was included without alteration. The bill as drafted was consistent, but one clause was altered in select committee and members failed to notice the effect the alteration would have on the later clauses, and so they remained unaltered in the ordinance as finally enacted. It is proposed now to delete this meaningless reference. As section 7 contemplated a normal rate of interest of seven per cent, it is now proposed to amend the definition of standard rate of interest by putting in the maximum limitation of seven per cent at the same time deleting from 6 (1) the reference to mortgage rates and expunging section 7 entirely.

[Mr. Mortimer]

I wish now to direct attention to one of the most difficult clauses in this bill, clause 2 (e), dealing with net annual value. This must be examined together with clause 4. The existing definition of net annual value reads:—"net annual value" means the rent at which the dwelling-house might reasonably be expected to let from year to year free of all rates and taxes paid by the tenant, and deducting therefrom the probable average annual cost of the repairs, insurance and other expenses, if any, necessary to maintain it in a state to command such rent." In other words, it means, or purports to mean, the net return to the landlord on his investment after making allowance for all his essential expenses. This definition is linked with section 3 (4) of the principal ordinance, which provides that where the rent payable in respect of any tenancy is less than two-thirds of the net annual value, the ordinance shall not apply to such tenancy although it does apply to the dwelling-house, but in its application to the house the tenancy is to be treated as if it does not or never has existed. This definition of net annual value has caused considerable difficulty, and at least one lawsuit has been instituted with the object of finding out exactly what it does mean. The corresponding term in English law is "rateable value thereof," but in England rateable value has a meaning entirely different from that which applies to-day out here. Reading section 3 (4) together with the existing definition of net annual value, what the law attempts to say is that where the rent at which the dwelling-house is let is less than two-thirds of the net return to the landlord on a normal letting, then the ordinance shall not apply to that tenancy, and the landlord is entitled to increase the rent. The definition is vague and uncertain, it refers loosely to the rent at which a house might reasonably be expected to let, but it does not say how that rent is to be determined, nor does it say on what date the house is expected to be let. Presumably the intention was to refer to the "prescribed date," but the section does not in fact say so. There is no doubt that in the majority of cases the rent payable on the prescribed date was determined by economic factors prevailing at that time, and that although in

some instances it might have been low it was the rent at which the property might reasonably be expected to be let at that date. There are cases, however, in which for various reasons the rent payable on the prescribed date was excessively low, and apart from the relief afforded by this particular section the landlord could not increase his rent, even on a change of tenancy in order to give him a fair and reasonable return on his investment.

It is proposed, therefore, to delete the term "net annual value" and delete the definition with it, and it is further proposed to revise section 3 (4) in such a way as to make its original meaning clear and free from ambiguity. We have then to determine what is the precise significance of two-thirds of the net annual value. It has been agreed by this Council in the enactment of the principal ordinance that a gross return of ten per cent on the total capital investment is a fair rental rate. I think it will not be open to challenge when I say that a ten per cent gross return in this country is an approximate equivalent to seven per cent after the landlord has paid out all his essential disbursements such as rates, taxes, repairs, insurance and other expenses. Two-thirds of the net annual value then, really means two-thirds of seven per cent of the landlord's interest in the property, and two-thirds of seven per cent is approximately five per cent and that figure is, therefore, used in the revised clause, which I think represents a readily ascertainable figure in relation to the total market value of the property. If there is any doubt in any individual case as to what that value really is, it has to be determined by the Rent Control Board, which can obtain such evidence and carry out such investigations as it thinks proper. The effect of the new section will then, I believe, be precisely the same as the original section in the principal ordinance, but clear and understandable. What it amounts to is that if the rent is less than half of what might be regarded as the normal rent on the prescribed date, the landlord will be entitled to raise it.

There is, however, one important difference which has been introduced into the draft bill. At present there is nothing in such a case to prevent a landlord from increasing the rent to ten per cent

[Mr. Mortimer]
of the total value of the property because the tenancy has to be treated as though it did not exist. The landlord is therefore entitled to regard the dwelling-house as being in existence on the prescribed date but not let on that date. To permit the landlord to double the rent in this way seems to be unduly generous, and in order to reduce the disparity between what he has charged and what may be charged it has been deemed to be fair and just to limit that new rental to seven per cent instead of ten per cent which he might affirm he ought to be allowed to charge. This figure is arbitrary and is admittedly open to argument. I suggest, however, that it is not ungenerous and is fair both to the landlord and the tenant. There may be instances, I have not had any brought to my notice, but there may be some, where the landlord has in good faith in the circumstances contemplated by section 3 (4) already raised the rent to a figure above seven per cent but not exceeding ten per cent. The new clause as drafted provides protection for the landlord in such cases for so long as the existing tenancy continues, and then after that tenancy has ceased he will have to drop the rent to seven per cent. It will be noted by hon. members that in the re-draft of section 3 (4) the reference to mortgages has been deleted, as in this connexion it is quite meaningless. The reference was taken over from the English Act, where it had a meaning in relation to some other section which has not been precisely copied in our ordinance.

I turn now to clause 5, to which I need make only a very brief reference. This is a penal clause, and makes it an offence to charge a higher rental than the standard rent. This measure has already been enacted by Defence Regulation, and is merely brought into the ordinance now for the purpose of continuity and to have all the provisions in one measure. Referring now to clause 6. Under section 5 (1) (a) of the principal ordinance, where the landlord has since the commencement of the ordinance incurred expenditure on improvements or structural alterations, he is entitled to increase the rent by a percentage which is laid down. The rent was, however, fixed on the prescribed date, which in most cases is the 3rd September, 1939, whereas the ordinance came into force on the 26th April, 1940. There is, therefore, a hiatus between the

two dates for which the ordinance provides no bridge, and so we propose to permit any landlord who has improved his premises by structural alterations between 3rd September, 1939 and 26th April, 1940, to add to the rent proportionately as the law allows. It is thus proposed to substitute the words "prescribed date" for the words "commencement of the ordinance," and thus remove this unfortunate anomaly.

Clause 9 of the bill deals with one of the most difficult sections in the principal ordinance relating to the landlord's rights of re-entry on the premises. It is proposed by this new clause to remove some of the difficulties which have been brought to light by legal action. Section 8, as I have said, indicates the circumstances in which a landlord may obtain repossession of his property. Without going into great detail, the position broadly is this. If the landlord has previously occupied the house as a residence for himself and reasonably requires reoccupation of the house for his own use, he may give due notice and obtain re-entry of the property without being under the necessity of providing alternative accommodation. If, however, he has not previously occupied the premises but now desires to do so, he may obtain re-entry only on satisfying the court that alternative equivalent accommodation is available. I must emphasize here that the law says the landlord shall require the house for occupation as a residence for himself in the former instance and for himself or any person *bona fide* residing with him in the latter instance. In a case that recently went into the courts the landlord desired to re-occupy the house for the accommodation of his wife and children, although he himself was living in some distant part. The court decided that the word "himself" meant the landlord himself only and did not include his wife and/or his family. The English law on this subject does in fact include wife and family. It is considered, and I think all members will agree, that it is reasonable that Kenya law should be amended to include a landlord's wife and/or minor children in both the sub-sections. The position will then be under section 8 (d) that if the landlord can provide alternative accommodation to the satisfaction of the court he can obtain vacant possession of the house for himself or for his

[Mr. Mortimer]
wife or for his minor children whether or not they are to reside with him, and under 8 (f), if he has previously occupied the house as a resident for himself, he can obtain re-entry either for himself, wife or minor children without providing alternative accommodation. In both cases, the exercise of the landlord's prerogative will be subject to the courts being satisfied that the demand is a reasonable one.

Sections 11 and 12 of the principal ordinance deal with the rather difficult problem of the furnished house. These sections are singularly unsatisfactory. Under the law as it stands the objecting tenant has to prove to the satisfaction of the court that the rent charged for a furnished house is yielding to the landlord a profit in excess of the normal profit. The definition of "normal profit" is the profit which might have reasonably been expected from a similar letting in the twelve months ending 3rd September, 1939. No criterion is laid down as to the method by which this normal profit shall be determined. Having regard to the acute shortage of accommodation and the general reluctance of the average citizen to incur the expense of court proceedings, I believe it is a common practice for a landlord to throw into a house or flat a few sticks of furniture and call it a furnished house, and charge a rent far in excess of the rent that could be demanded for the house unfurnished, so obtaining a grossly unfair return on the value of his few bits of furniture. It seems eminently desirable to make this particular section as plain as possible and define clearly the rent which may be charged for the house with the furniture in terms of percentage of value rather than in vague terms at present being used. The Government Compensation Board established under Defence Regulations, in awarding rentals for furnished premises, bases its award on fifteen per cent of the value of the furniture. This seems a reasonable figure and one which might well be adopted in the present instance, but we must go further than that. As hon. members will, of course, recognise, there is an important distinction between a furnished house and a furnished home; that is, the difference between the letting of the landlord's own home including everything which makes a house into a home, and the

commercial letting of a house or flat with a few bits of furniture thrown in. As the replacement costs of soft furnishings, linen, glassware, crockery, cutlery, etc., has enormously increased during the war, even if such things are replaceable, it seems proper to make a distinction between the rent to be charged for the use of large furniture and the rent to be charged for the kind of furnishings I have just mentioned. It is proposed, therefore, to limit the rent that can be charged for heavy furnishings to fifteen per cent of the value of the furniture and to allow a charge up to twenty-five per cent on the value of the soft furnishings, linen, cutlery, crockery, and glassware. This it is considered, and I hope hon. members will agree, will be fair and just to landlord and tenant and cause no hardship to either. In the amending bill it is proposed to repeal both sections 11 and 12 of the principal ordinance and provide one new section 12 which, together with the reference to section 4 (a), will cover all the points contained in the original sections 11 and 12.

I now wish to direct attention to clause 12, which deals with a tenant's right of recovery from the landlord of amounts paid in excess of the standard rent. Section 14 of the principal ordinance, read together with section 18, leads to the position that a tenant could knowingly go on year after year paying rent in excess of the lawful standard rent and, when the ordinance expired or when other accommodation was readily available, could then institute proceedings against the landlord for the recovery of all arrears since the beginning of the tenancy. This state of affairs seems inequitable to the landlord, and it seems reasonable that if the tenant in fact intends to exercise his right of recovery he should be compelled to do so within a limited period. It is proposed in clause 12 of this bill to add a new subsection to section 14 to carry out this intention. It is not proposed to interfere with the existing tenant's right of recovery back to the date of the beginning of his tenancy; it is, however, proposed to compel such tenant to inform the landlord within three months of the 1st May, 1943, of his objection and within a further three months to institute legal proceedings for recovery. If a tenant fails to take the necessary action within the period named, he will not be able to exercise

(Mr. Mortimer) his rights at a later date. So far as any claims that may arise after the 1st May, 1943, are concerned, it is proposed that a tenant must object to the landlord if he intends to do so within three months of the 1st May, or if the tenancy begins at some later date then three months from the beginning of the tenancy. If he fails to do so he has lost his right of recovery for that period. In no case shall a tenant in such circumstances be allowed to recover more than six months excess rental where the claim arises after the 1st May, 1943. The reason for putting in the 1st May, 1943, is that by that time the Rent Control Board will, we hope, be appointed and the amending law will have been put into active operation.

Last of all—and I apologise to the Council for being tedious, but it is a tedious subject—we turn to the limitation in respect of business premises. In a similar manner to the limitation in respect of dwelling-houses, which we restrict to a £200 rental, business premises are limited to £500, and if the rental is more the ordinance does not apply. No reason is now seen for that limitation, and it is proposed to abolish it so that the law will apply to all dwelling-houses and business premises whatever their rent may be.

Mr. HARRAGIN seconded.

Mr. VINCENT: Your Excellency, there are just a few points on the Bill, which has been so ably introduced by the hon. Commissioner of Lands and Settlement, to which I should like to refer. It is not clear in the Bill as to whether present or pending litigation comes within this Bill or not, and I think that that point should be clearly covered. Some doubt seems to prevail as to whether under present circumstances it will be possible to find the personnel for such a board. At the Nairobi Chamber of Commerce meeting yesterday evening, I will admit it was introduced by a local legal luminary, who pointed this out and by 11 votes to 8 they voted against the creation of such a board at the present time, but I would also like to point out that the Chamber of Commerce membership is considerably in excess of 100! His point was that this board could not be satisfactory because of the lack of personnel. He gave us an example where

recently, or it is actively proceeding now, a case had been going on for six days under this particular ordinance, and to my surprise he said it was causing losses to the lawyers engaged on either side (laughter), though I have not been able to work that out! Another suggestion which was made—and the hon. mover suggested that it was arguable—was that the arbitrary figure of five per cent in clause 4 was too low. Now, if you recognise ten per cent generally as a fair and economic basis normally, and if there were circumstances of depression before the war which caused a landlord to get only five per cent or seven per cent, and in view of increased costs to-day I think it is arguable that ten per cent should be the target and the arbitrary figure of seven per cent should disappear and I would like that point to be given a fair consideration, because ten per cent, as illustrated by the hon. mover, is really a fair and economic return on property.

Now I come to a point of wording, page 4, clause 9 (a): "or his wife or minor children." This is dangerous unless you have a saving clause. A husband may be living apart from his wife; he may seek to recover two houses. Some members of a community are allowed to have two wives, or may be more, and under the present wording I think that there would be a dispute as to whether a man is entitled, having resided in the house before, or even having not resided, according to the terms of his application, to recover two houses, and we might get the intention of this bill destroyed. I think we should have a saving clause under which we can make certain that only one house is recoverable. I am certain that was the intention of the bill. Another point is that landlords are very severely tied up in the matter for the period of the war and one year thereafter. The tenant can give one month's notice, and the case may occur, because of lack of importations, in business premises, we will say, or even dwelling-houses, where a tenant just goes on living in the house and does not pay his rent, and the landlord is at a disadvantage. It is felt that the landlord might require, quite reasonably, three months' notice of a tenant to vacate because he may find it difficult within a month or fifteen days to find another tenant for his premises. The only other point is that the principal ordinance has been

[Mr. Vincent] amended quite a lot, and I would ask Government to consider that it be consolidated.

Mr. SHAMSUD-DEEN (Central Area): Your Excellency, I rise to support this Bill, and I wish to congratulate the Government on having introduced it, although at a somewhat late date. As far as I can see, all the flaws in the previous bill have been remedied as far as circumstances can be seen at the moment, but our trouble is that there is too much reference to the laws of England, as has been referred to by the hon. mover, and even those laws of England were not completely incorporated into this bill. We forget that we are not living in England: we are living in a colony inhabited by a very large number of people who are either illiterate or cannot read and write English. Our laws are published in English, and I do not know of any special cases where these laws have been translated for the benefit of the people they are intended to meet. Most of the provisions both in the previous ordinance and in this are so difficult that some clever lawyers have managed to render them absolutely useless. I do not agree with the hon. mover when he said that the previous ordinance, I think he said partially helped. As a matter of fact my personal experience has been that the previous ordinance remained absolutely inoperative and a dead-letter, for the simple reason that there was no machinery to put that law into motion. I know of cases where institutions like the British Legion have engaged lawyers and have fought for months and months and yet could do nothing to bring the landlord to an attitude of reasonableness, because the lawyer on the other side argued in a different way. Then again tenants, even in the case of business premises, are not always bold enough to come forward, even if they know the law, and take the necessary steps, but that I think has been remedied by the proposed appointment of a board which will see that this law is of some real relief to the parties concerned.

In fairness to the landlord, I must say that, although up to about a year ago conditions were very oppressive as far as the tenants were concerned, so much so, that before I left the Colony I received an anonymous letter from some unknown landlord threatening me with

murder if I did not give up my sympathy with the tenants. I sent the letter along to the police at once, but they have not been able to trace the sender of that letter. In addition to the persecutions mentioned by the hon. mover I know of several cases where cruel methods have been employed by the landlords. They actually engage African criminals to go and molest tenants living in the houses, to break down doors, assault the women and do everything possible to drive the tenants away. Recently the tendency has been in the other direction. It has come to my knowledge that the tenants, owing to the protection afforded to them by this law, whereby a landlord has not been able to remove them, have taken advantage by sub-letting the premises let to them at such exorbitant rates that no landlord would have thought of doing so. Therefore I think that we should take into consideration that the abuses we are striving to prevent in the case of landlords will not be indulged in by the tenants. In many cases the people to whom these premises have been let have sub-let them again, owing to the great shortage of houses. I must say that, in spite of the sympathies of some of the highest judicial authorities, who have seen cases of hardship in the vicinity of where they are living, where rents have been increased from Sh. 80 to Sh. 220, they have been able to do nothing. They said they were there to administer the law but not to institute proceedings against offenders. Now I think that will be put right.

I must say I feel it my duty to mention some of the other gentlemen who have been very sympathetically concerned about the present law, but were helpless in doing anything in the matter owing to the various flaws and defects in the previous ordinance, and one of these gentlemen who has been so actively interested is Mr. A. C. Tannahill, who always rendered assistance whenever I wanted it but found that there were so many loop holes that he could do nothing. Capt. Spurr of the Building Control was also keenly interested, but came to the conclusion that nothing could be done in the present circumstances. Now, I hope these flaws will be removed. Several aspects will have to be discussed in Select Committee. I think that during the second reading we are

[Mr. Shamsud-Deen]

supposed to discuss the principles only of the Bill, and so I will not go into details.

MR. NICOL (Mombasa): Your Excellency, first of all I should like to say in regard to the setting up of a board that people in Mombasa—I have it from the Mombasa Civil Residents Association—favour this Board, and I personally cannot see any objection to it. For the ordinary man in the street it is going to save him quite a lot of money in legal fees. Again on the subject of this Board though, I do hope that it will not be comprised entirely of residents of Nairobi, just because it is convenient to have a board situated in the capital. There have been complaints in the past that representation from other areas on various boards has been lacking because the boards operate in Nairobi and it makes it difficult for people to get up here. Despite the fact that the hon. mover did say that the board would have powers to delegate powers to other people, I think the main central board should be freely represented. With regard to section 5, it has been suggested that as there is a penalty for the landlord if he breaks the law by charging rents higher than that which the law prescribed, there should also be a penalty for a tenant who contravenes the law by paying too much rent. I have been asked to put that up. I cannot personally see any landlord going and turning King's evidence because he was getting away with a bit more than he was entitled to!

The really objectionable part of this Bill was carefully avoided by the hon. mover. I must say I was very surprised that our special attention was not drawn to what I consider to be an iniquitous inclusion in the Bill, and that is clause 9, sub-section (f). That clause reads as follows:—"the dwelling-house is the property of the Kenya and Uganda Railways and Harbours Administration (hereinafter called 'the Administration') and is reasonably required for the occupation of an employee of the Administration."

Now, Sir, that means that you are going to allow the Railway Administration to enjoy a favoured position. It means that the Railway may go along to a tenant and say, "I want your house for one of our employees and you have to get out, and I do not have to provide alternative

accommodation for you." My hon. friend the Chief Secretary wags his head, but I think I have got the correct interpretation there. Anyhow I want to say this, and I am speaking on behalf of the Elected Members: as a body we are unanimous in this; we object to this clause (f) and we want it withdrawn from the Bill. Why should the Railway, as servants of the public, be at an advantage over the public? If the Railway can go along and get back one of their houses, why should not employers who are under an obligation to provide houses for their employees not be put in a similar position, and if it is agreed that the Railway shall have this privilege or that other employers shall have this privilege, it destroys the whole spirit of this bill. I am perfectly certain that the principal ordinance when it was introduced was designed to prevent the hardships which are bound to come about if this particular clause (f), or any amendment of it, becomes law. I sincerely hope the select committee will have nothing to do with sub-section (f) of clause 9 of this proposed amending bill.

There are only two other points I want to make. In clause 11—I think that it is probably a drafting omission—after the word "centum" in lines 23 and 25 should be inserted the words "per annum." There is a drafting error in clause 12, sub-clause (b), line 19; there seems to be an extra "the." With these reservations, particularly the reservation in regard to section 9, sub-clause (f), I support the bill.

MR. PATEL (Eastern Area): Your Excellency, I desire to make a few observations from experiences I have had in Mombasa, and although the remarks I propose to make are applicable to circumstances in Mombasa I am quite certain they equally apply to other places also. The first thing is, the prescribed rent for a dwelling-house and business premises in Mombasa and Nairobi are different. In Mombasa there are several instances of a shop with a dwelling-house on the first floor let to a tenant as a joint tenancy without earmarking the particular rent payable for the shop premises and for the dwelling-house. In such a case it is difficult to state what is the prescribed rent which a landlord may consider applicable to those premises. The second point is that some landlords have been considering whether the rents

[Mr. Patel]

for godowns are apart from those for business premises. It is a doubtful point, and I think the select committee should consider it and, if necessary, make some amendment so that the ordinance will apply equally to dwelling-houses and business premises and godowns rented by business people. I have also noticed in Mombasa, and in Nairobi in some cases, that where a tenant has rented a flat or dwelling-house to which no garage is attached he has had to hire one from his landlord, or a taxicab driver has had to hire a garage. Whether this ordinance applies to garages or not I think should be considered, because there are hundreds of garages rented in Mombasa, and the ordinance should be extended to them, otherwise landlords will be in a position to increase the rents for them. With these observations I support the amending bill.

COL. KIRKWOOD: Your Excellency, I am rising to support the bill. I take it it is a simplification of the principal ordinance and that it is hoped to prevent legal actions between landlord and tenant and to save a great deal of the time of the courts and of the people concerned. It will mean that they are supposed to play cricket, and to cut out the rough stuff and body-line bowling, and to remember that cricket is always a gentlemen's game. But I doubt whether this ordinance will have that effect, and I shall probably raise the ire of the hon. and learned Attorney General in a moment when I refer to paragraphs 6 and 7 in clause 3. (6) says: "In its determination of any matter the board may take into consideration any evidence which it considers relevant to the subject of the inquiry before it, notwithstanding that such evidence would not be admissible under the law relating to evidence." I take it it is so worded to carry out what I previously said, to decide a case on fact and not necessarily on evidence that would only be admissible in a court of law. As far as it goes that is very advisable, and it seems to me to be on the same lines as military law operated under martial law, that certain paragraphs are cut out and a matter is decided on the evidence, all technicalities being left out. I believe that is the intention. But if you read on (7) says: "Where any matter is under the provisions of this ordinance to be determined by the board, or where the board's consent to any act is required, the deter-

mination of the board, or the decision of the board to give, or to refuse, its consent, shall be final and conclusive." Again there is no appeal to law, which I think is very sound, but I maintain that the last three lines of (7) stymie the whole object: "Provided that an appeal shall lie to the court from any such determination or decision on a point of law but not on a question of fact." I think the majority of lawyers, if not all, will use those last three lines to upset proceedings under (6) and (7), and I think they would win out, because if you take evidence which is not admissible under the laws of evidence it is a question whether it is good law or bad law, so that any decisions would be upset under those last three lines. I presume the last part, "but not on a question of fact," has been inserted and is intended to convey that where a decision has been given on a question of fact it must be established, but the preceding part upsets it. Those three lines should be deleted, and we shall then have a perfectly good bill, but if you leave them in any decision will be challenged.

MR. ROBINS (General Manager, K.U.R.H.): Your Excellency, the hon. Member for Mombasa seemed to take great offence to that part of clause 9 of the bill, and it gave him opportunity to have another go at the Railway Administration. I should like to explain first of all that the Railway Administration has no excesses of houses, neither does it enter into the field of landlords in the ordinary sense. From time to time, however, owing to various staff changes, there may be short periods when Railway house are not occupied, and under extreme pressure from the public I have consented occasionally to allow those houses to be occupied temporarily until staff have either been transferred or are ready to occupy those houses. The only effect of withdrawing this clause from the bill would be that these short leases could not be arranged, and I cannot see that that is making much contribution to the housing question. It seems to me also that the hon. member is a little inconsistent. He asked that the difficulty of transport should not be allowed to deprive members of the opportunity of visiting the capital to serve on various committees, but at the same time he wants to deprive the Railway Administration of the power to obtain the use

[Mr. Robins]
of their own houses for the staff engaged on transportation, although they are the only people who can get him and others to the capital.

Mr. THAKORE (Central Area): Your Excellency, one of the principal drawbacks of the original ordinance was the vagueness of these controversial sections and the expensive machinery involved to obtain redress. The hon. mover has made a very excellent commentary on the amending section of the bill, and I heartily endorse the proposal to set up a board which will have the effect of clearing up very many minor points instead of having them threshed out in a court of law. When this original ordinance came into force, Kenya had passed from a period of slump and depression, and there is no getting away from the fact that the rents prevailing at the beginning of the war did not reflect a legitimate return in most cases, and the operation of that section of the ordinance has in some cases operated against landlords adversely. I am not here to plead the case of the landlords in particular, but on account of the expensive machinery hardly any people took advantage of the ordinance and went to court. For the first couple of years there was practically no litigation in the courts but, as I have pointed out, it did operate unfairly on the investing public. However, the amendments now proposed by the hon. mover will go a long way, coupled with the establishment of the board, in clearing up small matters that now and again arise. With those observations I support the bill.

Mr. HARRAGIN: Your Excellency, one or two legal points have been raised with which I think I should deal. The hon. Member for Mombasa referred to the drafting error in clause 11, and although I often admit to drafting errors I am glad to say that in this particular case I happen to be right! When we say fifteen per cent we mean that if the furniture costs £100 you will be allowed to charge £15. It does not mean per annum or per month that you will be allowed to charge that rate of the value of the goods. Regarding the other points, I refer first to the one made by the hon. Member for Nairobi South, in which he asked: Does pending litigation stand? The answer to that is that it does. This

is not a retrospective ordinance, and if any person has in the past obtained some right under the existing law that right, whether it be a right to recover rent or whatever it may be, can be pursued as from the date that right arose. This ordinance will not interfere with existing rights or privileges, but as soon as the bill becomes law we shall be guided by the law as amended by this bill. His next point was with regard to a local legal luminary who objected very much to the proposed Rent Control Board. I can well understand that, particularly as the board will not be guided by the strict rules of law, and very likely the local legal luminary will not be permitted to enter its precincts and argue the case for his client. It will also do away with the heavy costs which we have heard legal luminaries insisted on in the past. I think the fact that he was able to persuade 11 members out of 18 to his way of thinking was very creditable to him, but says very little for the simplicity of those eleven members who followed his lead. A very good point which I must admit I had overlooked was made with regard to two wives. If the bill goes to a select committee we shall have to go into that and straighten it out. In drafting the bill I am afraid we were thinking of monogamous people instead of polygamous people. His last point will also be given consideration. I am the first to admit that this ordinance has been amended several times not only by ordinance but by Defence Regulations, which I will refer to in a moment, and it is difficult for the ordinary man in the street or even for persons with more brains than the ordinary man to follow, and the select committee can easily insert the usual clause at the end giving the Attorney General power to consolidate provided he does not alter the ordinance.

The hon. member Mr. Shamsud-Deen objects to us following the laws of England. While I agree with him to a certain extent, we cannot follow them verbatim naturally owing to the difficult conditions here. I think the hon. member would be the first to agree that the laws of England as a rule form a very good basis on which to start work, and then it is up to us with our own intellects to mould them to suit the particular circumstances of the Colony, and I admit having taken the law of England as a basis for the original ordinance. The hon.

[Mr. Harragin]
member is rather inconsistent when he tells us that this law up-to-date has been perfectly useless, and can only be regarded as a dead letter by all those supposed to be affected by it, and in the next breath says that owing to the protection afforded by the law to tenants they were taking advantage of landlords. At least somebody has obtained some protection from the existing law! As a matter of fact, there have been a considerable number of cases, and although it is perfectly true, as many speakers have pointed out, that there have been some iniquitous advantages taken of tenants and vice versa, I would say that on the whole the law has achieved its object and has to a great extent protected people who were in occupation at the time it came into force. Where it has failed, and I suppose hon. members realize it, is owing to the large demand in the country at present for houses, and you get tenants and landlords united to defeat the law by paying more rent. It is with the object of stopping that sort of thing that we have introduced these amendments. The old law was not as effective as it should be because we could not get the evidence of a tenant willing to pay an extra amount and the landlord more than willing to receive it, so that only on rare occasions when landlord and tenant fell out did honest men come by their own and it was discovered that these things were taking place.

With regard to the point made by the hon. Member for Mombasa as to Railway Administration houses, I am only going to refer to the legal side. I suppose he realizes that it is the law to-day. It was introduced some considerable time ago by Defence Regulations, and the object was to deal with certain tenants who, during a slack time on the Railway, at one particular station had managed to acquire on rent three or four small Railway houses. When this Railway station suddenly became one of great importance, the Railway Administration, having to increase their staff, was in the ridiculous position of not being able to turn out those tenants and of having to find other housing by hiring from other people, possibly at a high rent, to accommodate their own staff, whereas the general public who were assisted by the Railway at the time they took the house, were able to say "We are pro-

TECTED by the ordinance and you can do nothing." Another point the hon. member must realize is the difficulty to believe, I know, that at times the Railway and Government are very analogous, and this ordinance does not in fact apply to Government houses. Anyone fortunate enough, it is almost unbelievable, to rent a Government house and that house is wanted for a Government employee, will find that Government is able to turn him out whether he wanted to go or not. The point made by the hon. member Mr. Patel regarding the prescribed date which differs for business premises and dwelling-houses, is a very difficult one indeed. These complications always arise and that is why we have the courts to decide them. We can only make one law for business premises and one for dwelling-houses, but if the tenants are ingenious enough to mix them up into half business and half dwelling-house it is for some genius on the bench to decide how to divide the business and the dwelling-house portions. I do not think that by any stretch of imagination you could expect a legal draftsman to foresee all difficulties or to provide for them, because we shall always have something of that description.

The last point I would deal with is that raised by the hon. Member for Trans Nzoia. That again is a strictly legal point. He is perfectly right when he says that the object of the section to which he referred was to make this board a non-legal body to which the ordinary man can go and not be guided by the ordinary laws of evidence, but where he can tell his tale as best he can and hope to receive some redress and justice. At the same time, when you are appointing a board with the powers this one will have, they might go outside the scope of their authority, and it is quite conceivable, for example, that the board might exceed their authority, which is gleaned from the written words in this bill. It is therefore necessary to have a court of appeal on a question of law, and it is exactly the same as happens every day in regard to what we call a "case stated." A magistrate, for example, finds a certain set of facts, and on those facts one lawyer may say the charge is not sustained and the other that the facts substantiate the charge. There is only one person to decide what the law is, and that is the Supreme Court, and for that

(Mr. Harragin) reason this particular paragraph is put in providing that on a question of law and not on a question of fact a person will be permitted to appeal to the Supreme Court. The point the hon. member made regarding the law of evidence will not, I can assure him, arise, because in view of the fact that we have particularly put in this section that the board will not be guided by the ordinary laws of evidence it will preclude, for want of a better name, the appellant, taking any point in regard to evidence. The only point that could be taken to the Supreme Court would be that the board was acting in a manner *ultra vires* when making the particular order that was complained of. I think it would be most dangerous to appoint the board if in fact we did not have someone above it able to guide them if they do go off the rails.

MR. MORTIMER: Your Excellency, I am glad to note the unanimity with which this measure has been received as an indication of the earnest desire of all hon. members to make this ordinance a more operative measure and more fruitful of results. The hon. Member for Nairobi South said that he thought we might have some difficulty in finding personnel for the Board which it is proposed to establish. Personally, I do not expect that there will be any such difficulty and I am quite sure that personnel will be willing to serve and perform this arduous and somewhat thankless public duty. The hon. member criticised, as I quite expected he would, the new clause replacing section 3, sub-section (4), and the reference to five per cent and seven per cent; that is a point which might well be considered by select committee. The hon. Attorney General has dealt with the question of a wife or minor children and the request for a saving clause to provide that only one house shall be permitted under this section. The Attorney General has said that will be considered in select committee. I would, however, draw attention to the existing law, which says at the end of the sections relating to restrictions on right to possession:— "and, in any such case as aforesaid, the Court considers it reasonable to make such an order." One might quite well be content to leave it to the views of the court as to the reasonableness or otherwise of the landlord's demands.

It has been suggested by the hon. member that the tenant who is at present entitled to give one month's notice to the landlord should, now that the turn of the tide has come, and in future when premises are likely to be more readily available, be required to give three months' notice. Personally I do not think that that provision should be made in the ordinance, but it can be considered in select committee in due course. I was surprised to hear the hon. Mr. Shamsud Deen say that the present ordinance had been completely a dead-letter, but I do not think that on reflection he would like to support that statement. It has not been as effective as it might have been or ought to have been, but we hope that with these amendments it will be made really effective. The hon. member referred to the sub-letting that was taking place at present, where there is a good deal of racketeering going on. I would direct his attention to section 8 (1) (h) of the existing law which provides that the landlord can turn the tenant out if the tenant has "without the consent of the landlord at any time after the 1st day of December, 1941, or the prescribed date, whichever is the later, assigned or sub-let the whole of the dwelling-house or sub-let part of the dwelling-house, the remainder being already sub-let." That affords, at any rate, a partial remedy for the conditions of which the hon. member speaks.

The hon. Member for Mombasa requested that on the board there should be members representing other places than Nairobi. His representations will no doubt be considered by Your Excellency when the personnel of the board is being determined. The hon. member did, quite rightly, draw attention to the powers which the board will have for delegation, which might conceivably meet his request, but at any rate his other request will be considered in due course. The hon. member also suggested that clause 5 should be amended to provide a penalty against the tenant for paying excess rent. I am not clear that that is necessary or desirable, but no doubt that can be considered in select committee with all the other points.

The hon. member MR. PATEL referred to the desirability of including in the definition of "business premises" such buildings as godowns and garages. I am not quite

(Mr. Harragin) sure whether they are or are not included, as the law refers to premises used for business, trade or professional purposes. That is a question of legal interpretation which we might well consider in select committee. The hon. Attorney General has dealt efficiently with all the other points raised and I have no need to say more. I would just say that so far as clause 9 (f) is concerned, I refrained from making special reference to it as it was already the law of the land.

The question was put and carried.

MR. HARRAGIN moved that the bill be referred to a select committee consisting of: Himself as chairman, Mr. Mortimer, the Director of Public Works (Mr. Stronach), Mr. Nicol, Col. Ghersie and Mr. Shamsud-Deen.

MR. BROWN seconded.

The question was put and carried.

ADJOURNMENT

Council adjourned till 10 a.m. on Thursday, 18th March, 1943.

Thursday, 18th March, 1943

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Thursday, 18th March, 1943, His Excellency the Governor (Sir Henry Moore, K.C.M.G.) presiding.

His Excellency opened the Council with prayer.

MINUTES

The minutes of the meeting of 17th March, 1943, were confirmed.

SCHEDULE OF ADDITIONAL PROVISION

No. 4 of 1942

MR. TESTER: Your Excellency, I beg to move that Schedule of Additional Provision No. 4 of 1942 be referred to the Standing Finance Committee.

MR. HARRAGIN seconded.

The question was put and carried.

WAR LOAN ORDINANCE, 1940

FURTHER ISSUE OF BONDS

MR. TESTER: Your Excellency, I beg to move:—"Be it resolved that, under section 2 of the War Loan Ordinance, 1940, this Council authorizes the raising of further loans not exceeding £2,000,000 by the issue, whether within or without the Colony, of registered bonds". The sum already authorized is £5½ millions and up to yesterday £5,412,000 worth of bonds had been issued, so in this respect I have to explain that we have exceeded the authority of the Council for issuing bonds and it is now proposed to ask for another £2,000,000 in view of the great progress being made with the saving schemes. The hon. seconder has, I know, a fair amount of detail to tell the Council in regard to this effort and I feel sure he will do it in much more eloquent terms than I shall myself and so, with the consent of Council, I will leave it to him to do so.

MR. NICOL: Your Excellency, in rising to second the motion, I crave the indulgence of Council if I refer rather closely to my notes, because I have a lot of figures which I think it is only right we should have on record.

We first started the 2½ per cent East African War Bonds campaign on 16th

[Mr. Nicol] December, 1940. That was the first issue which matures 1945/47. By 15th February, 1942, when the loan was closed, a figure of £2,138,445 had been subscribed. Out of that figure £1,853,060 came from Kenya, £184,120 from Uganda, £65,935 from Tanganyika and £35,310 from Zanzibar. The loan to which the public are asked to subscribe to-day is the second East African War Loan which matures 1949/51. The subscription list for that opened on 2nd March, 1942, and from 2nd March to 31st December last year £2,103,900 was subscribed. Out of that figure Kenya accounted for £1,356,070, Uganda £177,545, Tanganyika £562,445—a considerable increase, you will note, over the first list—and £7,840 from Zanzibar. The very big increase in the Tanganyika figure is due to the very active campaign which the War Savings Committee in Dar es Salaam inaugurated. That effort has been a very great encouragement to the War Savings Committee here. Zanzibar's contribution is somewhat down, but that is only to be expected as the financial position there is not at all a happy one.

The figures therefore to the end of December, 1942, show that Kenya had subscribed a total of £3,209,130, Uganda £361,665, Tanganyika £628,400 and Zanzibar £43,150. In other words, a grand total of £4,242,345. On the 8th December last hon. members agreed to raise the target figure to £5,250,000 and, as we have heard this morning from the hon. mover, up to yesterday £5,412,000 had been collected, or an excess of £162,000. I have told hon. members before that the subscriptions to the "A" series—that is the small-holders' investment—has been coming in at the rate of approximately £10,000 a week. This has been stepped up now to between £12,000 and £15,000 a week due to the drive which took place in Tanganyika, to which I have already referred, and I anticipate this will increase in the future owing to the drive which has been newly inaugurated in Uganda. The approval of Council is now sought to raising the target figure by £2,000,000, from £5,250,000 to £7½ million, and I would once again like to remind hon. members that when this loan was originally mooted some years ago certain unofficial financial advisers to Government, I think, put the

maximum figure that would be collected at £40,000. I feel fairly confident that by the time we get to the budget session at the end of this year, we shall once again have to come and ask for this figure to be raised still higher. We may even have to do that before the end of the year.

I think you will agree, Sir, that East Africa generally may congratulate itself in achieving this very high figure in the space of 27 months. It would not be right to say that all the savings are going into East African War Bonds only. A considerable increase has taken place in the Post Office Savings Bank, and some of these figures are illuminating as showing that there is a definite savings consciousness about. The figures I am going to give are Post Office Savings Bank for Kenya. At the end of January, 1942, the total standing to the credit of depositors was £745,816, whereas at the end of January this year the figure was £1,152,745. The excess of deposits over withdrawals in January, 1942, were £13,991, whereas the excess of deposits over withdrawals in January this year were £49,987. The increase in the total number of depositors in January last was 592.

I submit that while these indications of the savings consciousness of the public are very gratifying, yet still greater efforts have got to be made by every one to save as much as they possibly can. Some very interesting figures were given in the *East African Standard* the other day when they reported some figures given by the Chancellor of the Exchequer at home. He told the public that £14,000,000 a day was being spent on the war and out of every Sh. 20 which was being spent Sh. 4 was raised by taxation, mainly income tax, Sh. 3 from customs duties and taxes on liquor, Sh. 2 from other taxes, Sh. 1 from miscellaneous sources of revenue, and the remaining Sh. 10 is borrowed from the British public in the form of war savings. The amount of savings standing to the credit of the British public to-day is approximately five thousand million pounds. The money that we are raising here is lent to the home Government, and while the home figures are astronomical, every little helps, and the more we can save, the more we can lend to the home Government and the more we help the British public. (Applause.)

The question was put and carried.

PENSIONS

T. BARRETTO

MR. TESTER: Your Excellency, I beg to move: "That this Council approves the payment of a reduced pension at the rate of Sh. 13-11d. a year, with effect from the 9th September, 1942, inclusive, and a gratuity of £2-6-8 to Mr. T. Barretto in respect of his temporary service on the military establishment from 20th October, 1915, to 31st December, 1915, both days inclusive." Mr. Barretto was a clerk in the Audit Department who had been invalided during the last war. As you will see from the resolution, he served with the military and his service was continuous with his civil service, and in those circumstances this Council has agreed in the past on many occasions to count military service for pension purposes, but as such service is not covered by the law it is necessary to come to Council each time to vote a special pension and gratuity. As I said, there are many precedents for this action and there is nothing in this case which seems to me to give any reason why Council should withhold its consent to this resolution.

MR. HARRAGIN seconded.

The question was put and carried.

P. R. POTTS

MR. TESTER: Your Excellency, I beg to move: "That this Council approves the payment until further notice of a provisional interim pension at the rate of £99-1-2 a year with effect from 17th March, 1943, inclusive, to Mr. P. R. Potts, formerly Overseer, Public Works Department, in respect of his service from 3rd August, 1928, to 16th March, 1943, both days inclusive, in lieu of his own and Government contributions to the Provident Fund plus the interest thereon amounting in all to £520-4-10d. which would revert to the general revenues of the Colony." Mr. Potts has been invalided from the service at the age of 50 after having done over ten years service. I mention ten years service because that is the limit which this Council has agreed should be taken for these provisional interim pensions. Hon. members will remember that, pending the introduction of a compulsory contributory pension scheme, it was decided that certain officers who had done over ten years service should be granted an interim pension based on the same calculation as the

Railway contributory pensions are calculated. Council has already agreed to a similar pension based on the same principles for Mr. Sienmark, and I commend this motion to Council.

MR. HARRAGIN seconded.

The question was put and carried.

NATIVE TRUST FUND

FEES AND FINES PAYABLE INTO

MR. HOSKING (Chief Native Commissioner): Your Excellency, I beg to move: "Be it resolved, that this Council consents to the payment into the Native Trust Fund with effect from 1st January, 1943, of such fees and fines as are made payable into the said Fund by any rules under section 43 of the Native Tribunals Ordinance, 1930." Hon. members will recollect that one of the recommendations of the Inter-Relations Committee advising on the incidence of financial responsibility between Government and the Local Native Councils was that fines as well as fees from native tribunals should be paid into the local native council or trust fund accounts. Now the Native Trust Fund has statutory authority to receive certain funds, collective fines, moneys paid in under the Native Poll Tax Ordinance and such other moneys as the Governor in Council, with the consent of the Legislative Council, may from time to time determine, and it is that formal approval of the Governor in Council which is now requested. The payment of these fees and fines is authorized by rules under the Native Trust Fund Ordinance, but the acceptance by the Fund of these particular revenues now requires the formal consent of this Council.

MR. HARRAGIN seconded.

MRS. WATKINS: Your Excellency, there is just one question I want to ask. Does it mean that the bigger the fines imposed by the Tribunal the more money there will be in that particular Tribunal's pocket for other things? I can see the way open to abuse there. If these Native Tribunals want money for any particular purpose they might put on rather heavier fines than is usual perhaps. I do not know whether any regard can be had to that.

MR. HOSKING: The Native Tribunals are financed by the local native councils or the Trust Fund. The main revenues of

[Mr. Hosking]
the local native councils are the rates imposed by those councils. Fines and fees form a comparatively small proportion of the total revenues, and it is not thought that the inducement to whack up general revenue will be such as to lead to Native Tribunals being unfair in the assessment of fines.

The question was put and carried.

LAND AND WATER PRESERVATION BILL

SECOND READING

MR. RENNIE: Your Excellency, I beg to move that the Land and Water Preservation Bill be read a second time.

I must begin by apologizing for taking the part of my hon. friend the Director of Agriculture who, unfortunately, fell ill yesterday, and as a result at somewhat short notice it has become necessary for me to move the second reading of this bill. Hon. members will, I think, have realized that this is a consolidating bill and that the actual number of amendments that are proposed is small. That is not to say, however, that these amendments are unimportant. Most of the amendments now proposed are amendments which have been gone into very fully and very carefully by the Land and Water Conservation Committee, and that committee regard the amendments now put forward as essential if the soil of Kenya is going to be preserved as effectively as it should be in the years to come. The value of the ordinance in its present form has undoubtedly been proved during the past two and a half years, but the experience that members of the Soil Conservation Service have obtained in working under the present provisions of the ordinance and under the rules made under the ordinance as it stands at the present time has shown that much wider rule-making powers are necessary, and also that the Director of Agriculture requires wider powers than he possesses at the present time. In mentioning the Soil Conservation Service and the officers who are working in that service, I should like to take the opportunity of paying tribute to those members of the service who are not Government officials in the ordinary sense of the term and who, in some cases, have left their farms to undertake this work, regarding the preservation of the soil of Kenya as a crusade in which they

should engage. The work that some of these officers have done in the past two years has been of the highest order, and the benefit of their experience to the deliberations of the Land and Water Conservation Committee has been very great indeed.

There are four main new proposals embodied in this consolidating bill. The first proposal is that under clause 3 there should be much wider rule-making powers given to the Governor in Council, and I will deal with these powers in greater detail when I come to deal with the bill clause by clause. The second important new provision is under clause 4, where the Director of Agriculture is given power to enter the land of a defaulting or absentee owner. The third main provision is the financial arrangement referred to in clause 5 (2) of the bill, where the Director, when he has to enter upon any land and has to carry out certain acts there, is put in the same position as any owner of land so far as applications to the Land Bank for funds to carry on the work are concerned. The fourth new provision—and I think I am correct in saying that this is in many ways the most drastic provision of the lot—is contained in clause 13, where the new principle is proposed that the owner of any land on which any person commits any breach or attempted breach of the rules shall be guilty of an offence under the ordinance. That is a most important provision, and one to which the Land and Water Conservation Committee attach the greatest value.

Turning to the various clauses, in the first place hon. members have no doubt noticed that there is a new definition under clause 2: "Closed area means any area declared by the Director, by notice in the Gazette, to be a closed area". That takes the place of the definition of "catchment area" that appears in the ordinance at the present time. The Director has found that the definition of catchment area is too restricted, and he is anxious that he should have not only the power that he has under the present definition of catchment area but also over a wider area, which he suggests should be called a closed area, and under the rules that have already been prepared by the Land and Water Conservation Committee, in the expectation that this particular bill will be passed, a good deal of importance is attached to work in closed areas. The

[Mr. Rennie]
Director, it is suggested, should be given a considerable amount of power in closed areas which he would not be able to have if the present definition of catchment area were retained in the bill. The definition of "owner" is a new one, and that is a definition about which the Land and Water Conservation Committee is much concerned. Experience has shown that it is of the greatest importance that, when one is dealing with offences that are being carried out under the ordinance, there should be some person with whom the soil conservation officer can get into touch. Under the ordinance as it stands the responsibility for the acts or offences committed on any particular piece of land is very difficult to attach to any particular person. This most comprehensive definition of owner has therefore been devised in the hope that the soil conservation officers in their activities will, when they come across some particular action or omission which, in their opinion, is an offence against the ordinance, at once be able to take it up with the person primarily concerned and have the matter rectified as soon as possible. This bill will go to a select committee in view of the complicated nature of some of the proposals, and in select committee I will suggest an alteration to the definition of owner which has been found necessary as a result of representations from the Coast Province. I need not, however, go into detail at this stage. Hon. members will see in line 31 that particular attention has been paid to the interests of the short-term lessee, the idea being that the short-term lessee should not be prejudicially affected if his lease is less than three years.

Turning to clause 3, and in particular to lines 22 to 35, on page 2 of the bill, that is to a large extent the meat of the new proposals so far as rule-making power is concerned. As regards (c), lines 21 to 26, the Land and Water Conservation Committee had in mind in particular uncontrolled cultivation by squatters. The officers of the Soil Conservation Service who are members of the committee have found time after time that squatter cultivation has appeared, for example, on the bank of a stream or on a very steep slope, and that although they have attempted to have that particular offence stopped, on their next visit they find that the cultivation is still there, and members

stress that it is essential that there should be rule-making powers "requiring the uprooting or destruction without payment of any compensation therefor of any vegetation which has been planted in contravention of the provisions of any rule made under the provisions of this section or of any order issued under any such rule". (d) in lines 27 to 31 is the general section which has been put in in case there should appear a particular point which is not covered at present under the rule-making powers. (e), which deals with "the appointment of inspectors, honorary inspectors, and scouts to assist in the carrying out of the provisions of this ordinance and for prescribing the powers and duties of such officers", is the result of observations of members of the committee. They, on many occasions, or perhaps I should say those members of the committee who are engaged in soil conservation work, have observed, so far as the conservation of streams is concerned, that in numerous cases cultivation goes much too close to the edge of a stream, and the idea of having rule-making powers of this nature is that there should be appointed a number of honorary inspectors who would have under them scouts who would be able to patrol the various streams which the Director of Agriculture regards as of prime importance, and that these scouts should report any particular breach of a rule or breach of provisions of the ordinance to the inspector or honorary inspector of that district. In this way it is hoped that a number of breaches of rules that are carried out at the present time will be detected at a much earlier stage than is possible at present.

In select committee I will propose an amendment to sub-clause (3) or (4) lower in that page. The point has been raised that in native areas a case may occur where the agricultural officer concerned may, from his soil conservation point of view, wish to take a particular action in respect of, for example, preventing cultivation on a fairly steep hillside. The officer of the Administration concerned, however, having regard to the fact that that particular area carries a very dense population, may object to the order being put into force forthwith before arrangements can be made for the people concerned, and it is possible there may be a difference of opinion in such cases. It is therefore suggested that no order

[Mr. Rennie] should be given in native areas by a soil conservation officer except after consultation with the district officer concerned in view of the fact that the interests of the people are so closely bound up with the land on which they live. In the event of a difference of opinion between the soil conservation officer and the administrative officer, it is proposed that there should be an appeal to you, Sir, and that your decision in the matter shall be final and conclusive. The necessary amendment to (3) or (4) will be proposed in select committee.

Turning to clause 4 of the bill, these are the new powers which it is proposed to be given the Director of Agriculture to enable him to deal with cases of defaulting or absentee owners. It is regarded by the Land and Water Conservation Committee as a matter of importance that if an owner of land has neglected or refused to carry out a particular order that has been given, the Director should have power to enter on the land and take such action as he deems necessary; the same action is proposed in the case of an absentee owner. In clause 4 (2) the expenses involved in any such entry and in carrying out any such acts as the Director deems necessary are provided for. It is laid down, however, that unless the owner within thirty days from the completion of such work pays the amount due to the Director, it shall be recovered by the Director from the Land Bank under the provisions of clause 5 (2); that is the financial arrangement to which I referred earlier, and I think hon. members will agree that it is a feasible and reasonable proposal. In clause 6, the second proviso is a new one, and deals with the arrangement to which I have referred under clauses 4 and 5 above. The main point there is that the owner is allowed a rather shorter time in which to pay the amount due by him than the farmer who has sought an advance from the bank in the ordinary way. Hon. members will observe that in line 49 of clause 6 (c) the term is "not exceeding ten years" from the date of such payment. The only other clause to which I need refer is that which I mentioned previously, clause 13: "The owner of any land on which any person commits any breach or attempted breach of or does not observe any rule or order issued under or by virtue of such rule,

shall be guilty of an offence and shall be liable on conviction to the penalties prescribed by section 12 of this ordinance". This, as I have mentioned, is the clause to which the Land and Water Conservation Committee attach great importance. The committee are most anxious to impose on the owner of any land and not on the cultivator the responsibility for misuse of that land or for the commission of any offence on that land, and the committee consider that if this drastic provision becomes part of the new ordinance a great deal will be done to meet their point of view. In this connexion I should perhaps refer to a mistake in the "Objects and Reasons". Paragraph 5 says: "Provision has also been made under which the owner of the land will be liable for any breach or attempted breach of an order or rule, but it will be a good defence for the owner to prove that the offence was committed without his consent or connivance, and was not facilitated by any neglect on his part". I may explain that there was a proviso to clause 13 to the effect that is indicated in this paragraph 5 of the "Objects and Reasons", but the Land and Water Conservation Committee considered that, if that proviso remained, the number of cases in which a conviction could be obtained under clause 13 would be very small indeed, and they considered it essential that that proviso should be deleted.

In conclusion, I would say that so far as the Land and Water Conservation Committee are concerned there is no question of any complacency on their part. The committee realize only too clearly that, especially under war conditions, a very limited amount of soil conservation work has been done in the past two and a half years, but the amount that has been done, both in the settled areas and in the native reserves is, I think, more extensive than most members of the public realize. It is true that the general public has become more conscious of the need of soil and water conservation, but it is also true that unless they know exactly what to look for it is possible to go through some particular area without seeing the steps that have been taken in that area to conserve the soil, and it is very interesting, especially going through native areas, to see that very large areas have been treated in this way. On Sunday last I was going through

[Mr. Rennie] a part of the Machakos district, and in some areas, when one goes up a hill a little and looks down towards the flat, one sees the contour ridges running over acre after acre, and to me as Chairman of the Soil and Water Conservation Committee it was a most encouraging sight. I am aware that a good deal of similar work is being done in the settled areas, not only by the farmer himself but by the terracing outfits that are provided by the Soil Conservation Service. Despite that work, I think I am safe in saying that only the fringe of the problem has been tackled in Kenya, and it will be possible under this ordinance if it is passed in the form suggested for a much more intensive drive to be carried out for the preservation of the soil and water of Kenya as soon as the necessary staff is available to carry it out on the scale which the Director of Agriculture proposes. Under war conditions it is quite impossible to get all the staff the Director requires but, as I have indicated earlier, even now he has obtained a certain number of officers who have been working wholeheartedly, and it is largely because of the experience of these officers, as I said before, that these amendments to the ordinance are now suggested.

MR. BROWN seconded.

MR. COOKE: Your Excellency, when the original ordinance came before Council three years ago it was received with peans of praise on both sides of Council, to such an extent that the lions on this side and the lambs on the other side lay down together, for we had the spectacle of my hon. friend the noble lord and the hon. Director of Agriculture (I am sorry he is not here to-day) singing psalms of praise in its merits. Well, even my hon. friend the Chief Secretary was infected with this enthusiasm, and immediately elected himself Chairman of the Soil Conservation Committee, although so far as I know there is nothing to show that he knew the difference between a cedar tree and a cucumber! However, I struck my usual discordant note among all this harmony; and not for the first time have I proved to be correct, because I pointed out the total inadequacy of this ordinance. I called it a feeble and emasculated measure, and said it did not go far enough. Well, of course. I cast my bread upon the waters

and it has returned after many days, because from what the hon. mover has just said he acknowledges that I was correct. But during these three years that have elapsed, millions of tons of our best soil have been swept down into the Indian Ocean, thousands of acres of land have been eroded, and a good deal of our forests cut down. I cannot agree with him that a great deal of good has been done. The hon. member shares, I am afraid, with the hon. Member for Nairobi North, the belief that every ill which human nature is heir to can be solved by writing memoranda and voluminous minutes. But it is not so, and unless we make far more drastic efforts our appeals and good intentions are just waste paper.

That is the reason I criticize this bill even as it is in its present form. What I criticize most of all, as I did three years ago, is the necessity to consult local authorities. I could not then, and I cannot now, see any necessity to consult local authorities before a rule can be applied. It is as if the Attorney General had to go to the provincial commissioners and ask their permission before his writ should run in a province, as if murder and arson might be allowed to go on unrestrained until those gentlemen agreed they should be stopped. Here we have murder of the soil going on every day, and yet you propose to consult local authorities before these rules are made applicable! It seems to me a sheer waste of time, as it did three years ago to me. The hon. mover has made the usual excuse that there is a war on. In my view there is not only one war on, there are two wars and we are fighting on two fronts in this country, not only against the Nazi hordes but against the hordes of people who are trying to destroy the most priceless assets the country has. It is no excuse at all to say, although the hon. member denies that he has been complacent, it is difficult to obtain enough people to see that necessary measures are carried out. It is absolutely necessary, in my opinion, to have the most drastic measures taken. It is no excuse, because a person is a very good fellow or you are afraid of treading on somebody's toes or because of vested interests or because of some few clamorous farmers or a few native authorities who refuse to obey orders, that we should allow these things to happen, and unless Government is prepared to take drastic

[Mr. Cooke]

action it is quite useless bringing in these measures and merely pretending to tackle the menace.

I welcome the fact that we have progressed a bit in the last three years, but I earnestly ask Government to see that more drastic measures are taken, and I suggest as I did before that there should be a Land and Water Preservation Board with executive authority in place of this rather feeble committee which has only an advisory capacity. That board should be like the Water Board, which has executive powers, and it very often uses those powers for the benefit of this country.

DR. WILSON (Native Interests): Your Excellency, with the proposed amendment mentioned by the hon. mover just now, I think there is no criticism to be made of this bill from the point of view of native interests. As a matter of fact, I think I should not be far wrong in saying that more has been done in this direction in the native reserves than in the settled areas, and there can be for that reason, I think, no objection to the powers given to the Director of Agriculture and his officers, provided that it is done in consultation with the local authorities. There is one thing I am rather worried about, a point of detail: Does this bill give sufficient powers against the destruction of trees and forests on private land? That is not perhaps so much to be feared as regards native lands, because from time to time forest reserves in native areas are gazetted; but it is a fact—and no hon. member can deny it—that a great deal of destruction of trees has gone on in alienated areas, and I wonder whether this bill gives authority to prevent the destruction of trees. There is provision for prevention of destruction of vegetation, and vegetation is defined as including trees. That is a rather roundabout way of preventing a farmer destroying a valuable forest on his farm. There is also provision for afforestation and re-afforestation of land. Does that provide for an order to be given that any occupier or owner of alienated land who destroys trees can be compelled to replant trees if he wishes trees for the purpose of fuel? I raise the question because at the debate on the original bill a great deal was said of the destruction caused by pyrethrum

growers, and it was then mentioned that the Pyrethrum Board had applied for permission to compel pyrethrum growers to plant trees to make up for those they had cut for fuel. The board at that time were told that it could not be done under the Pyrethrum Ordinance but that rules could be made under this measure. I do not know whether actually the provisions of this bill are strong enough to allow that to be done.

There is one other small point. When this bill was amended in 1941 I said that very wide powers were given the Director of Agriculture in defining a catchment area. I notice that that has now been taken out of the ordinance and "closed area" substituted. Apparently the Director can declare any area to be a closed area, where before it was a catchment area. I asked then whether catchment area might not include the greater part of a native reserve in which streams arose. The Director then said no, that it would be confined to the banks of streams. Now I understand that it is considered "catchment area" is too restricted in its meaning, and a still more indefinite expression "closed area" is to be used, and now any area can be called a closed area. But I am perfectly satisfied that the Director of Agriculture and his officers will use that term with discretion, and I support the bill.

MRS. WATKINS: Your Excellency, in rising to support this bill I would first refer to the hon. Member for the Coast's suggestion of having a Land and Water Preservation Board with executive powers, which would be far better than a committee with advisory powers. I think that would add strength enormously to the powers now exercised. I think that the settled areas are not really doing their bit at present. I know our area is finding great difficulty in doing so and I think a Land and Water Preservation Board would meet the situation admirably, and I very much hope that will be considered in the near future.

COL. KIRKWOOD: Your Excellency, I am rising to support the bill, and I would point out that it has very far-reaching powers and it could be made a very troublesome measure; a great deal will depend on getting the goodwill of the settler. I am afraid my hon. friend the Member for the Coast always leaves that out of consideration; it is the cause

[Col. Kirkwood]

of many of the failures of this Colony, which probably next week I shall have more to say about. We must get the goodwill of the settler if the conservation officer is going to enter on to his land and arbitrarily order him to do certain things which he disagrees with. The settler may be right, the conservation officers may be right; consequently there will be under these conditions a conflict of opinion and a conflict of interest, and unless clause 3, where it refers to local authorities being consulted before rules are made, remains in the bill I shall oppose it tooth and nail. It is possible we will find in twelve months' time, or in two or three years' time, that the bill will want a great deal of alteration and amendment; like all bills, it is impossible to foresee all the difficulties and see into the future, and we will gain by experience when this bill has been in operation, say, for twelve months.

I am sorry to see no reference to goats in this bill. It is a soil conservation bill, and it should provide that no goats be allowed to exist in the area in which it is going to operate. It is the goat that causes more damage to the soil and more erosion, by destroying the herbage and trees, than any other source I know of. That has been admitted. I am sorry I have not got my bible here this morning—that is the Agricultural Commission Report—I might have quoted from it extensively to prove my point. The whole of the Ukamba Reserve, or a great part of it, has been turned into a desert, erosion is still going on, and the desert is steadily getting nearer to the centre, and that will go on for time immemorial, or until such time as there will be no Ukamba Reserve left. A great deal is due to goats, yet Government has never taken any notice of the recommendations made in the Agricultural Commission's Report, and hundreds of thousands of goats are allowed to exist in this Colony, to the detriment of the Colony and the rapid intensification of erosion.

The point has been made by one member—if not by two—whether it should not be made an offence to cut trees on alienated land. That is a very debatable point. I have one picture in my mind at the moment of a plantation of some thirty acres, the owner of which put in wattle and blue gum for timber and firewood. That plantation was planted with

trees because the owner wished to do so, and there is no reason why he should not cut down that plantation and revert back to grass. Anyhow, it is interfering with the rights of the owner and the liberty of the subject to such an extent that I am very glad to see it has been left out of this bill. The hon. Member representing Native Interests apparently thinks that in regard to the native lands in the reserves everything is all right about the cutting of trees. I wish he would come up my way, to the Trans Nzoia. I would denude him of that idea within twenty-four hours. Trees have been cut off steep slopes and the ground put under cultivation, and the soil is just running away like a stream every year; yet Government does very little. The officers in the reserve either have not got the power or refuse to use it. You can see, if you pass Timboroa, where they have been cutting bamboos for war purposes near the station on a steep slope, which they are putting under cultivation, and in only a matter of a year or two the soil will come down on to the road and eventually into the valley. That is going on for miles and miles. Yet we hear of the prevention of erosion and conservation and so on; terms used very glibly by quite a number of people in this Colony and in this Council. They are not speaking from practical experience; they are speaking from a little literature they have read and they apparently become very dangerous. As the bill is at the moment subject to any amendment which may be made in the Select Committee I agree to support the bill.

MR. RENNIE: Your Excellency, I am very glad indeed to note the unanimity with which the proposals have been received by Council. The hon. Member for the Coast, as he has told us, is always right, or very nearly so, and I would ask him in this connexion to refrain from personal remarks when he takes such exception to reports to his personal remarks. To suggest that I elected myself a member of this particular committee is most unfair to me. I should be only too happy if some of the chairmanships of my numerous committees were taken on by the hon. Member for the Coast. As regards his statement that he cannot agree that a great deal of work has been done, perhaps he might like me to quote just one or two figures to show what has been done. I quote in regard to the

[Mr. Rennie]

Central Province only for the first three quarters of 1942:—*Shambas* narrow base terraced, 11,795; acres terraced, 15,707; spill drainage ways, 506; *shambas* live wash stopped, 3,403; cattle tracks repaired, 637; cattle and sheep paddocks, 589. I am perfectly well aware that the acreage represented by these figures is a very small one indeed when regarded as a percentage of the total amount of land in Kenya, but what I did say is that a great amount of work has been done. I also said that a still greater amount of work remains to be done and I think the first part of my statement is borne out in respect of the Central Province by the figures I have quoted.

His point about there being no necessity to consult the local authority has, I think, been already dealt with by an hon. member on the other side of Council. In cases of this sort, as has been pointed out, it is better to make progress by consent if consent can be obtained. There is no use adopting the heavy stick method which the hon. Member for the Coast seems to advocate if more gentle methods of persuasion obtain better results. As regards the difficulties of getting personnel to ensure that soil conservation measures are carried out effectively at the present time, perhaps if I gave comparative figures the hon. member, and hon. members generally, would see what I mean. Under the comprehensive soil conservation scheme that the Director of Agriculture has prepared he contemplates, apart from other staff, the use of some seventy Europeans as assistant soil conservation officers. The number of such officers at the present time, I think I am correct in saying, is two, and if the hon. Member for the Coast could tell my hon. friend the Director of Agriculture or myself where he could obtain the other seventy at the present time we should be only too pleased to receive that information.

The question of the Land and Water Conservation Committee having executive powers has been mentioned by more than one member to-day. That point, Sir, as you will remember, was taken up when the original ordinance was discussed by this Council. I need not go into details here, but one must remember that so far as water is concerned we have

a Water Board, to which the hon. member for the Coast referred, and it would be very difficult indeed for the Land and Water Conservation Committee to be given executive powers to deal with water conservation which would not override or interfere with the statutory powers already given to the Water Board. The question has been taken up by the Land and Water Conservation Committee whether the committee should not have rather wider scope, and we have agreed amongst ourselves for the time being that we should ask the Chairmen of boards such as the Water Board, the Central Roads and Traffic Board and other boards that deal with cognate subjects, to consult the Land and Water Conservation Committee, or at least send them information about any particular points that fall within the purview of that committee when the particular board takes them up.

The hon. Dr. Wilson has raised the question of destruction of trees and forests on private land. That is a point to which the committee has given a good deal of attention. Members felt that it should be possible to draft a rule which would prevent any one from cutting down a tree when the cutting down of that tree was not essential, but when it came to preparing the necessary rule, and to considering the actual procedure that would be required before any one who wanted to cut down a tree on his own land was allowed to do so, the committee came to the conclusion that it was impracticable, and what has been done instead is to draft a rule that in the "closed area" to which the hon. Dr. Wilson referred, without the permission of the Director first had and obtained, no person should be in a position to cut down, remove, destroy or cause to be cut down or destroyed, any living vegetation. That goes some way towards what the hon. member has in mind, I think, but I also think he will realize how difficult it is to prevent people cutting down trees on their own land.

The hon. Member for Kiambu dealt with the question of the executive powers of the board, to which I have already referred. The hon. and gallant member for Trans Nzoia said he saw no reference to goats in the ordinance. Perhaps I should direct his attention to line 11, where goats get a place among the list of animals covered by the term "live

[Mr. Rennie]

"I may also mention that under the draft rules which the Land and Water Conservation Committee have been considering there is a rule which states that the Director may prohibit or limit the grazing of stock on land under certain conditions, but I will certainly bear the hon. member's point in mind and put it to the members of the committee at the next meeting.

The question was put and carried.

MR. HARRAGIN moved that the bill be referred to a select committee consisting of: Mr. Rennie as Chairman, Mr. Brown, Mr. Tomkinson (Provincial Commissioner, Central Province), Mr. Wright, Mr. Coudrey, and Mr. Kasim.

MR. BROWN seconded.

The question was put and carried.

TRADE UNIONS AND TRADE DISPUTES BILL

SECOND READING

MR. HARRAGIN: Your Excellency, I beg to move that the Trade Unions and Trade Disputes Bill be read a second time.

As hon. members can see, this is in fact a consolidating bill, and there are only in my opinion three points to which I should call attention. The first point deals with the position of a trade union with regard to torts, the second with the definition of trade union, and the third deals with the appeal which will in future, if this bill is accepted, not lie to the Governor in Council as at present but to the Supreme Court.

It may well be asked, why at this time is it necessary for us to introduce a bill with these amendments that I have indicated? The short fact is this. During recent years, the House of Commons has passed a bill known as the Colonial Development and Welfare Act, and in that act it is laid down that certain moneys may be advanced, which sums are indicated therein, to various colonies under certain conditions, and one of the conditions happens to be that the Secretary of State for the Colonies has to be satisfied that a colony has reasonable trade union facilities for the activity of trade unions. The first point that arose was this. As hon. members know, in most parts of the British Empire im-

munity from torts has already been enacted with regard to trade unions. We were the exception, and it was a question whether or not that omission here did not fulfil the qualifications necessary under the act to which I have referred. I do not think there can be any two ways about it, that it does not. Whether we like it or not, whether we do not, for many years now this immunity from tort—and that is the only seriously debatable point in this bill—has been the sheet anchor of trade union development in England. That being so, I do not think it could ever be possible for any Secretary of State to say in fairness to the House of Commons that our present legislation fulfils what is laid down in the Colonial Development and Welfare Act.

This immunity from tort was a question that at the time, many of you will remember, was debated very heatedly in the House of Commons and also in the Press of Great Britain, and it was thought that all sorts of dreadful results would happen as a result of the passing of that particular section, but I think you will all agree that the facts have not justified that criticism. A short example will show you. I think, what I mean. At the present time a trade union, if it committed a tort—which as you know is a civil wrong such as you can easily visualize, the harming of a business by calling a strike—is liable, if they do so wrongly, to the employer for having called that strike. What is the result of that? The result of that is that no trade union will ever dare, shall we say, to accumulate great wealth, because apart from anything else, whether they are right or wrong, they are liable to be sued, and for that reason it has been a deterrent in all countries where that law has existed to trade unions. If a union has no wealth, all that an employer can do is to bring a series of cases against innumerable employees whom he alleges have wronged him, which amounts, as you will readily realize, to a waste of time because none of the men has wealth either. That is one side of the picture if you agree to retain this provision. If, however, you provide for the immunity from tort you will allow these unions to develop and employers will in fact have some one with whom they can negotiate, they will have a strong body with whom they, or those who are given

[Mr. Harragin] power to negotiate on their behalf by Government, can deal and who will speak for the men and, as you know has happened in other parts of the world, arrangements are come to and strikes, particularly during the war, I think you will realize, have been prevented. That being so, surely it is desirable to encourage trade unions by introducing this section, which has been on the statute book of Great Britain since 1906 and, as I say, it is alleged by those who should know, with excellent results, particularly during this war. While I mention this point, hon. members must realize that this does not only refer to employees, but it refers equally to employers, if they so desire: if employers like to get together and form a union, all the protection given under the particular clauses of this bill can be invoked in their favour in the same way.

Following on that amendment are some consequential amendments, and I may say that I was referring to clause 18 of the bill when I spoke of immunity from actions in tort. Clause 19 deals with the conspiracy of two or three in furtherance of a trade dispute which is not a crime when committed by one person. As hon. members know, it is not, shall we say, a criminal offence for a man to fail to turn up to work one morning. If, however, he or more, it may be two or it may be 2,000, join together and decide not to go to work (and let us assume that we had not this clause in the bill) they would in fact be committing a criminal offence, because it is a criminal offence for two or more to combine together to injure a person by way of his trade. I think few of us would be able to pretend that by closing a man's works down altogether we were not injuring him by way of his trade, and therefore it is necessary, if we are to permit these trade unions to call a strike, or shall we say the unions to take part in it, that they shall not be liable to be sued criminally for having entered into what might be deemed a criminal conspiracy. Clause 20 is also complementary to the others, and deals with the question of a contract of employment broken in furtherance of a trade dispute. It would again be a ridiculous position if, having permitted trade unions to call a strike, shall we say, for a certain time if we then turned round and permitted

each and every one of the members of the union to be sued in the courts by the employer for having broken their contracts, and therefore the persons who encourage them to break their contracts in pursuance of a trade dispute are also given the immunity a trade union has. Clause 21, I think, is beyond reproach. That sets out the things that may not be done in furtherance of a trade dispute. It is very necessary, I think hon. members will agree, to have such a clause. It deals with such matters as hiding a workman's tools, intimidation, and the like.

I turn now to the point I mentioned earlier with regard to appeals. In our present law the appeal, as I mentioned, is to the Governor in Council. It is now suggested that the appeal should be to the Supreme Court, and if hon. members will turn to clause 10 they will see under what circumstances an appeal may be lodged. An appeal may be lodged where the Registrar refuses to register a trade union, and he may do that under three sets of circumstances which you will see set out in clause 10 (1) (a), (b), (c). (a) is where the applicants have not been duly authorized, (b) where the purposes of the trade union are unlawful, and (c) the application is not in conformity with the provisions of the ordinance. I think hon. members on reflection will agree that these are essentially matters for the courts and not matters of policy which are the subjects usually referred to the Governor in Council. I think it is fair to say they are all points of law, and I think the proper place for a decision is the court; moreover, the Governor in Council has a great deal too much to do to be able to sit down and listen to an appeal which may take weeks, even months. The last point is with regard to the definition of trade union, and I regret that I can give the Council very little information on this. The present definition in the existing law was taken from the law of England as it existed in 1938, or 1937; since then the definition has been altered. I have read both definitions with the greatest care. Many of the words are different, but the result as far as I can see is exactly the same. However, in order to conform with the model ordinance, I see no reason why we should not fall into line with the existing definition which will then be common to the Empire.

[Mr. Harragin]

These are the only points worthy of reference in this bill. Hon. members will see other sections set out at great length how a trade union shall be carried on and details with regard to who shall be the officers, and how the accounts shall be kept and who should check them, and such things common to all trade union legislation in the Empire.

MR. BROWN seconded.

MR. NICOL: Your Excellency, the tort clause has been consistently opposed in the past by hon. members on this side of Council, but I am very glad to find now that that opposition has been withdrawn and I personally feel that now the tort clause has been inserted there will be a move to create trade unions in this country. I for one shall welcome them, because I have had experience of trying to deal with strikes in Mombasa, disputes with labourers, and it has been extraordinarily difficult to get hold of somebody responsible to negotiate with. I should welcome in the port anyway a properly constituted trade union with whom employers of labour can properly negotiate. A trade union is definitely fair to both sides, and the people who administer them at home and have experience of them realize that the employee cannot expect to get all the jam and that the employer has definitely got to have a square deal as well. If there is a move out here to create trade unions, I should like to suggest that it would be well worth while to start them off on the right lines by getting an expert from home to come out here and advise. I believe that has been done in other parts of the Empire with marked success. It would be a very great pity if we got off on the wrong foot, and I should like to suggest that that be given very serious consideration.

One other point I should like to ask now. Are we eligible 100 per cent for the benefits of the Colonial Development and Welfare Act? In other words, do we qualify now in every respect for grants from the Colonial Development Fund? I believe that when a similar bill to this passed through the Legislative Council of Tanganyika it was necessary, in order to conform with the act at home, to remove certain penal clauses from the Employment of Servants Ordinance, and I am wondering whether the

bill we are dealing with later in the session has any connexion with this Trade Union Bill, or whether we shall have to pass another amending bill withdrawing any penal clauses? I ask that for information, and support the bill.

MR. HARRAGIN: Your Excellency, with regard to the first point made by the hon. member, I can only reply in the affirmative so far as this bill which is in front of us is concerned. I am not aware, perhaps I should be, exactly what amendment was made in Tanganyika to their Employment of Servants Ordinance, and I am grateful to the hon. member for having mentioned it. I will certainly pursue it, but I can tell him that the Trade Unions Bill we are asked to pass now will satisfy all the provisions of the act at home to which he referred. The question with regard to the expert is one that I have no doubt will receive your attention, Sir. It is not a very easy matter to get an expert out at the present time as hon. members know, they are not easy to come by, but it will be borne in mind. I would like to bear out what the hon. member said with regard to welcoming some one with whom it would be possible to deal in strikes. As he rightly mentioned, in Mombasa quite recently the difficulty we were up against the whole time was to get somebody to come and speak authoritatively on behalf of the employees. On one occasion an employer had to interview 2,000 of his men sitting under a tree. They had no spokesman, and eventually two chaps for no reason apparent got up and thought they would like to say their say, and constituted themselves spokesmen. It is quite impossible in practice to negotiate with people like that, and I do think if trade unions are started on the proper lines as the hon. member said it will be a great advantage to this Colony.

The question was put and carried.

MINING (AMENDMENT) BILL

SECOND READING

MR. BROWN: Your Excellency, I beg to move that the Mining (Amendment) Bill be read a second time.

Clauses 2 and 3 of the bill come before the Council at the instance of the Chamber of Mines to meet a situation which has arisen as a result of the war. By section 29 of the principal ordinance

[Mr. Brown] the maximum life of a location is ten years. A location is an area over which mining rights are held under a prospecting right or under an exclusive prospecting licence. A location is held in the first place for one year and can be renewed from year to year up to a maximum of ten years. At the end of that time a location holder, if he wishes to retain his interests, has got to enter into a lease for a period of from five to twenty-one years, and if that lease is over native lands, he has got to find a lump sum representing the accumulated rents for the whole period of the lease. The Chamber of Mines has represented that under present circumstances it is exceedingly difficult for any location-holder to make a decision as to whether to enter into a lease or not. Many location-holders are away at the war, finance is difficult to arrange, machinery and other necessary materials for mining are difficult to obtain with the present shipping position, and generally the position is one of great uncertainty. They have therefore asked that for the period of the war the maximum life of a location shall be extended to cover the period of the war and to cover a period after the war until these conditions of uncertainty have disappeared. The section is therefore amended extending the life of a location from ten to thirteen years, which it is hoped will cover this period of uncertainty. I must emphasize that this is purely a war measure. It has not been done by Defence Regulations because under the Emergency Powers Act of 1940 no ordinance enacted after the 22nd May, 1940, can be amended by Defence Regulations, it has got to be amended by an amending bill; hence this bill. But it is purely a war measure and as soon as that time arrives when things become settled again the existing law making the maximum life of a location ten years will be restored.

Clause 3 of the bill is designed to meet the case of certain locations which have expired since the 15th October, 1942, by giving the location-holders six months in which to apply for renewals, which will give this bill time to become law. Clause 4 is designed to remove an anomaly in the schedule to the principal ordinance. That schedule deals with the compensation which may be awarded to a workman who incurs an accident in his work

in mining. It provides that if a workman loses the whole of one hand he is entitled to 24½ per cent disability. It also provides various percentages of disability for each finger and for each joint of a finger, and it has been discovered that if a workman loses enough joints or enough fingers, he can, by adding all the percentages to which he is entitled, get more than he would be entitled to if he lost his whole hand. It is to remove that anomaly that the clause is inserted.

MR. COULDREY: Your Excellency, in rising to support this bill, I only do so because I represent the constituency where most of the mining is undertaken, and as far as I have been able to ascertain this bill is, as the hon. mover has pointed out, in accordance with the wishes—I will not say of the whole of the mining community—but of the majority. I therefore support the bill.

COL. GHERSIE (Uasin Gishu): Your Excellency, I rise to support the bill as I feel it will be welcomed by all those interested in the welfare of the mining industry. The hon. mover appears to have covered the ground adequately, and there is very little I can usefully add to support his argument, perhaps with the exception that I should like to emphasize that the mining industry as we know it to-day commenced a little over ten years ago, with the result that in many instances the titles of claims pegged during that period will be expiring in the very near future. We have now experienced over three and a half years of war, and it naturally follows that in some cases 40 per cent of the period during which the claims have been held is covered by the war period, and it is obvious that, due to such handicaps as lack of plant and machinery, shortage of stores, to say nothing of the present food shortage, that claim-holders have been prevented from developing their properties to the extent that would have been the case under normal conditions. Mining operations have been curtailed and in many instances closed down altogether. Shortly after the outbreak of hostilities, in order to protect claim-holders serving in His Majesty's forces, Government introduced legislation whereby compulsory development conditions were waived in respect of these particular individuals. I regard this bill as an honest endeavour to introduce a measure of equity in order to

[Mr. Ghersie] protect title to property during an abnormal period. I support the bill.

MR. PEDRAZA: Your Excellency, the extension of the maximum life of a claim title from ten to thirteen years is in the nature of a moratorium obviating the necessity to proceed from a claim title to a lease title. Hon. members will appreciate that in the circumstances of a war a mining enterprise would hesitate to embark on any long-term policy of development involving a lease over a period which may be as long as twenty-one years. We have heard that mining equipment, labour, and now food for labour, are all difficult to obtain. It would be quite impossible for members of the mining community who have joined the forces to satisfy the prerequisites of a lease, which involves the setting apart of the land, a survey which we think would be difficult to obtain, and the prepayment of a lump sum by way of rent payable under the Native Lands Trust Ordinance. It would be difficult to hazard a guess as to how long this modification of the ordinance will be necessary, both during the war and for a period after; sufficient to enable claim-holders to convert their titles into leases, and it must be made clear that this measure will only be in force so long as it is necessary and until we return to more normal conditions. But for this measure many others will be compelled to abandon their claims.

The policy of the Mining Department has been to prevent any serious dislocation of the goldmining industry to the detriment of a change over to the production of war minerals. The process of transition must necessarily be slow as it takes time to develop new local industries and war minerals. Considerable progress has already been made in this direction and there are prospects of further developments, but without the retention of a nucleus of the mining industry and of men with the right experience, it would be quite impossible to proceed any further with the development of our other mineral resources. Any further abandonment of mining operations . . .

HIS EXCELLENCY: Order! Order! Will the hon. member confine his remarks to this particular amending bill? What are the particular clauses to which you are referring?

MR. PEDRAZA: I was introducing the idea of retaining a nucleus of the industry so as to be able to proceed with the further development of war minerals which must be associated with a reasonable modicum of gold mining.

The question was put and carried.

SOLDIERS (EXEMPTION FROM CIVIL PROCESS) (AMENDMENT) BILL

SECOND READING

MR. HARRAGIN: Your Excellency, I beg to move that the Soldiers (Exemption from Civil Process) (Amendment) Bill be read a second time.

This is a very necessary amendment, due to the fact that as the law stands at present a soldier who comes within the purview of the ordinance is liable to have his pay attached for debts incurred within six years from the 3rd day of September, 1939. This was quite a reasonable date to place in the ordinance when we were debating it as a bill early in 1940, but it becomes an absurdity if you think of this war as lasting ten years. The position then will be that a soldier who is enlisted in the scheduled year will be liable to have his pay attached for any debt which was incurred six years before the 3rd September, 1939, and of course this example shows you the absurdity of it. The amendment naturally introduces the words "date of enlistment" instead of the date "3rd September, 1939". I do not think any explanation is necessary.

MR. BROWN seconded.

The question was put and carried.

EXCESS PROFITS TAX (AMENDMENT) BILL

SECOND READING

MR. TESTER: I beg to move that the Excess Profits Tax (Amendment) Bill be read a second time.

This bill deals with a special Tanganyika problem, and it is very doubtful indeed whether at any time the Kenya Government has had any financial interest in this special proviso, but there was always the possibility that people interested in enemy custodian's estates in Tanganyika might come here to live and therefore this proviso was included in our legislation. It was included at the request of Tanganyika, and it is proposed

[Mr. Tester] to remove it also at the request of the Tanganyika Government. I remember when I was in Tanganyika the situation was that these particular estates could not be taxed for some technical reason at the time excess profits tax was introduced, and the idea was to frame the Excess Profits Bill in a special way so that these particular projects were especially taxed through the Excess Profits Tax Ordinance. In the meantime, the new agreements and contracts had been entered into whereby the Tanganyika Government gets its fair whack in the ordinary course of events, and there is no longer any need to take special action in regard to excess profits. As I said, I really do not think this Government is at all interested financially, and I beg to move that the bill be read a second time.

MR. HARRAGIN seconded.

The question was put and carried.

REGISTRATION OF DOCUMENTS (PHOTOSTATIC COPIES) BILL

SECOND READING

MR. HARRAGIN: Your Excellency, I beg to move that the Registration of Documents (Photostatic Copies) Bill be read a second time.

This is a formality which I think will appeal to every member in the Council. Under the ordinances which appear in the schedule to this bill it is necessary for two or more copies of various documents to be filed with the Registrar. As you will readily understand, that means that the Registrar has got to check up each copy, the unfortunate man has got to pay for two copies being prepared by his lawyers, and there is a waste of time and a waste of money. All that this bill does is to make it lawful after one document has been made, for a photostatic copy to be registered in the place of the longhand copy which is at present necessary.

MR. BROWN seconded.

The question was put and carried.

PYRETHRUM (AMENDMENT) BILL

SECOND READING

MR. BROWN: Your Excellency, I beg to move that the Pyrethrum (Amendment) Bill be read a second time.

This bill comes before Council at the request of the pyrethrum industry expressed in a resolution passed at the conference of delegates last year, that the chairman and members of the board should be paid honoraria, travelling allowance and mileage allowance. It is recognized that, with one exception, this board is the board responsible for planning the sales policy and for the marketing of the crop. It has much work to do; it meets at least once a month, and the executive committee of the board meets very frequently. The money is the industry's money and it is the wish of the industry that this payment of honoraria should be made.

MR. HARRAGIN seconded.

MR. COULDREY: Your Excellency, in rising to support this bill there is nothing very much I can say in addition to what the hon. mover has said. But there is one point I want to stress, and that is the idea that the chairman and members of the board should be paid did not emanate from the board itself. They did not sit round a table and say "Let us get some money out of this". It was put up at a meeting of the pyrethrum delegates; a resolution was passed to that effect and carried *nem con.* I suppose I ought to declare that I have a financial interest in this bill, but I am sure it will add to the enthusiasm of the hon. members opposite in the way they adopt and approve this bill when they know it will put a little hard-earned money into my pocket!

The question was put and carried.

TRADERS LICENSING (AMENDMENT) BILL

SECOND READING

MR. HARRAGIN: Your Excellency, I beg to move that the Traders Licensing (Amendment) Bill be read a second time.

The object of this bill, which I have much pleasure in introducing, is in the first place to make it possible for a trader's licence to be cancelled after he has committed or he is connected with any of the offences mentioned in the bill the first time instead of the second time. It also enlarges the number of offences for which a licence may be cancelled. If hon. members will turn to the bottom of the page they will see that under the existing law cancellation is only possible

[Mr. Harragin] on a second conviction for what I will call certain trading offences and, since the war, for committing offences against the Price of Goods Regulations. There seems to be no particular reason why those regulations should be picked out of the innumerable regulations dealing with traders which we have in force today, and therefore the first amendment is in clause 2, new section 16 (1) (b), where it sets out in fact all regulations which affect traders and against which if he offends he will find himself liable to have his licence cancelled. The last offences, under (c), are to be found in Chapter 31 of the Penal Code and these deal with receiving and things of that description. This matter has been under close consideration of the Legal Department for the last two years; in fact, I could almost name the date, which was on the fortunate date that we happened to convict a trader in this town of receiving coffee from a farm near by. I have much pleasure in moving the adoption of the bill.

MR. BROWN seconded.

MR. PATEL: Your Excellency, I cannot support the amending bill as it stands. The Indian community generally look with great disfavour upon any amendment to the principal ordinance, particularly during war time when even their very reasonable point of view is likely to receive the least attention. There is a certain amount of suspicion in the minds of the Indian community with regard to the amendment of the existing ordinance, particularly on account of statements made outside this Council indicating a certain amount of hostility towards the Indian trading interests. We would not have objected to any amendment if we were informed that it was necessary at this juncture in the interests of the war effort, but an amendment like this can wait during the war time and we can go on with the present legislation which we have had for a number of years, so that I do not see what urgency there is to pass an amending bill in the form in which this is being done. However, I may say that the Indian members are not entirely opposed to the enlargement of the offences which are now included in the amending bill, but they do not see why the present provision of cancellation of a licence on a

second offence should be abolished. We consider it is a necessary and essential safeguard, because people outside the big townships who have to administer this law are not necessarily trained in law, and it is likely that small *dukas* where people trade may have their licences unreasonably cancelled. For that reason, though we are not opposed to the enlargement of the offences indicated here, we are decidedly opposed to the change in the existing law in regard to endorsements on the first conviction, and therefore I shall in the committee stage beg leave to propose an amendment to the bill.

MR. SOUD BIN ALI (Arab Nominated): Your Excellency, in this bill I am concerned with the words "Any person holding a trading licence, who is convicted of not keeping proper books of account", as their inclusion will hit the Arab shopkeepers very hard. As every one understands, Arabs are illiterate people, and they have no means whatever of keeping proper accounts. Their *dukas* sell a few things to the poorer class of people who come in of an evening after their daily work and, apart from the fact that those Arab shopkeepers are not educated, even if they were I venture to say it would be very difficult for such small shops to keep proper accounts. As far as upcountry is concerned, I do not claim to know anything about them, but the effect of this provision in the coast will be disastrous, and it means that in Mombasa and throughout the small towns and villages on the coast, if this is carried out 90 per cent of the Arab shops will be closed. There are no big shops, even in Mombasa, apart from the European and Indian shops along the Kilindini, Salim, and Princess Marie Louise Roads, and most of the shops in the old town are Arab. They will have to close, as these people do not understand the keeping of accounts. Further, this will not only hit the Arab shopkeepers, but the poorer class of people who after their daily work come with a few odd cents to these shops for their wants. It is true that Government can pass any law it likes, but where the passing of a law will have such a disastrous effect on people, I venture to say we ought to pause before passing a clause like this, for it will cause a lot of harm.

MRS. WATKINS: Your Excellency, I need not say how glad I am to see this

[Mrs. Watkins] coming on the statute book at long last. I think it will have a tremendous effect in keeping the receivers of this town down to manageable proportions. I should like to answer, if I may, one statement made by the hon. Member for Arab Interests, and that is that I do not think that it was in anybody's mind to worry the small illiterate traders. What has been in our minds very much is to see that the very literate and very cunning traders who are receiving shall be duly dealt with. There is one point that is worrying me about the bill, and that is that cynics tell me that a coach and four can be driven through this by people simply changing their names. I am told it is perfectly legal to change a name, but surely if my driving licence is cancelled because I am a dangerous driver and I then describe myself as Bertha Jones and take out another licence under the name of Bertha Jones, there must be some penalty when I am caught driving again under another name, and surely that penalty could be made to apply also to people who had obtained their trading licence by giving another name? I know it will be very difficult to catch them. Even so, it does not seem to me to matter very much about the name, because a receiver in whom I have a particular interest has, I see, just been appointed under the Kenya Official Gazette Supplement No. 57 under Notice No. 1057 to some food control at a certain station. I do not think perhaps it is fair to give his name, but it does not seem to be necessary even to alter your name when convicted of receiving; it seems to me you can apparently obtain a Government appointment—or shall we say a C.B.E.?—and it seems to me perhaps a little hard.

I would like that point cleared up, and also I would like to say, in regard to the remark of the hon. member Mr. Patel, that this precaution does not in any way help the war effort, that lately I have been through the law courts once or twice—not in the dock!—and there I saw an enormous amount of khaki drill, american—rolls of american—and all the unbuyable things at present which have been stolen by natives, almost assuredly from the military, whether they can prove it or not, for receivers. This is impeding the war effort. We may not have caught the receivers, but if you

could get them the more sternly they are dealt with the better for the war effort. Nearly all these things, including dangerous drugs, are being sold all over the town detrimentally to our war effort. That is a most important point. Any receiver who is now receiving military goods as well as produce, as well as dangerous drugs, is committing a very serious offence and we think ought to have his trading licence cancelled. I think we all on this side of Council have sufficient confidence in the application of these new regulations to know that they are not going to be used against the illiterate small traders against whom nobody has any grouse and who are probably not receivers in 99 cases out of 100, but, if at all, then in a very small infinitesimal way.

DR. WILSON: Your Excellency, in connexion with what the hon. Arab member said I am afraid that when reading this bill I did not notice that point. I take it we shall get an assurance from the hon. mover that either those words are included in the principal ordinance, of which I have not a copy, or, if not, am I right in suggesting that this is not a proper amendment to add to the conditions of a trader's licence; that he should keep proper books of account? *

MR. VINCENT: Your Excellency, I am certain that the hon. Indian members desire as we all do, to keep trading in this country on the highest possible moral level, and I am certain there is nothing greater they can wish. In supporting this bill, I would like to draw attention, however, to its complete inadequacy to grapple with the situation. Dealing with paragraph (c), I consider that not only should a trader's licence be cancelled but also that he should not be able to operate under a licence held by his wife or children. We have a case in Nairobi, I understand, where a man went bankrupt. It did not make the slightest difference to him, for he started up business in his wife's name the next day, and when she died the licence was taken out in the name of a child two years of age. I think that if we are going to have amendments, do let us try and make them effective. I fail to see another deterrent which is so essential, an adequate penalty, for the penalties surely are absurd. The only penalty under the ordinance, and I hope the hon. Attorney General will correct me if I am wrong,

[Mr. Vincent] is a fine not exceeding £10 or in default one month's imprisonment. Having such penalties as these deliberately encourages offences, and I will quote an example of what I mean. The present licensing fees are Sh. 112.50 for stocks exceeding £100 but not exceeding £300, and for those exceeding £300 the licensing fee is Sh. 375. The penalty for giving a wrongful declaration, and I am certain that has been done in many cases, is £10 at the most. What has been the result of this penalty, and of the inadequacy of the penalties under this ordinance, is that in one large town alone, when an inspector was sent round to do a special job of checking up, tens of thousands of shillings were collected—and when I say tens of thousands, I mean it—in arrears which should have been paid for licences, because licences have been issued for Sh. 112.50 instead of Sh. 375 on wrongful declarations. So that this council, by leaving the penalties so small and nominal, are deliberately encouraging this position. I suggest that whether this ordinance is for, the purpose of revenue or for the purpose of trying to stabilize the morality of trade generally, we should have penalties which should fit the crime, and I suggest that the penalties for this deliberate, cunning, under-current as it were in the trading world should not be less than £50 minimum or three months imprisonment.

I suggest to Council that the Traders Licensing Ordinance of this country and, if you will allow me to associate with it the Bankruptcy Ordinance at present on the statute book, are an encouragement to the meanest form of thieving which can possibly take place, because it is done under cover of the law. I have far greater time for the ordinary thief who comes into a house and stands a chance of being beaten up and having punishment, than this type! But when we allow our laws to be in such a condition as to encourage worse than theft then I think it is highly reprehensible. It has been said that the reason why the alteration cannot be made is because of the shortage of staff for drafting, but I maintain that it is not so. I see that a great number of legislative measures have been drafted for this session, which is highly commendable, but I do think we should now turn to a few of the matters I have mentioned, because our plane of

trading morality has a very bad name in London on account of the deliberate frauds which have been perpetrated prior to the war on London merchants. You may say it is the fault of those merchants for giving the credit, but what has happened is that local merchants have paid say the first six bills, but when it comes to the next big one they have just not paid, and the London people have no means of redress and the offending merchant can go elsewhere and start up in some other business. That is the state in which our laws are to-day, and it is no use denying it. Therefore, at the request of the Nairobi Chamber of Commerce and also of the Executive of the Associated Chambers and on my own behalf as the Member for Nairobi South, I do ask Government to appoint a committee for the redrafting of the Traders Licensing Ordinance and to give consideration to the many suggestions which have been made by various Chambers of Commerce for years past.

MR. COOKE: Your Excellency, I rise merely to say that I gave a promise yesterday to the hon. Arab Nominated Member that I would support him in his protest. I had not then read the principal ordinance, and I see now that this particular offence against which he protests is in that ordinance. During the period that has elapsed since the ordinance has been in force it has not led to the detriment of these small Arab traders, and I have no doubt that the hon. and learned Attorney General will point this out. Therefore I think that the fears of the hon. member are really groundless in this matter and that the law will be administered fairly and equitably as it has been in the past where these small traders are concerned. I think the hon. member will forgive me if I say that I cannot support him because I do not think there is any need for this protest.

MR. PAROO (Eastern Area): Your Excellency, there is one point that I want to make absolutely clear to this Council on my behalf as well as on behalf of the other Indian members: that we have no sympathy at all for those traders who indulge knowingly in immoral practices in business or fraud. The hon. member Mr. Patel made it absolutely clear that during the war, and particularly under the proposed section 16 (1) (b), where it is intended to enlarge the offences

[Mr. Paroo] against Defence Regulations, those Regulations are so innumerable and complicated that very many traders are unable to understand them. For that reason only the suggestion was put forward that we could not agree to this amendment if the original suggestion of cancelling a licence on a second offence is accepted. A committee was appointed some time ago in connexion with introducing a system of probation in this Colony, and their report has been published, and it is on the same grounds that we ask that these illiterate people, unable to understand the Regulations, which are so many and so complicated should be given a chance of being warned first by an endorsement of the licence and then on a second and subsequent offence having their licences cancelled. The hon. Member for Kiambu has said that illiterate people will not be liable to such things, but when a law is on the statute book it can be used against anybody, and particularly those who are administering the law in the districts can misuse that law.

MR. THAKORE (Central Area): Your Excellency, while I do not subscribe to the theory of meting out more than one set of punishment in respect of the one crime, that happens to be the law in section 16 of this ordinance, as a man is punished for his offence in a court of law and is given a second punishment by way of endorsement or cancellation of his licence. There is this to be said, that much irrelevant matter has been introduced by the hon. Member for Nairobi South and the hon. Member for Kiambu in that they tried to argue that a man can go and get a second licence if he is bankrupt in his wife's name. Under existing legislation that is not so, as there is a Licensing Board, and with all seriousness I say that these arguments put in front of us are absolutely irrelevant and confuse the issue. The hon. and learned Attorney General has not made out any case for tightening up existing legislation, and I believe I am right in saying that very few, if any, cases have occurred which have called for even the endorsement of the licence. I believe my statement can be verified, that there is hardly a case, or very few indeed, if any, where the endorsement of the licence has taken place. All the executive officers of the Crown happen to be

Europeans, and in the execution of any laws it is only human nature that they are not likely to prosecute them against European traders as such, and legislation of this sort is rather intended for application against Asian races. Apart from that, the junior law officers and the assistant district commissioners in the outlying districts are not sufficiently trained in the laws of evidence to realize the serious reaction of their actions in convicting people and endorsing their licences. I suggest with all seriousness that the existing legislation should, although I do not subscribe to it, be sufficient for meting out any additional penalty to offenders and that there is no need or reason for tightening the laws by the inclusion of certain kind of offences that are covered by this bill. I will again say that Government in this instance is influenced by racial considerations, and that a few people have jockeyed Government into introducing the bill for which no necessity exists. I further say that this amending bill savours of racialism and is undignified to appear on the statute book of a country, and it is against all the principles of common law and equity. For these reasons I submit that there is no necessity for this amending bill.

MR. KASIM (Western Area): Your Excellency, I associate myself with what the hon. Indian members have said. As a matter of fact, there was no necessity to introduce this bill at all because all the points in it are covered by the existing ordinance and in Defence Regulations. I should like to suggest to Government that we put the bill back for further consideration.

MR. HARRAGIN: Your Excellency, the suggestion that this bill is in any way racial is, I think, unfortunate, because I for my part would press just as forcibly as was possible in a court of law any charge against a European firm of receiving stolen property and would ask that the maximum penalty should be given, in the same way as if it happened to be an Asian firm. There has never been the slightest suggestion of racialism, except perhaps that there may be more Asian shopkeepers who may be brought before the courts than Europeans, but that, I may say, is an entirely different matter. If on the other hand a European should also indulge in this

[Mr. Harragin] form of crime I can assure the hon. member that the case would be pressed even harder against him than it would be against an Asian. A point was made by one of the last speakers that there were very few cases. Well, unfortunately there are very few cases, but that does not mean that there are very few crimes. Before you can bring a case you have got to bring home the crime to someone, and although we know crimes are being committed it is not often that we are able to bring them before the courts, and that is why we are anxious when we are fortunate enough to bring people to the court that a punishment fitting the crime will be awarded. There seems to be one point missed by several speakers on the other side of Council. This ordinance as amended does not make it obligatory on a magistrate to cancel the licence in every case. He can take all the considerations the hon. member Mr. Patel put forward so ably into account when awarding punishment. If, for instance, as someone mentioned, so many regulations are brought out that the unfortunate shopkeeper became confused, I am sure that the magistrate would be the first to take that into account and say that he himself possibly suffers from confusion owing to the number of Regulations, and although it is an offence he does not think it necessary to cancel the licence. But it should be in the law that he could cancel a licence if only as a deterrent.

A point was also made by several speakers that we should revert to the warning system, because that is all it means, that you have two bites at the cherry. If you are found out once and are told, "Don't do this again, if you do you will have your licence cancelled," if you are a wise man you quickly change your name or have your licence put in somebody else's name, and the next time that person is convicted there is no conviction against you, it will be against Mr. X, whereas the licence is held by Mr. Y. That is the reason it is essential we must see that traders who might attempt to contravene these licences should be struck off the list. The hon. Member for Nairobi South made several points which, with respect, I suggest have no bearing on this particular bill, although they are of great interest and importance generally. For in-

stance, we are only discussing at the moment so far as I am aware whether we will in certain cases strike a man off the list of traders or not. What the hon. member has to say with regard to the amendment to the principal ordinance generally and the setting up of a committee will be, of course, considered very carefully. I can tell him, he happened to mention the Bankruptcy Ordinance, which has even less to do with this bill, that the three Registrars in bankruptcy of the three territories are conferring with regard to necessary amendments to the bankruptcy law, and I do hope that in the near future we will have an ordinance which tightens up our bankruptcy laws but, as is often said, it is one thing to make laws and another to see that people abide by them. I have yet to find a bankruptcy law in any place in the British Empire which is regarded by honest men as satisfactory.

The hon. Member for Kiambu is, I think, mistaken with regard to one point. I am not aware of a case where a person who has been convicted, let us say, in the name of Bertha Jones, calls herself immediately she has been convicted, Sophia Snooks and obtains a licence. That is not the cart and horse. I am well aware that a cart and horse can be driven through it and that is done by changing the name to Mr. X, who takes out a licence in his name but does not run a business. That is the difficulty we are up against, and it is a frightfully difficult thing to overcome, as to meet the hon. member's point we should not only preclude a man from having a licence but from serving in a shop at all, which seems to me the only way in practice to get over that point. The hon. member Mr. Patel referred to the fact that the Indian community viewed with disfavour a bill of this description but he did not tell me exactly why. A later speaker said that Indians were a law-abiding body, and all we are trying to do by this bill is to so frighten people that the laws will in fact be obeyed. I thought that the Indian people would have been as anxious as other communities to see that that was so, and I very much regret the hon. member should have taken that point. He wants to know what the urgency is. Well, the only urgency is that it is seven years too late; it should have been brought in in 1936 when we brought in the ordinance

we are now amending. A case has been brought to light in which a trader has abused his position as a trader; he was convicted of receiving, he was in fact sent to prison for a series of months, and before the next season had started he was back in business waiting to receive what he could, we hope on this occasion nil. For that to happen shows that there is something wrong with the present law.

I plead not guilty at once to the charge made by the hon. Member for Klambu, that a trader who has been convicted has under some Notice been appointed an agent for something or other. I can only say that the numerous Controllers never refer the names of traders either to myself or to the Police Department before the notices are made, but I will certainly bring this case to their attention, and perchance in future the police may be consulted before these appointments are made. The point made by the hon. member representing Arab Interests has already been answered by the hon. Member for the Coast, and I can only say that since the ordinance has been in force since 1936 I have never had a single complaint of hardship concerning any Arab trader or any other with regard to the provisions of the law as to the keeping of accounts. I think the hon. member may rest assured that the law as it was administered in the past in this respect will be continued in the future. I quite realize that there may be cases of hardship if the law was very strictly interpreted, but, as the hon. member himself well knows, this matter is at the discretion of the officer who has the inspecting of these accounts; in fact, the accounts demanded of them are not very complicated, and I think he will find that in the majority of cases the accounts are kept, but of that I have no personal knowledge at all. I do not think there is any other point that has been raised, except that I think the hon. Arab member said that if this bill became law as many as ninety per cent of the present Arab shops would be shut down, and if it is only because of the keeping of accounts I think he may rest assured that they will be able to carry on as in the past.

With regard to the inadequacy of the penalties mentioned by the hon. Member for Nairobi South, I cannot see any reference to penalties in the bill before

us, but at another time and in another place I shall be very pleased to go into this point. I have no doubt that he is correct in the statement he made with regard to what the actual penalties are. The hon. member Mr. Thakore seemed to take exception to the fact that a man is punished twice for the same offence. As hon. members well know, there may be both fine and imprisonment and a driving licence taken away, for example, and there are hundreds of others, and it happens in this case that we can fine or imprison or both and have his licence taken away.

The question was put and carried.

BILLS

IN COMMITTEE

MR. HARRAGIN moved that the Council resolve itself into committee of the whole Council to consider the last seven Bills clause by clause.

MR. BROWN seconded.

The question was put and carried, and Council went into committee.

Each of the Bills was considered clause by clause.

The Traders Licensing (Amendment) Bill

Clause 2: MR. A. B. PATEL moved that clause 2 be amended by deleting from line 22 the word "conviction" and inserting the words "a first conviction be liable to have the conviction endorsed on his licence and on a second or subsequent conviction".

The question was put and negatived.

MR. HARRAGIN moved that the Bills be reported to Council without amendment.

MR. BROWN seconded, and the question was put and carried.

Council resumed, and His Excellency reported accordingly.

THIRD READING

MR. HARRAGIN moved that each of the Bills be read the third time and passed.

MR. BROWN seconded.

The question was put and carried.

Each of the Bills was read the third time and passed.

ADJOURNMENT

Council adjourned till 10 a.m. on Monday, 22nd March, 1943.

Monday, 22nd March, 1943

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Monday, 22nd March, 1943, His Excellency the Governor (Sir Henry Moore, K.C.M.G.) presiding.

ADMINISTRATION OF OATH

The Oath of Allegiance was administered to A. B. Killick, Esq., Acting Director of Agriculture, Ex Officio Member.

PAPERS LAID

The following papers were laid on the table:—

By MR. RENNIE:

Standing Finance Committee Report on Schedule of Additional Provision No. 4 of 1942.

Select Committee Report on Land and Water Preservation Bill.

By MR. HARRAGIN:

Select Committee Report on Increase of Rent and of Mortgage Interest (Restrictions) (Amendment) Bill.

ORAL ANSWERS TO QUESTIONS

NO. 6—FACTORY BUILDINGS, NAIROBI MUNICIPALITY

MR. KASIM:

Is it a fact that a number of food factories and other secondary industries have been closed down by the Nairobi Municipal Council for lack of suitable, hygienic buildings? If the reply is in the affirmative, is Government aware of the fact that no suitable buildings are available at the factory site? In view of the acute shortage of locally made foodstuffs, would Government please induce the Nairobi Municipal Council to erect at least temporary buildings and rent them at reasonable rents to encourage small food factories during the war or, if the Nairobi Municipal Council is unable to provide such buildings, would Government allow the factory owners to operate in non-residential areas under the strict hygienic supervision of the Nairobi Municipal Council?

MR. MORTIMER: It is not a fact that a number of food factories and other secondary industries have been closed by the Municipal Council of Nairobi for lack of suitable hygienic buildings. It is

the case, however, that vigorous action has been taken by the Health and Licensing Departments of the Council under Municipal By-laws and the Public Health Ordinance against some persons who illegally manufactured foodstuffs on unlicensed premises and with flagrant disregard of even the elementary rules of hygiene and cleanliness. In none of these cases had an application for the grant of a licence been made.

The Government is aware that no suitable buildings for the manufacture of foodstuffs are available at the factory sites in Nairobi.

The Nairobi Municipal Council has adopted a resolution to the following effect:—

"That at a future date the Council would consider the advisability of erecting factory buildings for licensing to private firms".

There are at present serious difficulties in the way of carrying out such a project. The Government does not propose to take any action to induce the Municipal Council to act upon this resolution at present.

The manufacture of foodstuffs is controlled by Municipal By-laws and by the Public Health Ordinance, and is under the supervision of the Municipal Council's staff. Application for buildings to be licensed for the manufacture of foodstuffs should therefore be made to the Municipal authorities.

EXCHANGE OF LAND

MR. MORTIMER: Your Excellency, I beg to move: "Be it resolved that this Council approves of the proposal for the exchange in accordance with the provisions of section 7 of the Native Lands Trust Ordinance, 1938, of a portion comprising approximately five acres of Section XXIX—Dabida and Sagalla—of the Coast Native Land Unit for a portion comprising approximately 7½ acres of L.R. No. 6946 (1978/2) at present held on freehold tenure by Major C. S. Goldman, and that this Council agrees that the circumstances are such as to require that the said exchange be permanent". The circumstances out of which this resolution arises are as follows. Major Goldman, managing director of Messrs. Teita Concessions, Ltd., is the owner of a piece of land at Ngerenyi

[Mr. Mortimer] which is well within the borders of the Teita Native Land Unit. This piece of land being freehold is excluded from the native land unit by the description given in the 1938 Native Lands Trust Ordinance. Immediately adjoining this piece of land and in the native land unit is a portion of land which is somewhat higher than the surrounding country and is, in fact, a very good building site commanding an extensive view; it is of no use whatever for agriculture and the natives have never made any use of it. Major Goldman wishes to obtain this site for the erection of staff quarters, and some time ago entered into negotiations with the natives concerned. Agreement was finally reached whereby Major Goldman hands over to the Teita Native Land Unit 7½ acres of good agricultural land on the other side of this particular property, and takes from the natives these five acres of rocky hill site which is suitable for building purposes but for nothing else.

I have laid a plan on the table illustrating the proposal for any hon. member who wishes to see it. The Local Land Board and the Central Lands Trust Board have both expressed their agreement with the exchange, and all the parties concerned have agreed that the circumstances attending the exchange are such as to make it desirable that it should be permanent. Under section 7 of the Native Lands Trust Ordinance the agreement of this Council and the subsequent approval of Your Excellency are required before an exchange can be ratified and made permanent. As everyone concerned is satisfied with the proposals I have no hesitation in submitting the present resolution for the approval of the Council.

MR. HARRAGIN seconded.

The question was put and carried.

TEA ORDINANCE, 1934

CONTINUATION OF

MR. KILICK: Your Excellency, I beg to move: "Be it resolved that the Tea Ordinance, 1934, as amended by the Tea (Amendment) Ordinance, 1938, shall remain in force until 30th September, 1943". Hon. members will be aware that the existing ordinance, which expires on the 31st March of this year, provides

under the international tea agreement for a fixed allocation of tea planting acreage to this Colony. The acreage for the period 1934 to the end of March, 1943, is 3,500 acres. In April of 1942 a motion was placed before this Council by the noble lord the hon. Member for Rift Valley to the effect that all restrictions on the planting of tea in this Colony should be abolished, though he indicated in moving the motion that he was in favour of controlled planting. That motion was carried.

I should like, if I may, to indicate very briefly what has taken place with regard to negotiations with the International Tea Committee since February, 1942. In that month a telegram was received from the Committee stating that they had asked the participating Governments to agree to an extension of the present scheme as it stands for the duration of the war and for a period of two years after the cessation of hostilities. On receipt of this telegram, representations were made by Government against the renewal of the agreement in its present form, with particular reference to the restriction on the acreage that could be planted, but stating in the recommendations made that Government favoured controlled planting, and I think hon. members will agree that the main objection to the Ordinance as it stands at present, the one contentious section, is that section which limits the acreage that may be planted in this Colony to a figure below an acreage which can profitably and economically be developed in Kenya. Given an acreage allocation to this Colony that is considered equitable, I consider there is much to be said certainly for controlled planting and for the restriction scheme in that since the restriction is already on an international scale the price of tea has almost doubled.

As a result of the representations to which I have referred, the International Tea Committee agreed to an East African representative on that committee, and the late Mr. Holm willingly agreed to press Kenya's case for an increased allocation at meetings of the International Tea Committee. The news received only a few weeks ago of the death of Mr. Holm brought very real sorrow to his many friends in this Colony and great regret to all those who had such admiration for the work which he did for the benefit of

[Mr. Killick]

Kenya agriculture during the time he was Director of Agriculture in the years 1919 to 1933. It was characteristic of Mr. Holm's energy and ability, and an indication of his very great interest in East African affairs, that on his retirement he became vice-chairman of the Joint East Africa Board from 1935 to 1941. He accepted nomination on the Flax Committee of the United Kingdom Ministry of Supply, and agreed to press Kenya's case for equitable treatment under the tea restriction scheme by accepting membership of the International Tea Committee. It is to be regretted that his untimely death prevented his pressing Kenya's case on that committee. I can state that Col. Walker has agreed to accept membership of the committee in place of the late Mr. Holm, and I feel sure he will do his utmost in this connexion. He has been briefed to place before that committee a strong case for an additional acreage allocation and also some minor amendments of the existing scheme which this Colony considers desirable.

The Government has placed before the committee a claim for an additional 4,000 acres during the period of the war and to cover two years after the war, a figure which is considered all that is necessary to meet present and immediate potential requirements. This resolution is to meet the position which will arise at the end of March, 1943, if the life of the Ordinance is not extended. Of the 2,000 acres which may be planted during the period 1939 to 1943, 1,975 acres have already been planted, 225 acres are ready for planting in the coming rains, and there is a balance of 300 acres. It is most undesirable that this unplanted balance should lapse, or alternatively that at the end of the restriction period there should be a scramble for planting what may turn out to be uneconomic acreages. The prolongation of the ordinance will enable licensees to complete the planting of their allocation, which will prevent any attempt at speculative, uneconomic and uncontrolled planting, and will give time for further consideration of the restriction scheme in general when we hear the result of Col. Walker's negotiations with the International Tea Committee.

MR. HARRAGIN seconded.

MR. WRIGHT (Aberdare): Your Excellency, I oppose the motion, and in doing so I want to say that, from what I have heard mooted in the speech of the hon. member who is unfortunate enough to sponsor such a wretched motion, ever since the war began we have pleaded and pleaded that in Kenya, being a proved tea country, facilities should be afforded settlers, large and small, so to develop their interests that add to the wealth of Kenya. It has long been suspected, and we now know, that neighbouring territories under a foreign flag have British capital actively working for the development of tea propositions right up to the boundaries of British Nyasaland. I have this morning, in accordance with my promise to you, sir, last year, received a cablegram which gives an indication of the trend of the times on behalf of certain British capitalists who are allied closely with vested interests that would preclude development under the British flag to foster almost what I call enemy propositions: "Zambesia Exploring Co., Ltd., capital 870,000 shares; 865,083 ordinary stock £1 units, 4,917 shares £1 each; directors—Godfrey Cresswell Hutchinson, Grosvenor House, London; barrister, General Sir Francis Wingate, Lieut. Colonel Henry Greenwood, Colonel Francis Bera Follett, Maurice Hely Hutchinson, D. Antonia D. Almeida, Count de Lavradic, all British except last Portuguese stop Secretary not disclosed, shareholders Miss A. M. Ainger, Edinburgh; 2,700 shares, Philip Antribus Alcester 1,416, Harold Ashworth 1,500"—I will not read the shares—"John Gibson Auger, Edinburgh, nominees Union Bank of Scotland, Midland Bank Executor and Trustee Co., Midland Bank Dale Street Liverpool Nominees, Ltd., Constance Mary Jones, Hugh Mair Wilson, Birmingham and District Invest Trust, A. G. Botsford, British Linen Bank Edinburgh Nominees Ltd., Alfred William Lea, Cox & Co. Nominees Ltd., Valerie Margaret Claude, Swiss Bank Corporation, Bank of Scotland, Banque Belge Pour L'Etranger Overseas Ltd., Barings Nominees Ltd., Mary Anderson Beatty and family". These, sir, are practically all good British names of good British people.

We know, and the Director of Agriculture (who is regrettably ill today) is well aware, that while he was Director of

(Mr. Wright) Agriculture in Nyasaland active tea plantings were going on right to the boundary, in Portuguese East Africa, touching on Nyasaland. He, in common with many of us, properly deprecates these activities while our own people, on our own land, in a young clean British territory, are denied by these vested interests the right to extend our tea planting. It is some time since the noble lord the Hon. Member for Rift Valley put in a protest, it is some time since you, sir, went home and interviewed the Colonial Office, and, I believe, the vested interests, and I had hoped that we would have from you a more hopeful message than this which has been put across us at 10 days' notice, and I beg to lodge my most emphatic protest against this motion.

MRS. WATKINS: Your Excellency, I have only a few words to say on this, but speaking for Limuru, one of the biggest tea areas in this country, I should like to associate myself with our leader's words, and we do feel very strongly that we should be allowed to grow more tea here in Kenya now, without any postponement and without any question of permission from London. I know we have an agreement, and I know too that wars break agreements, and one of the most valuable things we can do for our country now is to grow the food and the tea and the necessities which we know will be wanted later. It seems to me deplorable that Portuguese East Africa, with British capital, should get ahead of us in this way. I am very much hoping that this war legislation will be the beginning of the breaking of these rings of vested interests which are suppressing not only the planters of this country but the natives of this country down to their present level.

MR. KILLICK: Your Excellency, I am very much in sympathy with the remarks of the hon. Member for Aberdare with regard to the point he made, that this Colony should have, whether under an agreement or otherwise, a bigger acreage planted with tea, a crop which we know is eminently suited to the Colony. At the same time, I do feel that it will be desirable to retain the provisions of this ordinance for a further period of six months. I make this statement for the following reasons. I doubt very much whether it would be possible in present

circumstances to plant a very big acreage. In fact, it would be possible only to plant a limited acreage, between 31st March and 30th September. In the first place seed supplies are in many cases not available. Secondly, the land has to be prepared and made ready for planting, which should by now already have been done. We have had advice that we may reasonably expect a favourable reply to the negotiations which are now taking place in London, and I should say that in the brief given to Col. Walker we have included not only a case for a very considerable increase in acreage but also the point made by the hon. member, namely this question of unlimited and uncontrolled planting in Portuguese East Africa and in the Belgian Congo. In that brief also is included a request that what one may term "local markets" such as the Belgian Congo and Sudan are excluded from the export quota. I do suggest that since it is desirable, whether under an international scheme or under some local legislation, to control planting, nothing will be lost, and there is a good deal to be gained if we await the result of the negotiations taking place and give the present ordinance a further lease of life for a period of six months.

HIS EXCELLENCY: Before I put the question I should like to add this by way of explanation so that Council may realize exactly what we are proposing this morning. The real object of this motion is to stabilise the position as it is to-day for six months, because the negotiations now going on in London for which, as the hon. member has explained, we have fully briefed our representative, have not yet been completed. As soon as we know the results of those negotiations we shall be able to see the whole picture in the light of those results, because I would remind hon. members that while I am second to none in my desire to push tea here in suitable economic areas, we must remember that this international agreement is designed to protect as far as possible interests of tea producers generally, and that there are other territories in the British Empire besides ourselves who are very vitally concerned in the whole question of the outcome of these negotiations.

The question was put and carried by 29 votes to 9:

Ayes.—Mr. Brown, Major Cavendish-Bentinck, Messrs. Daubney, Gardner, Harragin, Hebden, Hodge, Hosking, Hunter, Izard, Kasim, Killick, Lacey, Montgomery, Mortimer, Northrop, Paroo, Patel, Paterson, Pedraza, Rennie, Robins, Shamsud-Deen, Soud bin Ali, Stronach, Tester, Thakore, Tomkinson, Wilson, 29.

Noes.—Messrs. Cooke, Couldrey, Col. Gherrie, Col. Kirkwood, Mr. Nicol, Lord Francis Scott, Mr. Vincent, Mrs. Watkins, Mr. Wright, 9.

COLONY'S FOOD POSITION AND MAIZE CONTROL

MR. COULDREY (Nyanza): Your Excellency, I beg to move: This Council, in view of the very serious food position in the Colony, requests the Government to appoint a Commission to ascertain the cause thereof in order that adequate steps may be taken to prevent a recurrence, and that such Commission be instructed particularly to ascertain whether or not the control of maize has been administered efficiently and in the best interests of the country.

In speaking to this motion, I would first point out that it has been framed in terms of studied moderation in the very sincere hope that Government will accept it. It is not an obstructionist motion, it has not been framed merely to embarrass the Government but, as I hope to prove, it has been framed to be of constructive use to Government. It is true we are asking for an inquiry, and so I naturally do not attempt to prejudice the findings of such an inquiry, and I ask for nobody's head on a charger. The motion reads: "That in view of the very serious food position in the Colony"—I imagine there is no necessity for me to prove that there is a serious food shortage, I imagine that all sides of Council will concede that. There is one aspect of the food shortage to which I want briefly to refer. Since I have been in Nairobi I have been surprised and alarmed to find that there is, I think, on behalf of Government a sense of complacency about this food shortage. Just because one, or possibly two, cargoes have been diverted from their proper destination and have reached Mombasa, Government seems to me, I may be wrong, to be unduly complacent about it. In my opinion, one of the most serious aspects of this food shortage is being for-

gotten. On the 27th August of last year you, sir, when in London gave an interview to the Press; a few weeks later, before returning to the Colony, you broadcast to the Empire a report of what this Colony was doing in the way of production not merely to feed ourselves, not to provide for a food shortage for ourselves, but to play our part in that immense struggle in which our Empire is engaged—in other words, as far as we could to feed or help to feed the armies in the Middle East. That was less than six months ago. To-day, so far from us feeding the armies of the Middle East, the army is in fact feeding us, so far from helping the Empire in its struggle, we have had to call on the Navy and the Merchant Service to bring food at a great expense, which does not quite so much, perhaps, matter, but at great risk to themselves, which does matter, in order to cope with the present unfortunate position. That is all I will say for the moment about the food shortage.

We ask you to appoint a commission of inquiry. The moment one begins to speak about a commission of inquiry the thought immediately obtrudes on one: Why at a time like this should there be a commission of inquiry at all? It is agreed and is acknowledged by everybody in the country to-day, official and unofficial alike, that we have a great task to do and are involved in a heavy strain, why should we add to that strain by asking anybody, be he unofficial or official, if not to give evidence before that inquiry anyhow to prepare evidence. Would it not be better to say, "We are in a mess, whoever's fault it is, let us all co-operate and let us pull together to get out of the mess". Naturally that aspect of the situation was given very close and very considered deliberation. We discussed it at very considerable length but, after having discussed it, we came to the considered and unanimous decision that we must urge for an inquiry, for two reasons. I will take these reasons one by one.

The first reason is that there is a very wide divergence of opinion as to what the factors really are that have caused this shortage. Government on one side have given the official version. We—and when I say we I mean the bulk of the country—believe there are other reasons. It is pretty obvious that if we are to prevent a recurrence of this state of affairs we must

[Mr. Couldrey] at least agree on what the factors are which brought about this state of affairs. I think you will concede that. On that ground alone we must ask for an inquiry. I have stated that we do not agree with the official version of the reasons which have caused this very deplorable state of affairs. As I understand it, the official reasons are these. A short time ago it was reported over the wireless and was reported also in the Press, that the Right Honourable the Secretary of State for the Colonies in the House of Commons, in response to a question, stated that the reason for the food shortage in Kenya was the failure of the short rains. Many recent Government communiqués have stated that the reason for the food shortage was the failure of the short rains plus the undoubted fact that we are, or we were, feeding an increased population. And you, sir, in your speech from the Chair at the opening of this session of Legislative Council, gave a few minor contributing causes. We on our side of Council say, at any rate I believe, that you have forgotten or omitted what are the probable, the real facts, that brought about this shortage, and I must briefly tell you what they are. I believe that the main reason, the main factor, which has brought about this food shortage is the total failure of Government, in spite of warnings and until too late, to appreciate the real condition of agriculture in this country and to appreciate the fact that the production of essential foodstuffs had fallen to a dangerously low level. (Hear, hear.) I believe another factor is the total failure of Government, in spite of warnings and until too late, to take into account the probabilities of the rain falling us and a drought, and that when the probability of a drought did become apparent, when it was obvious that it was a very likely contingency, they failed, until too late, to take adequate steps to meet that condition. You will appreciate that my case is not that they have not taken steps, but that in nearly every instance steps were taken too late. That is what I believe to be the main and principal factor which has brought about this present very acute food shortage.

Having stated that there is this divergence of opinion, and having told you what the difference is, and having asked for an inquiry to verify or refute the sug-

gestions, I must, of course, produce a certain amount of evidence; sufficient anyhow to show that we have a prima facie case to go to such an inquiry. I said, sir, that I believed the first reason why we are in this position is the total failure of Government, in spite of warnings, so that I suppose that I have got to produce evidence that you were warned. I have in front of me voluminous Press cuttings. I do not see why I should be reticent on the subject—they are from the paper I control, and actually the articles were written by myself. They go over a long period, and it was the only sphere in which I could then warn anybody. I do not propose at this juncture to read these articles; if my statement that you were warned is challenged in debate I am afraid that I shall have to, when exercising my right of reply, put you to a very great deal of boredom in listening to the warnings which I maintain I gave you. But I must produce some evidence. I therefore propose to read to you a not very long extract from the speech made by the Chairman of the Kenya Farmers Association on 23rd December, 1941, nearly 15 months ago. I have chosen the K.F.A. as my evidence that you were warned, largely because you, sir, in your opening address to Council yourself quoted the K.F.A. on many occasions, and therefore I think we can get mutual agreement that when it comes to the question of maize or maize production the K.F.A. is a competent authority. This speech was made by the chairman, who is a member also of the Agricultural Production and Settlement Board. Among the audience was the then general manager, a gentleman who has now taken high office in the Government. I imagine it is a high office in Government because I learn that he receives a high salary and I know that in Government circles the height of the office is measured by the terms of salary. I do not know, of course, but I presume, knowing something about chairmen's speeches, that the general manager had something to do with the construction of that speech. Anyhow, I think the fact that he was there and that he has taken high place in your councils, is proof, or will be when I have read the speech, that Government were warned.

I must read the speech because naturally I have not memorized it. He said, dealing with maize: "Speaking of

[Mr. Couldrey] maize, the chairman said the net pool price of Sh. 5/88 is a direct condemnation of the policy of Government towards one of the most important industries, as the future position of maize production will affect every consumer of posho throughout the country. As a result of both Government"—(and I ask you to note this)—"and unofficial opinion not accepting this maize question as a 'national' problem, my board asserts that the country is being allowed to drift into a crisis in the near future, when the Colony will not grow enough maize for its own consumption and that required by adjoining territories". The difficulties, he added, were small compared with the very much bigger issues at stake. He summed up the main points of the position as follows:—"The European producer continues to be steadily driven out of production by a perpetual uneconomic price, which price is worse to-day than it has been for some years, especially so when the increased costs of production are taken into account. He is seeking and finding other sources of income which give him a reasonable profit". The chairman then talked about native maize. If Government so desire I will, of course, place this extract from the speech in their hands. "Steady deterioration of the fertility of the soil in native reserves continues to take place as a result of uncontrolled maize production. The native population is increasing, and therefore it is becoming a bigger consumer of the maize it produces. It is generally agreed by those who are in a position to know the facts, that native production for export outside the reserves has reached its peak and is on the decline. In fact, the Director of Agriculture stated he considered reduction should take place in the reserves in order to preserve the proper balance as between arable and stock farming". Now I come to what I think is the most amazing piece of prophecy I have heard for some time: "Now with the inevitable development after the war throughout the Colony, and with the knowledge of the facts about European and native production, it is obvious that a crisis is slowly but surely looming up ahead and may well come much sooner than anticipated, should drought conditions assume serious proportions at any time".

That, sir, I repeat, was read at the annual general meeting in Nakuru of the Kenya Farmers Association as long ago as December, 1941. I maintain that that speech supports my contention that you were warned. Now I have got to prove that such steps that you took after being warned were too late. I think it was the 7th December that Japan entered the war against us. You, sir, three days later from the Chair said that with this new enemy the lot of Kenya was to redouble its efforts. That, sir, I think was the 10th December. It was not until the end of February, three weeks before the outbreak of the long rains that we had, that you took action, that we were given these guaranteed prices and other inducements to increase our production. In this respect I want to pay tribute to the Government or Government department, if the Agricultural Production and Settlement Board be a Government department. Memories are proverbially short, and are just as short on this side as they are on the other side of Council, and we are sometimes inclined to forget the great part that the board in general and the chairman in particular, my hon. friend the Member for Nairobi North, did play in inducing Government to take measures which I freely admit were adequate and good measures had they not been too late. You cannot get away from those words—"too late". Now, about this failure of the short rains which, as far as I know, Government contends has been the main cause of this terrible position. We, of course, do not contest it was a failure. We do not doubt for one moment that this failure of the short rains was a considerable factor in the food shortage, it probably was the last straw that broke the camel's back. Now, sir, in your speech, you said that the full extent of the failure, of the short rains was not realized until the end of December or the beginning of January, but surely, sir, by October or November it must have occurred to somebody that there was a very strong probability, or anyhow that there was a contingency, that the short rains might fail entirely. This is no new occurrence, the failure of the short rains. I have before me, or I had, an editorial in a medical journal written I understand by the hon. Director of Medical Services, and he says this, and this is said by a senior member of Government: "The present grave

[Mr. Couldrey] shortage of grain, and more especially of maize, is not entirely due to the failure of the short rains. Throughout the ages our short rains on occasions have failed, and so on. Surely somebody by October or November last year must have realized, it must have occurred to them, that the short rains might fail, and yet the steps to meet the possible failure of the short rains were not in fact put into effect until March. I submit, sir, that that is proof that the steps which Government took were too late.

That, sir, is roughly my case for a general inquiry, but I must for a moment refer again to that speech Your Excellency made at the beginning of the session. If I may digress for a moment, I want to make a personal explanation. It is, of course, well known that an address from the Chair on an occasion like this is in fact a sort of symposium composed by the various heads of departments, and so you will therefore, I hope, sir, acquit me from any intention of discourtesy or disrespect to yourself if I criticize that speech somewhat severely. I listened to it very intently. I believe that when you consider the circumstances under which it was delivered—the food shortage outside, natives being dismissed because there was not enough food to feed them, industries faced with prospects of closing down—I do not think I am exaggerating, sir, when I say it was the most unconvincing, uninspiring apologia of Government action, or rather inaction, to which it has ever been my lot to listen. It started off by saying, "I know many people are asking how has this situation come about with such rapidity". I am very glad to see that it is appreciated in Government circles that people are asking that question. I think that supports my claim that there should be an enquiry. Then, sir, you gave many reasons, after a whole mass of statistics; you gave many small contributing factors. You explained that the K.F.A. gave varying estimates and various estimates came from the officials in charge of the native reserves, and that apparently was one of the reasons why steps could not be taken before to meet the contingency of drought. Now I think everybody who has lived in this Colony any length of time and who has had anything to do either with the farming or the examination of estimates will agree

that in a year like last year, with very difficult meteorological conditions, the wonder is that the estimates were so good as they were; not that they were so bad. Anyhow, in case anybody infers from Your Excellency's speech that there is any slur on the K.F.A., I would at least point out that their estimates were as good as those made by your own officials in the native reserves.

Then you say that there was a shortfall on deliveries of maize. "I am informed that a shortfall of some 380,000 bags can definitely be ascribed to the failure of the short rains crop which, although planted, did not mature owing to drought conditions." (I am not questioning that). "This leaves a shortfall of 274,000 bags to be accounted for"—to be accounted for! It is incredible to me that somebody sitting on the other side of Council, because they are able men, could not appreciate that if you feed maize to pigs and if you feed maize to stock you cannot at the same time keep it for human consumption. You state that another consideration is that there is more money in the reserves and that the natives are buying food. Surely, sir, that is a condition that the officers in charge of the reserves should have known before it was too late; and yet all these factors are only taken into account when it is too late. Then, sir, you gave details of certain steps you were taking on the 21st October and again in November. It seems that somebody at that time had begun to appreciate that the rains might fail and did take certain steps. My contention is that the steps—the real steps—the steps which were taken in March—were taken too late. The whole tragedy of the history of this food shortage lies in those words "too late."

There was one thing in your speech, sir, and I listened very attentively, which gave me satisfaction: for the first time, as far as I have heard in any official pronouncement, you did talk about shame. That is at least an indication that it is beginning to occur to the Government that there is some reason for them to feel shame about this situation. I agree entirely with you that the Colony has no need to feel shame, if by Colony you mean the producers, whether they be European or native. But I do believe that someone should feel shame, and the inference is that if it is not the producers

[Mr. Couldrey] and not the natives, then it must be the Government. I hate inferences, so I will say straight out that I believe the Government should feel very much ashamed of the present position.

That is my case; it is a brief case and only the outline, and I dare say other speakers from this side of Council will add their quota to our request that you will grant an inquiry. But we have gone further than asking merely for an inquiry; we have asked you to give specific terms of reference to such commission as you may appoint to make this inquiry: "and that such commission be instructed particularly to ascertain whether or not the control of maize has been administered efficiently and in the best interests of the country." We ask you, sir, to appoint that commission and to give it these specific terms of reference. Now I personally believe that if the Government swallows the camel by appointing a commission at all, it will not strain at the gnat of giving that commission these specific terms of reference.

There is no Government action or Government department, as far as I know, that has caused so much controversy and so much discussion and so much dissatisfaction as this Maize Control. I regret that I must bore you by giving a very brief outline of its history. On 1st July you appointed a Maize Controller; there again it was too late, he should have been appointed long before. However, you did appoint him and I believe it was a very wise and a very judicious appointment. Had anybody been hung for making that appointment, definitely my head would have been in the noose alongside his, because I believe at that time it was the wisest appointment you could have made. But shortly after his appointment disconcerting events occurred. A maize control scheme was introduced. It was a most iniquitous scheme which aimed at setting up a big Government trading organization and at subsidizing European maize at the expense of the native. Anyhow, whether it was iniquitous or not, Government themselves withdrew it. I hope they withdrew it because they realized it was giving the natives an unfair deal, uncharitable people say they withdrew it because of popular clamour. Anyhow, they substituted another scheme in its

place, and that also did not give very much satisfaction. Two deputations went to His Excellency the Governor: one to the hon. Chief Secretary when he was deputizing for you, and on your return one went to you. These delegates were reputable men engaged in the production of maize. They objected to the system of maize control and, I understand, to the personnel of the Control. You upheld the personnel of the Control; may be you were right, may be you were wrong. It is to decide whether you were right or whether you were wrong that I ask for an inquiry. The Agricultural Production and Settlement Board which you, sir, had established and which was a statutory body, passed a *nem. con.* resolution asking for a change in the personnel. That, as far as I know, was refused; anyhow, they received no answer for a long time, and as far as I know it was refused. The Maize Control Board, or the whole of the European producers on that board, voted for the resolution asking for a change in personnel. That resolution was defeated by the hon. Financial Secretary, the Deputy Director of Agriculture, and another member voting against it, and by my hon. friend the Financial Secretary exercising, as of course he was entitled to do, the right of the chairman and voting twice. I only quote these facts, sir, to show that you were warned, that you must have been aware that there was dissatisfaction about the Maize Control.

Then about January something happened. I do not know what it was, but all of a sudden on 25th January a change was made in the person responsible for the distribution of maize. Immediately all the preparations, all the arrangements made by his predecessor were cancelled. Steps, drastic steps, were taken to prepare the country for rationing. Now I submit that that alone is proof that up to 25th January something had been wrong with the operation of the Maize Control. My own belief is that after having ceased to be a huge trading organization, it merely turned into a distributing agency, and instead of being a control, in the true sense of the word, all that the Maize Controller did was to gather maize in one hand and distribute it haphazard with the other. I must, however, ask that the Maize Control must be included in these specific terms of reference for other reasons. It cannot be unknown to Your

[Mr. Couldrey] Excellency, it cannot be unknown to any member of this Council, that there has been a lot of ill-founded talk, ill-instructed talk, and although I am not a lawyer, thank goodness, there has been a lot of what I should call libellous talk about this Maize Control. I ask that in justice to you yourself, in justice to the members of the Agricultural Production and Settlement Board which made representations to you, in justice to the Maize Control Board, and above all in justice to the Maize Controller, an inquiry must be held.

That, sir, is my case for an inquiry, but I told you that I had two reasons, and so far I have only dealt with the first.

The second reason is this. In my opinion, it can only be an opinion, we are not yet out of the soup. You said we should get through, and I agree with you, we shall, but we have got some very difficult days ahead of us. At another conference recently held in Nairobi one of your senior officials stated that in the Machakos area the early planted crops, not only of maize but, what is more disconcerting, sweet potatoes and muhogo, had been eaten by locusts. I do not know the latest position, but yesterday in the Nyanza reserve, where 600,000 acres were planted with maize and other foodstuffs, they were in grave danger of failing completely unless we get rain within the immediate future. I am not unduly depressed, this country has marvellous resilience, and we have a marvellous recuperative capacity, but we must at least take into account the contingency that things may get very much worse in the country before they get better. If we are to pull through and to make every real effort to assist you, sir, to pull through, it is essential, absolutely essential that the Government should have the confidence of the country. As I view my position in this Legislative Council, it is that I am elected to give Your Excellency advice on purely local matters because of my local knowledge. If that be a true appreciation of the case I should be failing miserably and badly in my duty if I did not warn Your Excellency that the Government of which you are the head has lost to a dangerous degree the confidence of the country. I believe Government is making efforts to regain it, and I think successful efforts.

The delegation of authority to the Agricultural Production and Settlement Board and through them the decentralization to sub-committees up country has had, I think, a beneficial effect. I also believe that Your Excellency's visits up country and your promise made the other day that you will when opportunity occurs make further visits, will also have a good effect. I believe the very summoning of the conference held in the last two or three days has also had a very good effect.

But I must warn you, and I would be failing in my duty if I did not, that if the country gets the impression that whatever happens Government's first concern will be to cover up the mistakes and to shield offenders, you will not regain the confidence of the country which you need.

That, sir, is my second reason, and I would repeat that my charge against the Government is not that they have failed to take steps, and in some cases very drastic steps, but that they are all the more drastic because they took them too late. The whole of my charge against Government is that for some reason or other—and what the reason is is one of the charges of the inquiry—they have always acted too late.

MR. VINCENT: Your Excellency, I have pleasure in seconding this motion, because I believe that it is in the best interests of the country and of the Government that this inquiry be held. It will clarify a most distressing position, and I am certain it will be welcomed by the Maize Controller and farmer alike and consequently disprove a number of untrue and false statements which have been made about both. You will probably have realized that the wording of the motion is very concise, for we felt we would not insult the intelligence of Government by adding such words as "an impartial commission." We have great faith in the fact that you will see that the personnel of this commission is entirely impartial. We also did not add the words "and to make recommendations for the future," which, of course, is understood in the motion, but I will point out in a minute that unless we do get something out of this commission it is going to be futile. I believe that this commission can be of the greatest value to the country, if it is allowed to be

[Mr. Vincent] constructive, and it will link a number of factors which need linking even though we have so many Controls set up, which will enable us to go forward on an efficient basis in the future.

The hon. mover has dealt with one phase of this motion. I propose to give you a brief outline of what the commission in my opinion should investigate. There are so many points and so many complexities which will arise as a result of this motion that the commission will be hard put to it to know which is the most important. But I will now give you one or two ideas as to what must be done if this is going to be any good. The weakness of the position, as I see it, has been the inability in the part of anyone to procure figures which were of any use for any length of time. We have had no figures of production and the real requirements of each area, and I would ask you to cast your memories back to the 22nd October when the figures which had been produced at that time made everything look safe or satisfactory, whichever term you may choose, but on the 26th October the Maize Controller, or he may have been then only the Director of Produce Disposal, warned the authorities in writing that the position had deteriorated or degenerated "in the last 48 hours, and was therefore likely to become critical." In all the discussions which one has heard on this matter, the element of time has been forgotten to a very great extent. It was evident to me when I was in South Africa just a few weeks ago that a famine can arise very quickly, without any warning in certain circumstances, because conditions change in a few days. I think in this case ten days, from conditions of an expected surplus for exportation to famine conditions. Therefore I think a point which the commission must decide in their minds in the first place is, are we getting reliable figures now and, secondly, could we in the time and under the circumstances that this condition arose, have done two things: produced any more or rationed any quicker in order to conserve our supplies?

The basis of the restriction of prices of all produce in the general controversy has been judged by many to be the cause of shortages generally, and arguments have been fierce, and there is still a great

deal of divided opinion, but one thing is certain, and I say it without fear of contradiction, that the greatest possible mistake was made in the beginning. I maintain that it is wrong to base produce prices under war conditions when they are controlled on the immediate pre-war prices and add additional costs to get your controlled price, especially if they were based on a depressed market. After all, farming must be taken over a cycle of at least five years in good accounting, and by fixing your prices on a depressed market figure you just defeat your own object of desired equity. I believe that that was one of the basic causes of a great deal of the trouble. I do not want to exaggerate it, but I believe that principle is entirely wrong. I agree that pre-war prices were very often governed by the imported cost of commodities such as flour and allied products, and it is not my intention to suggest that under those circumstances of very high freights and costly insurance and allied charges that we should base our prices on that extreme to-day, there is reason in all things! But I do maintain that either extreme is wrong, and there is a medium line which is both a good and fair price, and above all a psychological price to encourage production. I want to give you an example. Our first object should be one of self-sufficiency in each particular area, and I know an example in a neighbouring Colony where farmers in an area which was far removed from communications made an application to the Controller for a reasonable price for a crop. That price, let me tell you, was miles below the price which it would eventually cost to import into that area from Kenya or elsewhere. There was inadequate production for the area, because the Controller refused on the ground that the farmers "should not make money out of the war," and there was also a waste of valuable transport, the denuding possibly of some of Kenya's valuable supplies, and the whole area was struck with famine conditions. This same request by the farmers for a fair price admitted of no argument, except sheer bone-headedness on the part of somebody, and that bone-headedness on the part of one individual affected probably thousands, and caused dislocation, suffering and famine.

Another point which I would ask Government to consider is that districts nor-

(Mr. Vincent) mainly at a disadvantage for export because of lack of communications when war conditions do not prevail, should not be at the same disadvantage to-day. You cannot have it both ways. They are in a fortunate position to-day, and if in a locality where food is wanted they can rightfully ask for a logical price, not merely X per cent above what it cost them to produce but the real value of the stuff under the circumstances. Therefore, the policy of self-sufficiency in each district and the economic movement of crops must be an integral part of the inquiry, and merits the closest possible investigation on the part of the commission. Again, whereas the growing of maize by certain industries for their own consumption has been uneconomic because of the low cost, I claim that conditions to-day merit a complete review of the situation. I am aware that planting orders have already been given to some sisal estates, but I believe that if the commission agrees that self-sufficiency of each area and the shortest possible movement of food supplies to the logically correct area is their first objective, then this policy must be followed through to the bitter end. I know it is quite easy, when you know what you have got to transport and where it is coming from and when you are going to get it, to plan to put the crops where they should be, and I appreciate the difficulties there have been in the past, but with the present condition of planned production, which we have today, given rain, this difficulty should entirely disappear. Take a case in point to elaborate what I mean, because I do believe in practical detail. There should be nothing to prevent Sotik area from supplying the thousands of bags of maize required by the Kericho tea companies. The ludicrous position has been that, because that area could not guarantee to supply the quantity required under the contract with the tea companies, maize was imported by rail from Nakuru to Lumbwa, and brought 22 miles to Kericho by road. In 1941, 5,500 tons of maize and maize meal was exported from that very area 52 miles by road through Kericho, to Lumbwa station, then railed to other points of distribution, probably Nakuru. I maintain that those conditions should be investigated, and the Sotik area should be made to produce the requirements of

the tea companies, thus saving an enormous wastage of both road and rail transport, when you come to consider that Sotik is about 51 miles from Lumbwa. The Assistant General Manager of the railway, with his usual efficiency, plotted some months ago what he termed "Details of uneconomic movements of certain commodities," and we found sugar was coming to Nairobi from Uganda to a military depot and being re-railed to Uganda for distribution to camps, and the cross-movement of maize was most perplexing. It may have been aggravated by the shortage and the difficulty of getting maize into the right area and at the right time, and I was not able to ascertain this morning the period of time that those figures related to, but movements must be controlled and be economic. I therefore ask Your Excellency that an expert on railway movement be included for practical purposes in the personnel of this commission.

There are a number of other points which I am sure the commission will have to face, but one I would mention, because it is elementary, and perhaps the most important. They will have to decide, in my opinion, what crops should be retained in the country as an insurance against similar conditions that exist to-day, and if the storage is there to hold it, I wonder if there has been sufficient storage in this country to hold the surplus maize which we would have got had the rains not failed? To turn to the sordid side of the inquiry, and I hate to do it, it will be essential to investigate all the allegations against everybody, including those instances which have tended to wreck the efficient working of the Maize Control. As an example, I have it alleged on excellent authority that in one case 5,000 bags of maize went into a certain mill operating within the framework of the Maize Control and 3,500 bags of mealy-meal came out: what happened to the other 1,500 bags I leave you to imagine! But if this is true, and it can be proved, I say without fear of contradiction it is a case for penal servitude or worse.

I am not going to take up any more of the time of the Council, but I would finally say that I hope Your Excellency will make the terms of reference of this commission extremely wide so as to admit of its recommendations being so con-

(Mr. Vincent) structure as to be of extreme value to the country. The mere condemning or white-washing of members of the community or expressions of opinion on the causes of the food shortage and the working of the Maize Control is not all that is wanted or expected, and I think you will readily appreciate that, sir. Constructive recommendations to prevent a recurrence of present conditions and to make control and distribution efficient, is what is required. Otherwise, in my opinion, the result will be entirely abortive and defeat the whole object of the commission of inquiry.

MR. TESTER: Your Excellency, I think hon. members on both side of Council should be very appreciative of the illuminating and clear speeches of the hon. mover and seconder, which put this very interesting and important motion in a light which we can all perfectly understand. The motion deals principally with three points; that is to say, the cause of the food shortage, the steps to be taken to prevent its recurrence; and the distribution programme of the Maize Control. Before dealing very briefly with the cause of the food shortage and the steps taken to prevent its recurrence, and on those two points I shall not have a great deal to say beyond the effect they have on the Maize Control, before dealing with them briefly I should like to say that I consider the terms of the motion most legitimate and proper, and that it is most essential to the country to have the fullest information possible. (Hear, hear.) In India and South Africa, the Rhodesias, Tanganyika and Uganda and other places as far as I know they have not asked for a commission: I think that perhaps this is another case where Kenya will lead and other countries will follow, because it is a well-known fact that the shortage of food in those territories has come upon them just as suddenly and, I do not suppose, with as much warning as here. While the country is entitled to the fullest information, I am not sure whether a commission is the best means, but I think the hon. members opposite, who are in close touch with their constituencies, are extremely good judges of that. I also wonder whether they think it is worth while in view of the time that will be taken up in the inquiry. The hon. mover has given this point his attention

and says that he thinks it is worth while. In these circumstances, sir, I have your permission to say that Government have not the slightest wish to stop an inquiry by way of a commission. (Hear, hear.)

Now I will turn to the motion, and the first part of it—the cause of the food shortage. As I said a few moments ago, I do not propose myself to deal with this in a thorough manner because there are members here who have had longer experience of Kenya for one thing, and know perhaps the past history of it better than I do, and they will no doubt take it up. But there was a question of price mentioned. The hon. mover read an extract from the address of the chairman of the K.F.A. meeting, I understood him to say in December, 1941, and that the price of maize had been between Sh. 5 and Sh. 6 for the previous maize pool year. I do not think it extremely surprising that the price was so low, because it related to the year ending August, 1941, and to a period when one of the preoccupations of the K.F.A. was to sell maize, for at that period there was a difficulty in selling maize. Shortly after this maize was found to be difficult to sell, the hon. Member for Nairobi North went to Cairo and other steps were taken to secure markets for maize. However that may be, the chairman of the meeting made his speech in December, 1941, and in December of that same year, 1941, Government considered the question of maize prices in this Council, and a statement was made that Government would guarantee the price of maize at Sh. 8.50. It was considered that with the marketing arrangements it would permit of Sh. 9 a bag being paid for maize. That was December, 1941, and it is common knowledge that it was in the course of the next few weeks that communiqués were issued and eventually regulations passed guaranteeing Sh. 9 a bag plus other inducements. With reference to the seconder's remarks about fixing the price, he said he thought that price should not be fixed at the pre-war price plus increases in costs. As far as I am aware, Sh. 8.50 was not fixed on that basis at all. I think it was fixed on the basis of the most experienced members' estimation of the proper price. The hon. Member for Trans Nziya thought Sh. 8.50 was a proper price at the time and Gov-

[Mr. Tester] eriment accepted his advice. If that is not correct—

COL. KIRKWOOD: On a point of explanation, sir, I do not think that is correct but I will deal with that in my speech.

MR. TESTER: Anyway, the price of Sh. 8.50 was guaranteed in December, 1941. In regard to the question of price fixing, the hon. member referred to some bone-headed action in Africa, and I am very glad to say that, as he says himself it was not taken in Kenya, and I do not think it has at all been the policy of this Government to grind down and refuse reasonable prices in war-time. Therefore, I am not sure that a cause of the shortage is entirely due to delay on Government's part in fixing a price for maize. There is no doubt—and I am speaking now from the Maize Control point of view—there is no doubt, however, that the practical cause of the shortage was the drought, and the question arises as to whether when the planting programmes were set a year ago we should have foreseen the possibility of drought, and should have planted more maize first of all to provide for ourselves if there was a drought and to provide a surplus; in fact, should we have planted more maize altogether? That is a question that I personally am not very well qualified to judge, but this thought crosses my mind: If we accept that we planted as much as we could and worked as hard as we could in existing circumstances, would it have been advantageous to have planted more maize at the expense of sisal or of labour for timber? and I have come to the conclusion that it would not, because if we had cut down sisal planting, if we had cut down timber, there would have been much more shipping tonnage engaged because of this cutting down than the comparatively small amount required for the civil imports of maize which we are now getting.

The next point in the resolution is: to see that adequate steps are taken to prevent a recurrence. It is quite wrong to labour under the delusion that nothing has been done, and I do not suppose that anyone does labour under that delusion. Some very adequate steps have been taken. For example, the price of Sh. 8.50 was announced in December,

1941, and steps have been taken to let people know as early as possible the price for the crop which is now being planted, Sh. 12, and I hope that that also will be regarded as one of the steps to prevent a recurrence of the shortage. Also there are other factors which have come into prominence during the year and it has been possible for the Agricultural Production and Settlement Board to give orders for increased planting acreage, and releases from the army and so on. Then there is the question of machinery. Government has not been completely asleep about this either. Machinery cannot be or has not been obtained in any quantity at all during the year, but the Government has provided finance and requisitioned machinery for essential workshops at Nakuru and Nairobi so that within our means and without delaying anything while finance is being discussed these workshops can get on with the repair of essential machinery. Another step Government has taken in order to prevent delays while negotiations were going on about prices and that sort of thing was to advance quite a hefty sum to buy fertilizers, so that the moment a farmer wants fertilizers there is the greatest possible chance they will already be in the country without waiting, as I say, for individual bargaining with exporters abroad and importers here. Through the Agricultural Production and Settlement Board Government has done quite a lot in that respect. Also, Government has done everything in its power—I am quite convinced of that—to obtain machinery from overseas. I will not repeat what you said in your Address, sir, and what has been said at the Production Conference held lately in detail, but there is no doubt whatever that Kenya Government as such has taken every possible step to get agricultural machinery into this country. There is one step that has not been taken and which is perhaps open to some criticism: that Government has not sent anyone to Washington. On the other hand, Government has not prevented anyone from going there, and hon. members may have heard that other countries have sent people to Washington and succeeded in getting their requirements quickly. That is quite true, but the point is these requirements have not been agricultural implements. They have been supplies which are not in

[Mr. Tester] tremendous demand in large quantities elsewhere or special supplies such as rubber retreading machines for tyres which have been got quickly from the United States of America by delegations from some dependencies. Through the energy of the hon. Member for Nairobi South we also got a retreading plant quickly, and we are doing our part in getting existing requirements for machinery. I would like to remove any thought that Government has been dilatory or wrong in that respect by not sending a man to Washington for agricultural machinery, and I would like to point out again that it is a different proposition from obtaining the various imports which other people have been able to arrange by going there. Government has also taken steps—I am sure the hon. member will say "too late"—for the erection of silos for storage, if the materials can be obtained.

I have really touched quite briefly on this question of cause and the steps taken to prevent a recurrence from a special point of view and, as I said before, there are other hon. members who will deal more adequately with them. I should now like to turn to the question of the Maize Control. On the Maize Control Board there is Mr. J. Mackay (or he was until a few days ago), Mr. S. H. Powles, Major J. P. Hearle, Mr. D. Puri and Mr. A. B. Killick, and in view of the criticisms of the board I should at once like to say that I think they were a most admirably selected group of men with special knowledge, and I should like to pay tribute to their industry and attention to the affairs of the Control (Hear, hear). The Controller, as my hon. friend from Nyanza has said, was a wise choice in his opinion. This officer had been for fourteen years manager of the K.F.A., or for a long period approaching that, and the K.F.A. were apparently quite willing to pay him considerably more emoluments than Government was prepared to do. With this team we started the Maize Control in July, 1942. Whether that was too late or not is not, I think, a question which concerns the Maize Control itself. When we started the Control we had estimates that there would be 1½ million bags of maize to distribute during the year. I should like to say that from the beginning to now—and now we are beginning

to be wise after the event and that sort of thing—never have I wavered in the opinion that if we got 1½ million bags of maize we should be able to provide that the military requirements and organized labour and the usual maize eating population would have their two pounds or up to two pounds, as the case might have been. I think that point important, because it has something to do with the suggestion that there was delay and hesitation in October. We started in July. The first thing we anticipated was 17,000 bags of free maize to be available for the Control. The first thing when the returns asked for on the appointment of the Control were sorted out was that there were 56,000 bags of maize only. That was not serious in itself, but the next thing that happened was that during July to August a very cold and wet period intervened, and in July we had delivered to the Control only 14,000 bags of maize, in August only 45,000, and in September 72,000; that is to say, in the first three months plus stocks we had an average of 62,000 bags of maize a month to supply the military and civil population. That is a very interesting figure, 62,000 bags, because arrangements have been made for us to get 60,000 bags of maize or substitutes, for the civil population in Kenya in this period of food shortage; that is to say, starting next month, we shall have 60,000 bags or its equivalent to distribute. Therefore, in the first three comparatively difficult months we had a very short supply and that, I think, will be found to explain the point made by the hon. Member for Nairobi South that there must necessarily have been a great deal of cross railage and of course, no stocks could be built up. One point is that there was only one place in the country where the maize was dry enough to be ground into flour.

With all these difficulties we did have to distribute really on a hand to mouth basis for the first three or four months. It was impossible to work on a system where we could build up supplies and avoid cross railage and, in fact, we distributed to the most urgent cases, including the military which of course we could not interfere with because they were on the verge of going to Madagascar and did not want to deplete their stocks in any way. We were really not settled as regards movement and dis-

[Mr. Tester] tribution, and I think any commission that sits on this question will acknowledge that fact and agree with the hon. Member for Nairobi South that we must have reserves before we can distribute on a precise system and we must have storage. The next phase was about maize coming in from 1st October, and if you will allow me I will deal with this when taking into account the news that came in in the meantime. During the period 1st October to the end of December we had much better deliveries: 96,000 in October, 124,000 in November, and 149,000 in December. What steps did the board take in regard to these bigger deliveries? What they did was to issue maize based proportionately on requirements, as you know, from district commissioners' returns and so on, and they provided enough maize so that in February there were 90,000 bags in stock. That was done to prevent the anxiety of employers of labour who were previously kept on hand to mouth deliveries and who now knew there was at least some reserve of maize and would have made the introduction of rationing easier if it was required. I think that action was wise in any event because, just in the transition period of extreme shortage when drastic rationing had to be imposed, we were able to call on 90,000 bags from stocks held. That, I think, gives an idea of the amount of maize available and what the Board and the Controller did with it. We had about 500,000 bags in all delivered in the six months ending December, 1942, while in the beginning we expected to get 1,500,000 in three months. During that period one action was taken that may, of course, be misunderstood. We sent out of Kenya 43,182 bags of maize to Uganda, Tanganyika and Zanzibar, and the Seychelles: Uganda, 15,926; Tanganyika, 20,531; Zanzibar, 3,517; and Seychelles, 3,208. Of the 15,000 odd which went to Uganda, 5,100 were for seed, which I think everyone will agree is most important, because one of the chief steps to prevent a recurrence of famine is the fact that Uganda hopes to produce 400,000 bags of maize in July, August and September of this year. Apart from this provision, I think it will be acknowledged, and probably is, by everyone that we have got to export to our neighbouring territories in this way.

After all, it is part of our normal trade to do so, and they themselves supply us with great quantities of foodstuffs.

Now I will turn to the much more interesting question, the question of the shortfall in maize deliveries. When I spoke just now about the commencement of the Control, I said that if we got a million and a half bags, as far as the Control was concerned at least I always believed and do now that it could provide for the military and civil population and those usual exports to the other East African territories. What happened first of all? On the 21st October the Maize Board met, and the maize production estimates provided by the K.F.A. and the Agricultural Department fell to 1,395,000 bags. On that day the military were told that we could only supply two-thirds of their requirements or, in other words we could supply them up to April and in May and June they would have to look after themselves. If they looked after themselves in May and June it left us more or less with our original amount to distribute to the civil population. The question of rationing maize was raised, and there is no harm in saying that Major Hearle raised it, but for various reasons the board did not take any very active steps. Why did they not do so? Firstly, because they had in prospect as I have just told you enough to last the civil population to the end of the year owing to the steps taken in regard to military requirements. They also took into account the fact that a great deal had already been said that if maize is to be produced preparation must be made earlier than December of the previous year, and therefore the Maize Board—and I think they were quite right, statistics quite easily prove it—did not want to disturb the labour employed on breaking up land for this year's crops. That is another reason why they did not immediately take steps to ration. A further reason was that certain urgent military, naval and air force works and contracts employing civilian native labour were well ahead and were getting on to completion, which it would have been most foolish to stop without any clear indication that reduction in labour and labour rations was essential. Between that meeting and the next meeting of the board on 23rd November, the Director of Produce Disposal, who is also Maize

[Mr. Tester] Controller and a wise choice as the hon. mover has told us, rendered a memorandum showing that the position had deteriorated. On the 16th November, the military in the meantime having started an arrangement for their own supplies, the civil Government gave notice to the home authorities that they might want maize, so that was the position as far as the board was concerned, that they had in prospect enough maize to distribute for civilian needs till the next crop was due, but had also sounded a warning that we might want imports. At the meeting of the board on the 23rd November there was a further drop to 1,147,000 bags. What happened then? The question of rationing was again mentioned. It was known perfectly well then that on the 18th December a special labour return would be available which would give us further statistics to go on and would indicate whether issues of maize could be made proportionately on a reduced scale if necessary without rationing, and the military were asked to repay us in kind for anything they had from the 1st January. What I should like to make clear is that in the Maize Board on the 23rd November steps were taken or it was known that steps had been taken so that the board expected to be able to have sufficient maize delivered to it to distribute to civil labour and the urban native population, and of course that labour included a great deal of labour employed on military works, enough to distribute to those people for the rest of the crop year without any terrific upheaval or confusion which would be likely to disturb the planting arrangements and essential works, and that, to a large extent, is where the Maize Control Board, as such, ceased to take a very active part in discussions on this question of rationing, because a few days after the end of November still more alarming reports came in and the Controller then recommended that Government should take up the question of reducing the ration of posho from 2 lb. to 1½ lb. and action on those lines was taken, and at the same time steps were taken to get the district production committees to reduce their requirements of maize in the European areas. Also on December 7th, I think it was, it was decided to call for returns so that all consumers should declare their requirements.

I can say this was a communiqué, and it was not an order made under Defence Regulations. In the middle of December these people were requested to do this by the 7th January, and many have sent in returns, but in fact, Mr. Wollen, who as you know is now in control of maize distribution, stated in the conference at the Memorial Hall on Saturday, that even now a great number of people have not sent in their returns and many were inaccurate, which of course has something at least to do with any delay in getting a rationing scheme going properly. I think that this action was really sabotaged by apathy on their part, and I think that the Maize Control has a certain amount of complaint on this account.

The hon. Member for Nyanza seems to suggest that suddenly on the 26th January, 1943, the whole question of rationing was conceived and brought to fruition. That is really not at all the case, because as I have already said, it was in October that the question of reducing the ration was first considered, and it was in December when the returns were called for, and it was in January when the Maize Control office was so full of these returns that since other staff arrangements had fallen through Mr. Wollen came to our rescue and took on the task of sorting out these returns and fixing up the rationing scheme, which, as we all admit, he has done remarkably well, and we also admit that it is not working perfectly at the moment, and I think one of the main reasons is that the public was really so apathetic and irresponsible in the matter. In order to get a rationing scheme going we have to know where our stocks are. In November, December and early in January we had obtained extra deliveries precisely for the purpose of building up stocks, and on the 16th February there was a search made and there were 90,000 bags of maize in the hands of consumers, traders and millers, which in fact was what was expected. In regard to this return, which incidentally was a statutory return, I think Council will be astounded to hear that at least 1,007 people neglected to send in returns or sent in wrong returns. They were ordered to send in returns and then the search disclosed that 1,007 of them had not obeyed the order. These 1,007 cases have been sent to my

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hon. friend the Attorney General for his advice as regards prosecutions.

I hope that I have indicated that, in so far as the Maize Board is concerned, I consider steps were initiated sufficiently early in all the circumstances, and even being wise after the event, that something was done in time, and that if more pressing action was not taken it was not taken because first of all we still expected to get more maize than we have, and secondly because we did not want to upset production and essential works before it was necessary, especially the breaking of the ground. Now, Sir, I have said, I am afraid not in great detail, a few words about the cause and the steps taken to prevent a recurrence, and I also should like to refer very briefly to the Maize Controller. I think that he would welcome an inquiry, and I think it would be a very good thing if a further inquiry were held, because there has been a great deal of calumny and so on in connexion with him, and a great deal of gossip and rumour, and I feel quite confident that in his name I can say that a commission would be welcomed.

COL. KIRKWOOD: Your Excellency, I am rising to support the motion before the Council. I would like to congratulate both the proposer and seconder and think they have put up a good case, but there are so many aspects of this question that I cannot suggest that we should take the balance sheet as read. Although this is a question of a foodstuffs inquiry, it is also a very much bigger question and I propose to deal with it under three heads; that is the cause, the effect, and the prevention. The cause, before you get down to detail, generally, is the utter failure of the system of Crown Colony Government as applied to Kenya; also the utter failure of the mandated territory; also the utter failure of the system of Government in the Protectorate of Uganda. I will deal with that later.

As regards the cause, I maintain that it is due in the first place to over-selling (I am dealing with maize), over-selling, over-exporting and incompetence. As regards over-selling, in April, 1942, I was very concerned about the situation, and I had been for a very much longer time than that. On many occasions, as hon. members will remember, I have spoken

in this Council asking for a guaranteed price for maize, and that, although granted—I want to deal with that again later in some detail—was ineffective. Dealing with the first sale of 40,000 tons which was made to the Middle East by the Chairman of the K.F.A.—the sale was arranged by the K.F.A. although the sale was put through in the name of the Supply Board. There is a broken link that has got to be mended. I suggest with what you call a split link. When a link is broken, you connect up remaining links with it and then the ngombes and wagons can carry on. Most people do not connect the General Manager of the K.F.A. with the Controller, and later on the Control Board. When Col. Griffiths was General Manager of the K.F.A., he sold 40,000 tons of maize to the Middle East and that sale eventually panned out at Sh. 5.88 to the producer, a bankrupt price. The question I put on April 29th, 1942—I will not repeat the whole of the question, but the essence is this: that they had sold 40,000 tons, and the scheduled rate of shipping was October, 2,000, November 3,000, December 4,000—these are all tons—January 8,000 tons, February 8,000, March 8,000, April 7,000; making a total of 40,000 in all. Out of that they were able to deliver 6,080 and they hoped at a later date to deliver another 300 tons.

MR. SHAMSUD DEEN: On a point of order, does not Your Excellency think that the hon. member should be confined to giving reasons why this commission should be appointed, and not constitute this Council as a commission of inquiry, when all this information could be given in the commission?

HIS EXCELLENCY: The hon. member is entitled, as he is doing, to inform the Council of the grounds on which he thinks there is a case for an inquiry. I agree with the hon. member that the less we go into detail the better, as it will have to be considered by the commission, but I think the hon. member is within his rights in stating the case which in his opinion calls for such an inquiry.

COL. KIRKWOOD: The facts that I have disclosed, Your Excellency, clearly show that at that period in 1942 the situation should have been visualized correctly by those in authority. They had over-sold then, and they could not complete their contract, and the game has

[Col. Kirkwood]

went on ever since. In January I was aware that there were 5,000 bags of maize ready for railage to Tanganyika. I wired Nairobi and it appeared in the "Standard," and I got the following telegram from the Maize Control:—"Reference your telegram to Standard, the Maize board at its meeting on January 5th approved an export to Tanganyika of ten thousand bags maize monthly. The January allotment is being exported the question of what future supplies should be sent to Tanganyika is at present under consideration by Government. In spite of famine conditions there Tanganyika still supplying Kenya with rice." Well, Your Excellency, evidently they were under an agreement to send 10,000 tons monthly to Tanganyika, and twelve months previously we knew that there was going to be a famine in Kenya; it was predicted by the Chairman of the K.F.A. You have had many warnings in this Council by me that unless there was a guaranteed price for European grown maize, the goods would not be delivered.

Although I realize a great deal of evidence regarding these details will come before the Commission, this is a debate on the advisability or otherwise of appointing a commission, and by accepting the motion, which I appreciate, it should not prevent constructive criticism in this Council. It has been to everybody's knowledge that this Government did nothing for over two and a half years after the war had started—I quote two and a half years to give you a margin, to be on the right side—no agricultural production; no production drive. That is another cause of the failure. What has the Government done? What have the three Governments done?—they have gambled with the basic food of the three territories. This Colony has gambled by over-exporting, and they have also gambled by not assuring that Europeans would grow their usual quota of maize at a remunerative price.

From 1930 to 1942 inclusive the average pay-out of the K.F.A. to members was the magnificent sum of Sh. 6.38 for a 200 lb bag of maize. It was not until the end of 1941—in December, I think it was—when I issued a warning; I spoke at some length and eventually attempted to reach finality by requesting Government to guarantee a minimum of Sh. 9 for European grown maize. What

was the result? Government reluctantly gave that guarantee and, as mentioned by the hon. Financial Secretary, it was Sh. 8.50, fifty cents going to the Control. The European maize-growers there and then got a shock. They got a second shock when they realized later on in 1942 that the guaranteed price of Sh. 9 for 1942 maize was to be for the maize planted in 1942. The result was that the Sh. 9 a bag did not operate until 1st January, 1943. It is a long period, and this is what happened. The situation had changed, the cost had gone up terrifically, in the meantime, and the cost was again put up. I again put in a question. It was considered also by the Settlement and Production Board, and I believe it had their support, that the price should be raised to Sh. 12. Eventually an announcement was published that a guaranteed price of Sh. 12 for European grown maize would be paid as and from January 25th, 1943. That again, as I see it, was a ramp. Had it been from January 1st it would have been quite a different matter. But what happened? Maize was leaving my district at the rate of 250 tons a day; two-thirds of the maize had already gone on to the market, and then these gentlemen in Nairobi, who knew what they were doing, otherwise they must be damn fools, approved the guaranteed price of Sh. 12, which is only equivalent to Sh. 10 or Sh. 10.50, because it has got to be paid into the K.F.A. pool, and two-thirds of the maize had already gone on to the market.

Government will never get the confidence and wholehearted assistance they should get when they treat European maize growers in that fashion. Again, we are told as a war cry that the short rains failed. What a tragedy to put in that excuse, that the short rains failed and the native crop would not be forthcoming. Where were the reserves? There were no reserves. Another gamble by the Controller when there had been nothing to gamble with for the last two years. Not only had the short rains failed but the Controller did not know and did not realize that for a considerable time my own district, which was the largest producing European area in this country, which has produced half a million bags a year, was getting fed up with it. In the K.F.A., maize pool from 1930 to 1942—the average pay out was Sh. 6.38 a bag, and incorporated in those figures was a

[Col. Kirkwood] £3,000 of somewhere between £2,000 and £3,000 trading profit, and that went to swell those magnificent figures to the maize producers such as Sh. 7.87, Sh. 6.19, Sh. 6.30 and Sh. 6.95, for a 200 lb. bag including a new bag which probably cost one shilling: Sh. 6.95, Sh. 4.42, Sh. 7.20, Sh. 6.40, Sh. 7.47, Sh. 6.08, Sh. 7.63 were the payouts. That is a most damning document on this Government, though it might probably be taken as a damning document for the maize producer who always looked to Government with hope and confidence to get a fair deal some day, which they have never had yet.

What was the effect? The effect, and I have seen it in the Press and heard it expressed, is fear and despondency. I am well aware and the hon. Attorney-General is well aware that there have been emergency laws implemented in this Colony making it an offence to create fear and despondency, but nobody has been prosecuted yet, though they should have been. The other effect is the reduction of the posho issue to our native employees, from two to one and a half pounds, and I think telegrams were sent out to different councils to reduce it to one pound, while conscript labour has been stopped and the ration insisted on by Government to be given to conscript labour has gone by the board. There has also been the effect on mining, the production of gold and other minerals, which has been stopped, and they are only allowed to use labour for necessary maintenance. It has also created a shortage of labour in many districts. I know one farm which turned over to mixed farming and has a large dairy herd. The farmer knocked off growing maize because he realized that it was a more payable proposition to buy maize at under the cost of production than to produce at a loss. The result is that now he cannot get posho for his boys and had to discharge 70 only a little over a week ago. I have another group of farmers in my area who turned over to mixed farming and have cattle, pigs and stock and do produce their own food supplies. They can keep their labour going, but they cannot get labour, and they sent a wire a week ago to Nairobi asking Government to secure labour for them. There is chaos throughout the whole of the territory and the production drive has been damned and stopped in every direction.

Again, no maize, no posho, and you cannot feed your pigs. Many, many farmers have turned over to mixed farming to get away from maize production. What is the result? Some have 300 to 400 pigs, and now they are threatened with the destruction of their herds. I know the price has been increased and so on, but nothing can repay those farmers for the loss they are going to suffer if the position is carried to finality, as I see it, notwithstanding increased prices for pork. It does not pay the overhead capital expenditure they have incurred in starting and getting going the industry. And there is high grade cattle which they cannot get the necessary foodstuffs for. Road construction has been stopped, and another effect it is having and will have when maize is grown later on in the year will be an increase in thefts, by thieves who are under-fed and under-rationed. It is bad enough as it is, and through the discharge of labour owing to inability to secure posho it has handicapped the war effort.

As regards prevention, I think the failure, as I said in my opening remarks, is due to the failure of the system of Crown Colony Government. I have suggested it before, and I am going to suggest it once again. After all, if one is going to be critical one must put up constructive suggestions to get over that. We all know that the Director of Agriculture has no executive authority, he is an administrator. He does not come into this Council and dare to speak on the same basis that a Minister of Agriculture would speak, one can realize that. It was a suggestion in the report of the Agricultural Commission, 1929: "In the evidence submitted to us, whether verbally or by memorandum, one question has repeatedly been raised—that of the appointment of a Minister to assume charge of the Department of Agriculture, the Minister to be chosen from among the unofficial members of the Legislative Council. Strictly, such a question would be ruled as outside the terms of reference of this commission, involving as it does a proposal to change the constitution of the Colony, on which it may not be proper for Civil Servants to express an opinion. But, with Your Excellency's permission, the following procedure has been adopted." I will not worry the Council with "the following," there are about a dozen paragraphs con-

[Col. Kirkwood] cerning it. But I give you that germ, and I maintain that it is correct, that had we here a Minister of Agriculture as suggested in the report, things would be quite different. We had at one time a Board of Agriculture, but that was ineffective for the reason that Government insisted on the Director or Deputy Director of Agriculture being the chairman. The other preventive is one of the things I mentioned, a guaranteed price for European maize growers, and also natives, and I would ask here and now for Your Excellency to make an early announcement, if you think fit, to guarantee the European price of maize at Sh. 12 a bag for the duration of the war and twelve months after, plus any extraneous expenditure that may occur in the future. If that was done, I am sure the European maize areas would be increased, but there is no object to a European maize grower growing maize at Sh. 12 a bag on one year's guarantee, and I cannot understand the attitude of Government why they cannot go further than twelve months. It has been suggested that the production drive in England should carry on up till 1947, and farmers have been warned. I would also suggest the control of exports. We are well aware that if maize had not been exported from Kenya, Kenya would not be suffering the famine we are going through. Maize has proved to be and is the basic food product of this country, and there should be reserves. Since my time in this Colony there have been two famines, and the lives of thousands of natives were saved by European maize, not the native grown maize. I will not go into details, but it is obvious to everyone who has studied the question. There is also the question of storage, which I will not dwell on for more than a moment. It is quite obvious again that had we in this Colony silos here, in Nakuru and in Eldoret where maize could be carried for more or less an indefinite period, it would be an assurance against famine, and I think any charges under that head could well be borne by the community.

Well, Sir, I am extremely sorry that I had to take so long, but I realize during the seventeen years that I have sat in this Council that this is probably the climax to the greatest failure in the experiment persisted in by the home Government,

the Crown Colony of Kenya, and I would make one more suggestion, that you, sir, try to regain the confidence of the producers. I assure you that at the moment to a great extent you have lost it. It is quite easy if you give them a fair deal and be candid. I would just remind this Council of the famous old signal of Nelson's at the battle of Trafalgar pulled up to the mast head: "England expects every man to do his duty." I am sure the producers have tried, and in view of the readiness with which Your Excellency has accepted this motion I should like to express my own personal satisfaction, and I shall go back to my district and I shall tell them to get on with the job, cut out the cackle, and let us try to get together again once more, and the more we are together, the happier we will be!

The debate was adjourned.

ADJOURNMENT

Council adjourned till 10 a.m. on Tuesday, 23rd March, 1943.

Tuesday, 23rd March, 1943

Council assembled in the Memorial Hall, Nairobi, at 10 a.m. on Tuesday, 23rd March, 1943, His Excellency the Governor (Sir Henry Moore, K.C.M.G.) presiding.

His Excellency opened the Council with prayer.

MINUTES

The minutes of the meeting of 22nd March, 1943, were confirmed.

PAPERS LAID

The following paper was laid on the table by Mr. Killick: Select committee report on the Increased Production of Crops (Amendment) Bill, and notice given to move the adoption of the report at a subsequent date.

ORAL ANSWERS TO QUESTIONS

No. 5—WAR BONUS

MR. COOKE:

Will Government state why and on whose advice it has differentiated in the retroactivity of the payment of war bonus to Europeans and Asians on the one hand and Africans on the other?

Is it aware that this differentiation has caused and is causing discontent in the Kenya African Civil Service? Will it reconsider its decision in the matter in the light of equity and fair play?

MR. RENNIE: The decision was taken on the advice of the Standing Finance Committee and of the Executive Council. The 1st of October, 1942 was chosen as the date, partly because by far the largest number of Africans involved are in a similar category to those affected by the awards of the Trades Disputes Tribunal in respect of Railway Staff, and uniformity with the dates of those awards was clearly desirable. A further consideration was the fact that

(a) The actual bonus paid to African staff is relatively more generous than that paid to European or Asian staff, both as regards amount and as regards the maximum salary up to which bonus is payable;

(b) considerable additional relief is afforded to African staff through the arrangements made for the sale to them of certain foodstuffs and clothing materials at approximately cost price.

To have paid arrears of bonus in cash as from 1st January, 1942, would, quite

apart from the practical difficulty of tracing the large numbers involved, have had a serious inflationary effect.

2. The answer to the second part of the question is in the affirmative. The Kenya African Civil Service Association takes the view that, the living conditions of educated African employees are so different from those of the general mass of Government African employees that they should be granted relief on a more generous scale. The Government is at present in communication with the Association on the subject.

No. 7—KAIMOSI REFUGEES CAMP

MR. COULDRAY:

(a) Will Government state how much public money was expended in the preparation of a camp for refugees at Kaimosi, which is now abandoned.

(b) Was the site approved by the medical authorities before the decision was taken to build the camp.

MR. RENNIE: (a) Final figures are not yet available, but the expenditure incurred is estimated at approximately £6,000. A proportion of this will, however, be recoverable since it will be possible for certain building materials, stores and equipment to be used elsewhere.

(b) The answer is in the affirmative. The subsequent decision to abandon the site on account of the discovery of Simulium fly in the area, was only taken after the fullest consideration of all the circumstances in consultation with the local Polish authorities. The Director of Medical Services considers that it is no reflection on the officer who originally approved the site that presence of Simulium was not detected at the time since there was nothing in the type of country examined to suggest that the fly might be found there.

COLONY'S FOOD POSITION AND MAIZE CONTROL

The debate was resumed.

COL. GHIESIE (Uasin Gishu): Your Excellency, I am sure that I am expressing the feelings of hon. members on this side of Council in their appreciation at your accepting this motion early in debate. I was convinced in my own mind that it would be, and practically without exception the whole Colony will be very anxious for this inquiry, and I do not exclude those individuals closely connected with the control of food commodities. I would go so far as to say that they

[Mr. Ghiesie]

will be the first to welcome it as affording them an opportunity to vindicate themselves in regard to some of the accusations made against them. Previous speakers have covered the ground very thoroughly, with criticisms and constructive suggestions, and I will endeavour to be as brief as possible. I rather agree with the hon. Financial Secretary when he made the statement yesterday that this motion rather lends itself to be dealt with under three heads: first, an inquiry into the administration of the Maize Control; second, an inquiry into the cause of the food shortage; third, an assurance from Government that adequate steps are being taken to prevent a repetition of this state of affairs. It is on the third that I would make some constructive suggestions, but I should first like to emphasize that it does appear that those concerned, those responsible, did not to say the least exercise the normal precautions of creating reserves for an emergency. The plea of the failure of the short rains does not go down, because that is nothing new, and reserves should have been created for such an eventuality. It would also appear that due regard was not given to the crop position in relation to consumption, and the attempt to remedy the position was made almost too late. I know that to quote individual cases is not good argument, but I know of many instances where producers were discouraged from planting certain crops, and in the case of potatoes, we know that many instances where potatoes were grown but went bad before permission could be obtained for the disposal of the crop. Before I leave the food situation I hope we shall hear from the hon. Director of Education that, as far as the children are concerned, there has been no reduction in their bread ration, and if any reduction is necessary a further reduction will be made in regard to adults before children are affected.

In the hope that I may be helpful, I want to deal with the subject of fertilizers. We all realize that these are in short supply; in fact, the only fertilizer in reasonable quantity in the country today is super-phosphate, which has risen from Sh. 105 to Sh. 350 a ton, and in some areas it is now necessary to spend Sh. 15.10 per acre on fertilizer alone. It is all very well to pay so much for breaking land and a guarantee of so much

per acre according to whether the acreage is put under wheat or maize, but what we want in addition to increased acreage is increased yield per acre, and I submit that Government should subsidize the purchase of fertilizers to the extent of fifty per cent of their cost to farmers, thereby ensuring the maximum yield per acre and putting the land to the most economic use as a result. We know there is a shortage, but a subsidy in this connexion would help farmers out of the difficulty and release land for grazing purposes, as well as being a guarantee that something was put back into the land. Another small point is that permission should be granted to shoot vermin on adjoining land—

HIS EXCELLENCY: Order, order! I do not wish unduly to curtail discussion on this particular motion, but I would point out to the hon. member that the matters to which he is referring, if they are of great importance, could be more appropriately dealt with when the adoption of the select committee's report on the bill to amend the Increased Production of Crops Ordinance is being debated tomorrow. I would ask that, in the interests of the business of Council generally, we should confine this debate to the terms of the motion, which is that an inquiry should be held.

COL. GHIESIE: My point was that I thought I might be putting up one or two constructive suggestions.

HIS EXCELLENCY: I welcome that very much, but I would point out that there is an opportunity of doing that tomorrow on the appropriate bill that covers these points.

COL. KIRKWOOD: On a point of order, is it not correct that when the adoption of a select committee report is moved the debate will be confined to that report and not to the bill?

HIS EXCELLENCY: That is quite correct.

MR. COOKE: Your Excellency, unlike the hon. member who has just spoken, I have no constructive suggestions. No doubt it will be pleasing to my hon. friend the Chief Secretary who in his reply will have something to say about it! In your Address the other day, sir, it appeared to me that although the voice was the voice of Your Excellency, the words were the words of the hon. Member for Nairobi North. This con-

[Mr. Cooke] I have not very much to say to-day because most of the points have been covered in the eloquent and pungent manner in which the hon. mover proposed the motion, but I would like to say that the first mistake was that the Agricultural Production and Settlement Board did not go full steam ahead with production. They kept thinking about markets and all sorts of other things. For instance, the deputy chairman of that board told the elected members at a meeting the other day—I do not remember the exact words but this is the purport of them—that towards the end of 1941 there was a danger that we would have a surplus of half a million bags of maize in this country. That seems to me to be a most monstrous position to take up, that in the midst of a total war like

this he should regard it as a danger or fear that there should be surplus maize. Yet we heard from the hon. mover of the chairman of the K.F.A. saying in December, 1941 that the maize position was likely to be very difficult, and he himself is a member of the board! I find it difficult to reconcile the two statements, and therefore it is abundantly necessary these grave matters should be inquired into. My second point is that Your Excellency, in a speech to the Production Conference the other day, said that the members of the Agricultural Production and Settlement Board had shown considerable foresight, I think it was, in cabling home last year for agricultural machinery. Well, sir, if Your Excellency had known the facts as well as I know them, I think you would have said that they showed a criminal lack of foresight in delaying so long in sending for that agricultural machinery. Nearly two years ago I had the honour of editing that lively paper *The Kenya Weekly News*, and when I was there it was pointed out to me by one of the biggest importers of agricultural machinery in this country all the serious difficulties put in the way of such imports. I drew attention, as was my duty, to that fact, and it immediately brought to Nakuru the deputy chairman of the Production Board who, in an interview with me and in a letter to the paper, said he was satisfied with the position as regards agricultural machinery, that no difficulty was put in the way of its importation, and that he was satisfied there would be enough machinery in the country for the 1942 harvest. I find it difficult to reconcile that position of affairs with what Your Excellency said the other day. If Your Excellency is deceived or misled in matters like this, what possible assurance have we that Your Excellency is not being misled in many other matters?

As I said before, this board had plenary powers and refuses to use them. The hon. Member for Trans Nzoia said yesterday that we should have a Minister of Agriculture. I contend we have a Minister of Agriculture, and have had one for three years in this country. He is the chairman of the Agricultural Production and Settlement Board, and with powers even greater than the Ministry of Agriculture has in England, and far from the Colonial Office being in any way

[Mr. Cooke] responsible for the present state of affairs, there is probably sufficient intelligence there to point out that they have given the settlers of the country powers beyond the dreams of settlers a few years ago and those powers have been monstrously, and I think criminally, misused or unused. My hon. friend the Member for Nairobi North, for whom I have a great personal regard, will no doubt say that I am attacking him. (Laughter.) I am attacking him, certainly, in his official capacity. He said in a speech the other day that farmers were not sending in their returns, and the hon. and learned Attorney General will soon be leading into the courts 1,007 dissident people who refused to send them in about some other matter. The hon. Member for Nairobi North accused me of wishing to put in prison half the farmers in the country. That is a slight exaggeration! I will say this. If I were Governor I would not have the slightest hesitation in putting in prison any farmer, European or African of the country if they showed in any way that they were not prepared to cooperate with Government to produce the foods necessary.

One last point, about the position of African agriculture. I am personally a little bit perturbed in spite of the question I asked to-day, to which the hon. Chief Secretary said, quite rightly, that if the Africans were paid out in cash it might lead to inflation, but I do feel there is a great danger of the spiral inflation occurring in the reserves to-day because we are paying high sums to them for produce. I hold that natives should not be paid the same cash price as Europeans because their cost of production is less. I should like to have seen Government subsidize Africans to the extent of Sh. 2 or Sh. 3 a bag and put that into a betterment fund to be at the disposal of Africans after the war, and that would have saved the danger of inflation. For, as Your Excellency pointed out the other day, not only is money coming back in the way of family remittances but we have also very high prices being paid for native produce, and it does seem to me a very dangerous thing to have all this money when imports are restricted and natives have no means of spending it except on food, that that is going to lead to a dangerous situation. I have nothing to go on except conversa-

tions with casual district officers and others who feel that possibly the women have had so much money during the past year that it has deterred them from doing as much planting as they otherwise would have done. If that tendency is going to be shown this year, it seems to me there is grave danger that the Africans will not produce the goods. I should like the hon. Director of Agriculture to tell us what measures he is going to bring in. Personally, I should like to see Africans compelled to plant under compulsory measures and, as I said before, any surplus of money should not be paid out at once to the Africans but put into a betterment fund for the betterment of a particular tribe at the end of the war.

I think most of the criticisms of the hon. Member for Nyanza were not directed towards the Government but, in my opinion, they must be switched on to the Agricultural Production and Settlement Board, because Your Excellency delegated immense powers to that board, and if they have failed to make use of those powers they, and not Government, were to blame. If there is any criticism of the Administration and agricultural officers for not submitting accurate returns of crop prospects, surely that criticism is ten-fold more against the members of the board who had this marvellous organization and everything, as it were, to have accurate returns, and if they failed I do not see how we can possibly blame the native authorities for having failed. With these words I support the motion, and only ask that when the Commission is appointed it should be small and compact, and that it should if possible be composed of gentlemen who live outside this country, so that they will in no way be prejudiced in advance by private opinions which may be expressed to them or which may have been expressed in this country.

MR. SHAMSUD DEEN: Your Excellency, this is a motion that might well have come from the Indian elected members, but owing to the established practice in this Council due to which the European unofficial members never take their Indian colleagues into their confidence nor consult them on matters of public importance, we did not know anything about this motion. As a matter of

[Mr. Shamsud-Deen] fact, we were considering bringing forward a motion of a somewhat similar nature, in which case, from past experience, I am quite sure that it would have received the unmitigated opposition of all the European unofficial elected members (laughter). I am very glad that the Government has already expressed its intention of accepting the motion and, generally speaking, after that acceptance I think the real object of this motion has been achieved and there should be very little need for any further reference to the details that could be more usefully put before the commission of inquiry. Since, however, other members have stated their view-point, I think it is only fair that I should put the view-point of the Indian community before this Council. I see that the speakers before me have blamed the Crown Colony Government and all Governments for the present state of affairs. The failure of the short rains, or even of the long rains, is not an unusual occurrence in this Colony; it is not a matter of the seven lean years and the seven fat years that Joseph dreamed of, nor does it require a Joseph to store up all the crops for the next seven years; it is humanly impossible. And if it is the fault of the Government that the short rains have failed, I think it is up to us to point out to the Government how to prevent the failure of the long rains which might take place during the next seven or ten days. I have heard a lot of talk about agricultural machinery being brought from Washington, and about fertilizers being brought from Washington, but I know that you cannot bring any rain from Washington nor any water from there. We want rain and we want water, and unless we get that we can go on quarrelling among ourselves for hours just like hungry and starving men; it would not make any difference at all.

As regards the arrangements made to deal with the food shortage, since other hon. members have not been ruled out, I should like to allude to the present arrangements. To add to our difficulties we have had an invasion of locusts; that may or may not be the fault of the Government, it is true (laughter), but I can see it is extremely difficult to prevent them. But there is another kind of locust, a local locust; all these controls and directors and boards. Although they

all mean well, they have made confusion more confounded rather than helping the situation. I know they are all working very hard, but they have not taken into consideration the factor that we are here among a mixed population, natives, Indians and Europeans. As regards the shortage of food, I do not think it will do most of us any harm if we go on a bit of fasting diet. I think it would do immense good, but in the case of the working man, both native and Indian, the diet that has been laid down is enough for a man to live on but certainly not enough for him to work on, and I think that there is already evidence of the result of this shortening of food for the Africans and the working Indians. Prior to this shortage of food there was great agitation among the natives to the effect that two pounds of posho a day was not enough for a man to work on honestly and hard for nine hours a day. Now it has been reduced to half I am quite certain that within the next fortnight or month we shall begin to see the results in loss of physique and loss of health among the working men.

Then there is this question of coupons. The trouble is that these gentlemen who work these things out sit in their offices for hours and hours and then bring out something on the lines of what has been done in England in the form of these coupons, in one or half units, or something like that, that is not understood by the majority of the population of this Colony. All these coupons are marked either with a circle or with a square and it is not clear what these circles and squares mean, and I wonder if any hon. members in this Council know what those circles and squares mean. I dare say the officials who issued the coupons understand them because they have discussed them. I should have preferred on the reverse of these coupons, for instance, for the information of illiterate—

MR. COOKE: On a point of order, is the hon. member speaking to the motion or to some other bill?

HIS EXCELLENCY: I must ask the hon. member to confine his speech to the terms of the motion.

MR. SHAMSUD DEEN: Sir, I was referring to the outcome of the shortage of food. I know my hon. friend gets impatient when I speak, but what I am trying to get at is that the food shortage

[Mr. Shamsud-Deen] has been further aggravated by these measures that are not properly understood by the public, and this is a very important point. The food shortage will be readily understood by the consumer if at the back of these coupons you produce a rough sketch to scale to show what the one pound of maize means, what the half loaf of bread means and what the four ounces of rice means, so that every Indian and native can understand what that coupon is worth and what it means. Under present circumstances if a person does not know what it means, what each coupon is worth, he has got to carry in his pocket a copy of the *East African Standard* or the *Official Gazette* in order to know what every unit means. That is what I am trying to get at.

Now I hope my hon. friend does not think it is out of order but one of the commodities which forms a very important branch of food is ghee. To people who understand anything about Indian dietary ghee is as important as flour itself. I think probably butter is not as important to the European consumer as ghee is to the Indian consumer. The other day at a meeting of the Consumers' Association some of my medical friends came along to talk about the new treatment of some disease, and about certain oils and lubricants and calories and that sort of thing, but somebody stood up and said, "Please do not waste our time, we want atta and ghee; we do not want all these medical terms." That is the position. As regards ghee, it is a commodity which is naturally exclusively consumed by the Indian community. The production of ghee is mostly, I think, confined to the Indians, although European settlers have also been producers of what is known as butter ghee. I have discussed the ghee position with various officers and those responsible for the control of the product, but nobody has yet been able to give me any information as to why this ridiculous quota of quarter pound a week has been allotted to Indians. That quarter pound is hardly enough to rub their mouths with, much less mix with their food. Another difficulty that has arisen from this distribution was discussed this morning by some responsible person—

HIS EXCELLENCY: Order, order! I do not wish to interfere with the hon. mem-

ber's speech, but I must point out again that we are dealing with a specific motion. If he wishes to show that owing to faults on the part of Government, or any other authority, there has been a shortage of ghee, I would rule it in order, but I do not consider he is in order now in criticising the steps that have been taken by the Commodity Board to distribute the very small amount of ghee that is available.

MR. SHAMSUD DEEN: The fact is that there has been a very great shortage of ghee, and the reason for that is because it is being dealt with by people who do not know the requirements of the Indian people; they do not know where to get the ghee from and they do not know what is a reasonable price that should be fixed for this commodity. At the present moment it is common knowledge that people are paying as much as Sh. 90 for a tin of ghee, the fixed price for which is Sh. 34, but they cannot get it at that price. As many members of this Council know, the food quota for a child of six months or eight months is the same as for an adult and the same as that of a working man. I do not know why there is not a hue and cry amongst the educated classes, because if a man has three young children he gets the same amount of food for them as for himself and as the working man gets. We have heard a lot about the failure of the natives and the Europeans to produce maize. I think it has been demonstrated beyond any doubt that the growing of maize in this country is not an economical proposition, and the European farmer—it does not matter what price is guaranteed—cannot produce maize at any reasonable market rate, for the simple reason that he himself does not produce the maize; he employs natives to produce it. In the case of the natives, I know for a certainty that it caused very great resentment among the native growers of maize when they learned that Government had guaranteed a certain rate per bag which previously was not extended to them. As I said in this Council before, if you are going to fix a different price for maize grown by Europeans, merely by employing natives, and the maize grown by the natives independently, there is bound to be discontent. We have heard some talk about the vegetable factories at Kerugoya and Karatina. I think the hon.

[Mr. Shamsud-Deen]

Member for the Coast struck the nail on the head when he said you must compel the natives to grow. I believe, and I think it also appeared in the paper, that the natives are being compelled to grow vegetables, and are not only being compelled to grow but to sell them at the price fixed by the Agricultural Department. If you can compel the natives to grow vegetables, you can compel them to grow maize, and one of the reasons for the shortage of maize is that in a very fertile part of the country the natives are compelled to grow vegetables rather than maize.

I also heard remarks yesterday from hon. members about some gentleman who has been blamed, and if I am not mistaken about the personality and identity of the gentleman I think he is the genius we have been trying to pin faults at his door for the last twelve years and have failed. At the end of this inquiry, that inquiry is bound to place on record the fact that all this is due to the gentleman about whom complaints have been made. I was going to suggest that unless our agricultural experts can bring forward some method such as what was described at one time as "dry farming," the only way out of the present position is for the importation of maize and wheat from other places or to strike on some scheme of irrigation. Those are the only two things which can relieve the situation with which we are confronted at the present moment. A native does not like to grow maize because he can make a lot of money in other directions, and the majority of natives are flush with money now, for you will see them with bundles of Sh. 5 notes in their pockets. Every native is flush, and why should he grow maize and get a small fraction of profit when he can get more in other ways? I do not wish to take up the time of Council, but I do submit that this motion is welcomed by the hon. Indian members, and I do hope there will be some Indian representation on the Commission. The hon. mover mentioned again and again about Government having taken action too late—I submit that the whole motion is too late, it should have come before Council long before now if it was to be of any use at all. At present it is no better than a post mortem, and I think I will leave it at that.

MR. PAROO: Your Excellency, I rise to support the motion before the Council so far as the first two implications are concerned: one, that there has been and there is a shortage of food in this Colony, and two, to prevent its recurrence a Commission should be appointed. As regards the third implication in connexion with the administration of the Maize Control, it is very much a controversial subject between farmers and Government, and I shall not touch on it. The question of food, particularly of Indian food supplies, has caused great anxiety, and perhaps I may say resentment and dissatisfaction too among the Indian community. I must say that the question of the Indian food supplies has been absolutely ignored by those who are in charge of administering the supplies. The hon. mover said that he did not want to make a charge against Government except that Government were taking steps too late, but I would prefer to make a stronger charge and say that Government has failed to look after the interests of the Indian community in connexion with their food supplies. I think they have failed to appreciate and understand their requirements. In this connexion I should like to ask three questions: What steps have been taken by Government to grow more rice in this Colony to make it self-sufficient (it is an Indian commodity)? What steps have been taken to get stocks of Indian food supplies for the rainy days? Perhaps at this juncture it would be appropriate to say for the dry days such as we are passing through! What inducement has been given in regard to the prices for these Indian food supplies for them to be grown in this Colony? If Government answers those questions honestly, I think all the replies will be "No."

Since the outbreak of the war, and particularly since your return from England, sir, very high sounding slogans of the increased production of food supplies have been sounded but, as I said, if these questions are answered, it will be seen that no adequate steps have been taken in connexion with Indian foods. I think it is a well-known fact that rice, ghee and atta are the main commodities consumed by Indians, and I will try to prove first of all that there is a shortage of these three articles in the country and, secondly, I will try to prove or rather

[Mr. Paroo]

give the reasons for the shortage. I hope by giving these details that I shall not be speaking out of order on this motion. First of all, let us take rice. Rice is consumed by about 75 per cent of the Indians and, on the coast, the Arabs and natives also eat rice. Last September or so certain arrangements were made. I understand with the Government of Tanganyika to supply rice to this country. At that time the hon. Member for the Western Area in his usual useful letters to the Press made the suggestion that we should not merely rely on Tanganyika to supply quantities of rice according to the months but that we should purchase and stock the commodity in this country. This suggestion I took up in Mombasa with the Commodity Distribution Board, and suggested they should reserve certain stocks on the coast in case the Tanganyika Government later on failed to give us any. This suggestion was put up to the higher authorities, and one individual even came forward to finance this reserve stock if Government bought it and had no arrangement to finance it, that he would do it at seven per cent interest to the extent of 2,000 bags if that stock was bought and reserved in Mombasa. This suggestion did not materialize, and the consequences are that to-day, I understand, Tanganyika Government is refusing to give an additional quantity of rice to this country unless we reciprocate with maize. The position of rice to-day, I can give you the figures for Mombasa, and I know it is in no way better in Nairobi. Last Sunday there were only 293 bags of rice with the Rice Association of Mombasa, and I understand that about 765 bags were to come within a few days or within a few weeks, making a total of about 1,100 bags. According to the present ration of one pound per head per week, these 1,100 bags would last to the 15th April. You can imagine the anxiety of the Indian community if they are told that after the 15th April they will get no more rice or that their quantities will be reduced from one pound which is also absolutely inadequate. In this connexion, on Sunday last I received a telegram from the Lamu Indian Association which reads: "that the local distribution board decided to ration maize to Indians in spite of having rice and atta in stock." Can you imagine it, that the Indians who are

not accustomed to eat maize or maize meal are forced now arbitrarily, dictatorially, to take maize and are not given any rice, their usual diet? I do not know what would have been the attitude of the European community if they were asked to take posho instead of the usual diet which they have been accustomed to consume for years.

I shall now refer to ghee, which is the next important item in the Indian dietary. The importance of ghee, as the hon. member Mr. Shamsud Deen explained, is not realized or appreciated by those who are not used to it. This is a commodity which cannot be substituted, and to-day the ration of ghee is a quarter of a pound a week which is one-fifth of the ordinary requirements of the Indian community. A prominent Indian medical practitioner in this country, after experience and experiments in the last few months, is reported to have said: "I am inclined to the opinion that the vegetarian section of the Indian community is in danger of being exposed to the risk of under-nourishment, particularly because ghee, which is one of the main items for the making of calories, has been cut to half an ounce per week, and even this meagre quantity has not been supplied regularly." I have tried to prove that these two items, rice and ghee, are in short supply, with facts and figures. What are the reasons? I attribute two factors, particularly for ghee, and that is the control, which usually makes things disappear, and secondly, the control of movements, and thirdly, the prices given to the producers are not remunerative. All these facts have been ignored or not understood by those who are in charge of administering these Controls. I am told that the price given in Musoma, which is an important place of supply of ghee is Sh. 31.50 and in Kisumu Sh. 38, and I think there is a little variation in those figures. Pre-war, I am told that the price of ghee in Kisumu was between Sh. 33 and 35, and now they only receive Sh. 38 under the controlled price, whereas consumers are forced to pay higher prices in the black market to obtain their requirements. I had a talk recently with a Government official on the coast, who knows very well the district of Mariakani, and he frankly admitted that the short supply of ghee in that district is because the producers are not paid adequate prices.

[Mr. Paroo]

The Price Controller seems to have one notion only, that the consumers must be safeguarded by a certain limit of price but fails to understand that that price does not induce the article or commodity to come into the market in view of the present high cost of production and living. The Imports Controller and the various Controls and those in charge who administer foodstuffs are not able to realize requirements. The Imports Controller the other day issued a permit to import 12,000 tins of ghee from India. The quantity was simply sent on the Import licence to the Ghee Distributors Association of Mombasa, and by issuing that one piece of paper he thought this country would be flooded with Indian ghee, little knowing that the Government of India has also restricted the export of ghee. On the 13th February this Association wrote to the Imports Controller asking his assistance to wire to the Government of India pointing out the acute shortage of ghee in this country and that ghee was consumed by Indians, so that perhaps the Government of India might be persuaded to allow a certain quantity to be exported. A second reminder was sent, but not until the 11th March, after 26 days, was a telegram sent to India, and the result is still unknown. Speaking about the Price Controller, he naturally has failed to appreciate that to induce foodstuffs and other articles to come into this country they must give a fair return. Certain dhows which came from Aden and anchored in Mombasa were loaded with salt, and there is a great shortage of salt in this country, and to induce importation the Government has even suspended the import duty on it. Prior to the suspension of this duty, the control price of salt in Mombasa was Sh. 130 a ton, and as soon as the duty was taken off the Price Controller reduced it to Sh. 85. The object of suspending the duty was in order to get imported salt and other commodities into this country, but the Price Controller failed to understand this, and I think it is because there is no co-ordination between his department and others that very often we get into this muddle. Even the suspension of customs duty on various other Indian foodstuffs imported from India was too late, and had such a step been taken earlier when things were allowed to be exported from India we

should perhaps have had much larger quantities of grain used in the Indian dietary brought in from India. Very often it is alleged that the shortage of Indian foodstuffs is due to hoarding, and in this allegation some of our Press very willingly take part. I should like to prove that the Rice Control has been in existence for the last six or seven months, and due to this Control nobody has been allowed to take physical possession of a single grain of rice coming from Tanganyika and on which supply we are mainly dependent. Therefore it cannot be said there has been any hoarding, and if there has been any hoarding the quality of rice is bound to deteriorate within six months.

Those are a few of the facts from which I have tried to prove that there is a shortage of Indian foodstuffs, that absolute ignorance has been shown concerning the Indian food supplies, and I have also shown the reasons. Perhaps these details and statements may be useful as data to the commission of inquiry to be appointed and which Government has kindly agreed to appoint. Finally, I should like to support the hon. member Mr. Shamsud Deen, who said that if this commission is to be set up there should be adequate representation of the Indians, as this question vitally affects them.

MRS. WATKINS: Your Excellency, I am very glad indeed that Government has accepted this inquiry. There are one or two points that I want to stress which I do not think have yet been sufficiently stressed in this Council, and one of these is storage. It seems to me quite incredible and unimaginable how we ever could have thought that we could get through a war without any kind of storage. Now of course we know perfectly well—it is common knowledge—the difficulties of storage in this country, what with white ants, rats, burglars and so forth, but it is also common knowledge, at least among us farmers, that you can store at Molo and in those altitudes, with cedar floors and stone walls, and we should have had this storage. I do not think any shortage of food would have happened if we had used the glut of a few years ago, when we hardly knew what to do with our maize, and had stored it. The expenses of running without a margin are enormous on the farmer, more, I

[Mrs. Watkins]

think, than Government realizes. When there is no margin at all it means that you collect sometimes after a thirty mile trek two bags of posho, and so forth; next time you may get four bags. What this is costing in tyres, or what it is costing this country in petrol, and what it incidentally is costing this country in sailors' lives, I wonder. I speak with feeling here; for there are five men in our family on the active list of the Royal Navy, and it makes one feel anxious to look ahead and use storage to prevent shortages which upset the whole of the shipping programme of the British Empire. I feel very strongly on that point, and it is one of the points of inquiry we should make. Why was there no storage? That is the first point.

The next point is that Your Excellency mentioned in your speech that with patience and goodwill we should pull through this awkward time. I think that with three meals assured per day to most of us here it is difficult to realize the patience and goodwill required by a working man who has scarcely enough for one meal. This has happened before so often in history. One is reminded of a scene outside the Tuilleries, when the men were crying out for bread and Marie Antoinette advised them to have patience and if they could not get bread, to eat cake, and it seems to me the present situation is being handled with almost as little understanding. One of the things I think should come before the inquiry is, is this being handled, now that prices have risen, in the best possible way? I submit to Your Excellency that it would be a far sounder thing to have two meatless days for all Europeans in this country, the whole of the meat in the market on those days being supplied to the natives. That would have been partnership; that would have been co-operation, that would have had a psychological effect on the natives and it would also have kept more natives on the farms. I cannot believe, Your Excellency, that the answer to famine is the one that I got on the phone the other day, as a farmer, "Shoot most of your pigs, discharge some of your boys, get rid of old retainers who are not pulling their weight, and lie low." Most of these old retainers, who are not now pulling their weight admittedly, have been with us and with other farmers twenty and

more years; we are not going to return them to the reserves to meet unknown conditions there. Some of them have been fed from the farmer's table; others have been fed with any food we can buy in Nairobi or elsewhere. I think that if we had faced this situation honestly with our natives, they would not have felt that we cried to them to come down and told them how essential they were on our farms, and then when there was a food shortage the partnership ceased and we sent them back where we could not see whether they were hungry or not. Now some gentlemen on the opposite side, or Your Excellency yourself, may think it is all clap trap when we say we are fond of our natives; we could not work our farms unless we were, and we are very deeply concerned with what is happening in the reserves. I would like to mention here that my very good friend and enemy the Director of Medical Services has got a most excellent kitchen going at Kiambu, as we all saw in the paper yesterday, but if we had been able to supply a further meat ration taken away from the Europeans and for two days a week if it had been given to the Director of Medical Services to use in central kitchens up and down the country, we might have made a real contribution not only to the food shortage, not only to keeping the farms going, but better even than that, to the experiments in central feeding that will have to come after the war, and to the sense of co-operation with the natives who are our partners in Kenya.

Your Excellency has heard that we are not in this inquiry asking for a head on a charger. That is perfectly true, but there is one mysterious statement that has been made and we would so much like to know the author because we think the author of the statement I am going to quote is not fit, whoever he is (and I do not know who he is), to be in any way in charge of the food situation in the future, and that is what this inquiry is for, to prevent a repetition. That statement was made by some authority when we wanted to plant more maize, and we were told as farmers that it would be indeed an awkward situation if there were 500,000 bags of maize at the end of this war and no market. One answer to 500,000 bags of surplus maize is that we could at least have 125,000 pigs fed to maturity to send home to

[Mrs. Watkins] starving Europe after this war, but whether we sell our maize on the hoof or in sides of bacon or in bags of grain, there will never be any difficulty in disposing of that maize at the end of the war to famine-stricken Europe, and the mentality of the person who says you cannot have any surplus at the end of the war is just the mentality that are we fighting. That is the mentality in which we have no confidence whatever. That is one of our main difficulties: we cannot get at the authority who makes those statements. Farmers who have farms up-country and who are also farming around me have been told that they were not to plant maize, or were not encouraged to plant maize. They were told that it was not necessary, about fourteen or fifteen months ago.

Another curious mentality, Your Excellency, which was succinctly expressed the other day by a member of your cabinet, was that he was fed up—I think I am quoting him verbally—to the back teeth with the farmers of the Trans Nzoia because they had wanted more money for their maize, and when I said, "Why should not the farmer want it?" he said the farmer is accustomed to lose on half his crops and to make on the other half. If that is the idea, I do suggest that members of Government should draw their pay every alternative month, and if at the end of a year they still feel the same about half the crops paying for the farmer, they might continue on that basis, and it might save Government a considerable amount of money. I will leave that alone for a moment; I only refer to it because it is a statement that has impressed the minds of quite a lot of people, and even we coffee farmers have at times unwittingly subscribed to it. For years gone by we have all based ourselves on uneconomic maize; the Railway has, the coffee farmer has, every club in this country; every institution in this country, is run on the basis of cheap maize for its labour. That maize has been uneconomic. In the inquiry it may well be asked, then why does the coffee farmer support it. The coffee farmer had been pressed by the London rings to a point when they had no money to spare at all for anything—"Big fleas have little fleas upon their backs to bite them, little fleas have lesser fleas, and so on *ad infinitum*"—and so we had to press

everything down, including the maize producer, and it has been the accepted policy of Government that maize need not pay, and I submit in that one statement, plus the lack of storage, lies the tremendous answer to this maize question. I know now that too late, as the hon. Member for Nyanza has said, we have got a better price for maize; I realize that, but it is through that mentality that maize must carry the rest of us somehow that we have now got to this state of affairs.

I would like to make one or two other points. The hon. Director of Medical Services has, I think, allowed it to be published in the paper that the food that is being sold through that kitchen (and when the inquiry comes it might find out what foods other than posho there are) is costing ten cents a plate. It must, I think, be admitted that this plate does not "fill in the corners" and that we in Kiambu, who started an exactly similar kitchen last August, have discovered that you cannot fill a native under fifteen cents at present prices without posho. I think when the inquiry sits the whole of this question of alternative foodstuffs should be gone into and perhaps central kitchens might be allocated a certain amount of foodstuffs on the basis of fifteen cents a meal per native, and we could then deal with this famine fairly satisfactorily. The hon. member Mr. Paroo asked what would the settler or official say if he had to live on posho or atta. I have been out here a good many years; I was in Eldoret for three years when the European community was living on posho, and they did not grouse. Their main staple diet was posho, and that was during the slump. Now we have a war on, and I think it behoves us not to grouse. I think a little common hunger and sharing of meat and flour with the natives would do us a power of good. I notice the "intolerable resentment of the effects of famine" on the Indian community. I quite sympathize with them, but I think we should welcome the fact that some effects have come upon ourselves because, after all, we are not the greatest sufferers.

I am not very good at figures, and I do not quite understand one made by the hon. Financial Secretary when he said—I believe I understood him to say—that one and a half million bags of maize would have seen us through our military

[Mrs. Watkins] contracts and our local requirements, I understand that it would not have seen the Military through, let alone ordinary contracts for ordinary people.

MR. TESTER: On a point of explanation, Your Excellency, I do not think the last statement is correct, the former statement about the one and a half million bags seeing us through the military and civil contracts.

MRS. WATKINS: I apologise; I understood him to say that and I was rather surprised at how he had got at those figures. Another thing I want to say is that here and there it has been suggested that the farmer has been to blame. I think the farmer has done a trojan job of work. I want to say something more: I am proud to be a woman farmer at the present moment. The women farmers in this country have pulled the situation through, the women in the lonely out-stations and on the lonely farms, and they have worked a good deal harder sometimes even than the men. I do not consider that any blame whatever attaches to the farmer. I am proud to be called a woman farmer at the present moment, not because I have done anything but because I belong to the clan that has done things. I want the Council to realize we are proud of the women who have done so much work.

One more point. There is a point which must be taken into account when the inquiry sits, that is, the peak of weariness that can only be realized by those people who have been farming through a dry season, with inefficient natives, antiquated machinery, and that peak is being reached earlier every day for most farmers. That brings me to manpower. I am sorry to have to refer to it, but I do not think we can prevent the situation arising again unless we can get a few more of our men back. One question we should go into is this. We hear of an arbitrary number—29, 39, I do not know the precise number—of men allowed out of the Forces for the farming areas every so often. So when those in charge of production are faced with the alternative of choosing between acres of wheat up country, or a man dying of over-work perhaps in Kiambu with three sons serving and not one son able to come back, that authority in charge of production has to choose between the

death of an elderly man or a thousand acres of wheat up country. I maintain it is not a fair choice, and I maintain that it is put upon him by this arbitrary figure of men allowed out of the forces. We have had four deaths in our district of older men whose managers and sons have gone to the front and whom it has not been possible to replace. These men have died and there are two more now we are watching anxiously, and we are having some difficulty in getting anyone back to help us. We do not want to interfere with wheat growing up country, but a man released even for coffee could grow 200 or 300 acres of beans and so on down our way, but we cannot do anything because of lack of man-power. I think that if that point were raised in the inquiry a valuable decision might be made.

I am not going to keep the Council any longer except to say I should like to support the suggestion of the hon. member Mr. Shamsud Deen very strongly, that there should be on the back of every coupon a visual picture of what the different foodstuffs comprise in the way of working strength, if you like to put it like that. I think we must try and get down to the fact that the native does not know which is going to carry him through best. Now is our chance to teach him, and I do suggest the inquiry should also most urgently require the hon. Director of Medical Services to put his central kitchens wherever he can and to claim from us farmers possibly our immature pigs, which we shall have to shoot, so that we may keep our natives going by our stock. The natives have been made to shoot or dispose of a great deal of their own stock to help this war. Now perhaps it is our turn to help them, and I think we should do it. I speak as a small pig-owner myself—we keep about 70 pigs—but I would rather shoot pigs than let down the feeding of the natives whose partnership I value.

DR. WILSON: Your Excellency, I think that some hon. members think that in view of the very able and masterly fashion in which the hon. Member for Nyanza proposed this motion, there is really nothing more that need be said about it—(a member: Hear, hear!)—especially in view of the intimation that Government intends to accept this motion. On the other hand, it is obvious that certain members have other ideas,

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and they have added their quota of discussion—or possibly some will call it cackle—so that I am afraid that I must take the opportunity of discussing a few points from the point of view of native interests.

In your statement from the Chair at the beginning of this session Your Excellency said that the short answer to the question "Why are we short of native food supplies?" is that the deliveries of maize have fallen short of the quantities required. I suggest that the reference to a short answer means that there is a longer answer, and it is that longer answer that we are now asking for. In the inquiry by the commission which we have been promised I hope the discussion will go beyond the question of the present shortage of maize and may be extended to the wider question why it is that maize has such a prominent part in the dietary of the Kenya native. It is an artificial state of affairs which we Europeans introduced into East Africa and which we have encouraged; I only wish the hon. Member for Ukamba was here to-day, for he could speak on this subject better than I can. I do not know exactly when and how the tradition originated that an African should live on maize alone. I only know that in the last war infinite harm was done in that respect. When the Carrier Corps was established the dreadful proposition was adopted that two pounds of maize meal was a fair ration for the African porter daily. The results were appalling; but I will not go into that here. In fact, I am sure that I shall have to walk warily if I am not to be ruled out of order in the few minutes for which I am going to speak. Apart from the essential foodstuffs additional to maize that the African should have, we have the question of alternative foodstuffs, and I was glad to hear from the hon. Member for Kiambu that it is taken for granted that the commission will go into that question, because there are many alternatives which might be made available. I am not proposing that this commission should complicate or prolong the inquiry by exhaustive research into this, because its first affair is to get on with the question: Why are we short of maize? but I do hope that one of the results of this food break-down and consequent inquiry will be a further inquiry into the possi-

bility of developing these other food resources on a practical and adequate scale. I hope we will never return to the easy but fatal fallacy of thinking of two pounds of maize meal as a normal daily ration for the African. A great deal of good may come out of this present calamity, if this inquiry is to be of use, in the way of helping the native population to develop a more elaborate system of supply and demand of essential foodstuffs. The effect would be to improve the social economy of our native reserves out of all recognition, and we should have a healthier, happier and more useful native population to the great benefit of the country at large. I had intended, Your Excellency, to refer hon. members to the editorial article in the current number of the *East African Medical Journal* but some fairy godmother has distributed copies, and all I need do is to ask members to give it their very earnest consideration, and I hope it will eventually find its way into the hands of the commission.

So much for the first half of this motion. As for the second half, I imagine Government did not find it quite so easy to accept this. Ever since maize control was imposed on this country, Government has been repeatedly told that that particular brand of maize control was hopelessly wrong and was bound to fail, and I can imagine that it is not too easy for Government now to admit that possibly the critics were right and to agree to an inquiry as to whether this unhappy Control has been administered efficiently. The question was thrashed out here in Council last August, when Government was asked to abolish the existing system and introduce another. That request was refused and the system, with a few alterations made to the existing system, continued. The hon. mover said the system was abandoned and a new one introduced. I disagree with him on that point: the machine, instead of being scrapped, was tinkered up and put on the road again, without any change of driver! I am not going over all these old arguments again. I only want to say that Maize Control was based on certain false assumptions such as that if the price of native maize was allowed to rise above a certain figure the result would be that the reserves would be devastated by excessive maize cultivation, and another was that the native would

[Dr. Wilson]

be quite happy to grow maize at a price for sale much below the price paid to the European producer. But I will not go on with that now, that is enough said. It has been made clear by the hon. mover, I think, that this demand for an inquiry is not so much, as some say, a post mortem, but it is a matter of very urgent present importance. It is not a question of raking up past history and putting the blame and finding fault with what is past and done with.

I suppose it is generally realized what this so called Maize Control is doing at the moment throughout the country. Sometimes one is tempted to wonder whether these controllers and dictators in Nairobi realize the effects and reactions of their extraordinary edicts. What is happening as regards this Maize Control is that by the very simple, but very dangerous, process of restricting and allotting our supplies of available maize to certain selected classes of African labour, the Maize Controller or the maize distributor—I am afraid I do not know which has the say—so in this strange, unholy partnership—but either the Maize Controller or the maize distributor has by that allocation of maize to a certain class of labour interfered with and dictated to and almost decided the fate of every form of agriculture and industry in the country. For downright despotism that cannot be beaten. According to my latest information it is proposed to delegate some of these despotic powers to a number of little local despots. What is much more disturbing from the point of view of the native is that this arbitrary distribution or retention of maize is driving thousands of natives out of employment back into the reserves with no guarantee so far that food will be found for them there. Perhaps we shall be told whether any of the maize that is in the hands of the Maize Controller will be allotted to the native reserves. I expect I shall be told that this mass repatriation is inevitable, that there is no alternative. I do not know on whose advice Your Excellency decided on this step which, in my opinion, is one of the most serious ever taken in the history of native administration, but if it can be established that this step is inevitable I can only say that that makes even more imperative the need to inquire into the

events which led up to so momentous a decision.

What is now going to happen in the native reserves? It is not enough to say that there ought to be enough food there for everyone and if there is not it is due to the improvidence of the African. What reason had the natives in the reserves to expect this surplus population to be suddenly pushed on them? And, as regards Government's responsibility for what is happening, we have got to remember what has already been mentioned, that Government encouraged natives in the reserves to go slow on production of maize in favour of other crops which were needed for the troops. One of the reasons put forward by Government last year for not raising the price of native maize was that other crops were more urgently needed from the reserves. The natives responded, they delivered the goods, only to find themselves now left in the lurch without any food of their own growing and unable to buy it anywhere else. That, Your Excellency, I submit is a most serious state of affairs for which the Government must accept full responsibility. This motion asks that the commission should ascertain whether the control of maize has been administered efficiently and in the best interests of the country. What is even more important to ascertain is whether it is now being administered efficiently and to what extent the interests of the country are now suffering as a result of its operations. I suppose I shall be told as I have been told that if we had not had the Maize Control the country would be worse off. I maintain that it might have been much better off with a reasonable and practical form of control, and I can scarcely imagine that it could have been worse off had there been no control at all, because I cannot imagine anything much worse than the present position with regard to maize supplies. Maize is only obtainable by certain selected individuals or for certain selected individuals, because that is what it amounts to. The disadvantage or inconvenience, whatever you call it, of having to pay a high price for a bag of maize is nothing to the hopeless position of not being able to get any maize at all at any price. That is the position of many natives at the present time, that is what Maize Control has done for very many of the native inhabitants of Kenya.

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and that is why an immediate inquiry into the operation of this Maize Control is imperative.

MR. KASIM: Your Excellency, I rise to support the motion before the Council. In your opening speech to this Council and to the Production Conference, Your Excellency fully explained the reasons for the present food shortage and Government's intentions to take steps to prevent a recurrence. I am very glad, however, that Government has accepted the motion before Council. The hon. mover in his speech has strongly criticised the Maize Controller, and he especially feels that the control of maize is not being administered efficiently, and he feels too that the Controller should be relieved of his job because he believes that the administration of maize control should be handed over to a private firm. I want to make it quite clear that Government has given a definite undertaking to the Maize Committee which was appointed to inquire into maize control that no such control will be handed over to the K.F.A., and I hope Government will stick to its undertaking. I associate myself with what the hon. member Mr. Faroo said in connexion with Indian foodstuffs. Your Excellency is probably aware that the rice allocated by the Tanganyika Government to Kenya is still lying at Mwanza, but we cannot supply them with posho, and Tanganyika Government has ordered that the rice should be kept there. I would like to say that part of the maize which has recently arrived from overseas should be sent to Mwanza so that we can get our rice supplies. Regarding ghee, I still maintain that the present shortage is due to the short-sighted policy of Government in eliminating the Indian traders who were engaged in making it in South Kavirondo. It will be remembered that during the last budget session of this Council, in reply to my question, the Director of Veterinary Services gave me a reply with which I was not satisfied, and I made inquiries. As a matter of fact, a misunderstanding has crept into the minds of the public that the Indians engaged in making ghee in South Kavirondo were unlawfully engaged. I challenge this inaccurate statement made by the Director of Veterinary Services, and I should like to ask Gov-

ernment to appoint a committee of inquiry into this matter.

MR. THAKORE: Your Excellency, I also rise to support the motion before Council. The motion is divided into two parts, and although the hon. mover has introduced it in very forcible and matter of fact terms, I am rather disappointed in that sufficient reference is not made to comprehensive articles of food consumed by the various communities inhabiting this country, and much of the talk has centred around the second part of the motion, the Maize Control and the inefficiency of carrying out that control. Now, sir, I have it on good authority that in the month of August last year meteorological forecasts went out warning Government that the short rains were going to fail, and it was not until a few months after that that serious steps were taken to handle the food situation. Secondly, the policy of the Agricultural Department conflicted with that of District Officers in that the Agricultural Department was aiming at less and less planting of maize, whereas the District Officers wanted to encourage the planting of maize.

Another serious factor in the food situation has been the considerable interference with the free movement of commodities, and the Price Control has had a great deal to do with the disorganization of the free flow of commodities, with the falling reserves that we have been discussing in this Council to-day. This is an agricultural country, but the agricultural policy pursued in this country is not one that is in the best interests of all sections of the population. The hon. Member for Trans Nzoia has said that we are suffering from Crown Colony Government, but I have this observation to make. We are not only suffering from Crown Colony Government but we are suffering from Government by one section of the community, who do not always look to the best interests of the country as a whole, and unless the Government of this country takes the shape of government of the people by the people for the people—and by the people I mean the entire population and not one section—this country cannot go ahead. There is, for instance, the man-power factor that was not seriously taken into account in tackling the food problem. We have in this

[Mr. Thakore]
country an Indian population that has an agricultural background: the Sikhs, the Jais, the Moslems and the Patels, they all work on the land in the mother country and have considerable experience in the growing of crops. Now the whole of that community is practically debarred from making a useful contribution to the growing of articles of food. In a crisis like this, if that man-power was harnessed to the best advantage, what a difference it would have made; we would not have been faced with the conditions that have occurred here. Another point to which I want to make reference, is that in my humble opinion, it is a mistaken policy to discharge thousands of natives from the military and other employment at this time. A better plan may have been to help utilize that man-power by conscripting it into a land army and putting it to effective use in digging on the land, under proper control, so that the whole of that army would have been potential producers of food, and this country would not have suffered any shortage of food, nor would it suffer from shortage of food even if at this stage these discharged labourers were diverted into proper channels instead of being returned to the reserves, probably to die there.

Reference was made by one or two speakers to 1,007 farmers not having filled in returns. All I want to say in that connexion is that they are failing to carry out their duties towards the population, and the Agricultural Production and Settlement Board in making that statement show that they also are not pulling their weight in getting things done as they should be done. I must congratulate the hon. mover on the very forcible way in which he moved his resolution, but it would have been more realistic if in his speech and in the arguments voiced before the Council he had made his references more comprehensive, taking in his purview the entire food position instead of confining himself to the production of European maize and guaranteed prices, which gave the impression that that part of the motion was on selfish motives. I support the motion.

MAJOR CAVENDISH-BENTINCK: Your Excellency, it is with very sincere regret that I find myself intervening in this debate at all, because I hoped not to have to speak. Some ten days ago

electd members discussed various matters connected with their public duties and with this forthcoming session, and among others, very naturally, they discussed at great length the food shortage and the reasons which had led up to it, and they came to the conclusion that it was their duty to ask for a commission of inquiry—not a committee as has been suggested by one hon. member on this side of Council—but a completely unbiased commission to inquire into the causes which have led up to the present position, chiefly in order to prevent a repetition, and from that, of course, it would naturally follow that if any particular individuals were found to have been negligent or incompetent they would be replaced. They further realized that it was not unlikely that the causes might be more attributable to faults in distribution than in faulty production, and they therefore in the second part of their motion ask that the disposal and distribution of maize should, more especially, be the subject of investigation, not only, as has been suggested as regards the past, but also as regards the present and the future. That motion, sir, was proposed, if I may say so, in a speech of unusual force, clarity and skill, and after hearing the proposer and the seconder I thought more than ever that members on this side of Council had done a good job in bringing this matter forward and getting their motion agreed to by Government. Since then, I have almost been forced to wonder whether this inquiry is not going to be a waste of time, because we have in fact held it here, and if we believe what we have been told we now know what the causes are and, apparently that my board among others, is one of the main ones. But, sir, I am afraid I am too old a hand in these matters to easily mistake repetitive noisy vituperation for profound knowledge or for firmness of character. I therefore am not unduly perturbed by impeachments which have been made, knowing that they may have been made in good faith and knowing that we all of us feel that in Council, at any rate, people must have the right to say what they want.

There are, however, several statements which have been made which are inaccurate. In the first instance it was stated that the members of my board had all resigned. They did not resign; they

[Major Cavendish-Bentick] did adjourn in order to draw Your Excellency's attention—

MR. COOKE: On a point of order—

HIS EXCELLENCY: What is the point of order?

MR. COOKE: On a point of explanation if Your Excellency prefers it, I did not make that remark. I said they adjourned *sine die*.

MAJOR CAVENDISH-BENTICK: Well, sir, I accept the hon. member's explanation, but the hon. member on my right drew my attention at the time the hon. Member for the Coast was speaking to the fact that he had not resigned; he was one of those who had recommended adjournment *sine die*. At any rate that matter has now been overcome, and I am not going to go into lengthy explanations or defences, beyond saying that several of the remarks made were not very accurate. For instance the statement that my Board had put difficulties in the way of importers is not accurate.

MR. COOKE: On a point of explanation, sir, I did not say that his Board had put difficulties in the way of importers; my allegation was that the Controller of Imports had. My allegation was that his Board did not realize the seriousness of the situation and the shortage of agricultural machinery in this country.

MAJOR CAVENDISH-BENTICK: These are matters which can eventually be discussed by the proper authorities. I would like to say something more though, because irresponsible statements made here may be taken as true. It is quite unfair to suggest that farmers—I shall be told I am again mis-stating what has been said—have refused to send in returns or that they have sent in inaccurate returns. What in fact has happened is that there has been considerable delay in receiving harvesting returns, and for this reason, that owing to the maize shortage we did ask sub-committees to go round and ascertain exactly what a farmer had grown, what he had consumed and what might be available for the Control from his stocks, and as that was being done in certain districts farmers were under the misapprehension that these returns were going to take the place of the harvest-

ing return. That has been explained to the satisfaction of all chairmen of sub-committees at a recent meeting, and I anticipate getting in all harvesting returns in the immediate future. The other return, which has been referred to by another speaker, was the return in respect of planting programmes. He made reference, I understand, to a statement that all planting programmes had not yet come in. Only ten per cent or twelve per cent have not come in and that is inevitable, because in some districts people have been asked to change, or for other reasons are changing, their original intentions as regards planting. I am not going to deal with storage or the allegation that people have been ordered to slay their pigs, because I think these myths will be exploded at some future date.

Some of the proposals I have heard I am in complete agreement with and support them as much as I possibly can. I would, however, say that I trust that when the inquiry takes place (and although I know we can hardly pass any resolution in this Council on such a subject, I nevertheless express the hope) that it will be to some extent East African in its scope, because although Kenya in respect of certain foodstuffs is by far the largest producer, food shortages, production problems and distribution problems cannot be confined to this territory alone. As I have already said, I bitterly regret that once this one motion was proposed, seconded and accepted, the debate did not come to an end. I agree that every member has a right to suggest matters which should be inquired into. I do not agree that members have a right to prejudice the issue, and I think it is a pity, sir, if we are now going to waste yet more time by members on the other side of Council having to get up and defend Government or argue about statements made on this side, because that is a matter for the commission and does not justify wasting the time of busy people at the present time. As Director of Non-Native Production, as chairman of the Production Board and as an elected member, I welcome this inquiry, which may serve to clear up a great many matters which at the moment are very far from clear. But we are all busy, and as I have said we have got to get on with the war and have a lot of work to do, and therefore.

[Major Cavendish-Bentick] under Standing Rule and Order No. 43. I ask the right to move that the question be now put.

HIS EXCELLENCY: That can only be moved with the leave of the President. While I deplore as much as the hon. member the fact that there have been a great many issues raised which could have been better left to the commission to inquire into, I think it would be improper, in view of the fact that only one member has so far spoken on the Government side, that we should now bring the debate to a close without giving the hon. Director of Agriculture and the hon. Chief Secretary the opportunity of answering shortly, I hope, one or two of the more important points raised in the debate.

MR. SHAMSUD DEEN: On a point of order, sir, when a member proposes that the question be now put, should not Your Excellency put it to the vote?

HIS EXCELLENCY: I will refer the hon. member to Standing Rule and Order No. 43 (viii).

MR. KILLICK: Your Excellency, I will be brief in my remarks, but there are one or two statements that have been made and one or two accusations that had been levied which I feel I cannot pass unchallenged. In doing so I should not like it to be inferred that if I make no mention of any specific point that I necessarily agree with it. The first point which I wish to make is this. I would ask hon. members to try and picture the position as it appeared when the planting programme was being considered for 1942-1943; that is to say, in December, 1941 and January, 1942. At that time the only known figure of local consumption was the figure of 830,000 bags, which was the local consumption for the 1940-41 season. The programme of planting for the 1942-43 season was aimed at an acreage to give a crop of 1,500,000 bags, giving therefore a surplus which should materialize of 670,000 bags. I suggest that, taking the only known figure of consumption and taking a reasonable estimate of production at that time, Government did plan for a very considerable and certainly for a reasonable surplus. That as I have indicated was the position in December, 1941-January, 1942. Government had no

reason to change its opinion of those figures, certainly not until July, 1942, when the Maize Control was instituted, and when the returns received from consumers under the Maize Control Regulations in July gave no indication that local consumption had increased to the figure which afterwards proved to be the case.

Reference has been made by a number of speakers to the failure of the estimates or to the fact that the native crops have not reached the estimated figure, but in fairness to the administrative and agricultural officers I would like to point out how difficult it is to assess the marketable surplus of a native crop such as maize, since it is only the unwanted surplus that comes on to the market, and since it is necessary to assess the acreage grown by hundreds or thousands of growers and to estimate the amount a native will spare for the market. The hon. member referred to the fact that it had been stated that 274,000 bags had to be accounted for and considered that the native estimates had proved much more unreliable than the K.F.A. estimates. But I would like to make the point that in the case of Europeans, the K.F.A. who prepare the estimates, are dealing with a small number of literate people growing a crop largely for sale, whereas the native crop is grown, as the main food crop and only a small portion comes on to the market. I think also there is a doubt in some hon. member's minds whether, in fact, the acreage planted in 1942 was in fact such as to give a crop for the native areas of one million bags. I personally am satisfied that that crop was planted and that the proper proportions were planted both in the long and in the short rains. In this connexion I would refer to a remark made by the hon. member Mr. Thakore in which he referred to a conflict of opinion which he alleged had existed between administrative and agricultural officers regarding the maize planting policy. That is incorrect. It is true to say that the Agricultural Department is not in favour of vast areas under maize in native reserves, but what is done during war time is done of necessity, and we have had for the time being to agree that we must aim and are aiming at maximum acreage.

I have referred to the fact that an adequate acreage was planted in the

[Mr. Killick]
 native reserves in the short rains. That may appear to be in conflict with a statement recently made and known that the short rains failed, but if reference is made to the meteorological returns in early October it will be found that for a few days considerable rain did fall and large areas, indeed very large areas, were planted. It is not, I submit, any failure in the native reserves of planting which has brought about this shortage, but that the subsequent total failure of the rains after those first few days has brought about the reduction, or rather, a portion of the total reduction, to which Your Excellency referred in your opening address. I would refer in this connection to the remarks made by the hon. Member for the Coast, who expressed apprehension at the danger of inflation and suggested it would be desirable to fix a reasonable price to the native for his maize and put the balance into a fund. I would mention in passing that at the native growers' own request this is in fact being done in Nyanza Province, the biggest maize growing area, where instead of the natives receiving the full price in cash a sum up to nearly Sh. 2 a bag is at their own request being paid into a betterment fund. I would also refer to the remarks of the hon. member Mr. Shamsud Deen where he advocated the compulsory planting of maize, and would inform him that in present circumstances compulsory powers do exist under Part 2 of the Native Authority Ordinance, and that instructions have been issued by Government to use these powers, together with powers that exist under the Agricultural Production Stock and Machinery Regulations. The hon. Member for Nairobi South asked two questions: could we have produced more, and could we have rationed quicker, two very pertinent questions. I have tried to deal with his question, could we have produced more, in the remarks which I have just made. Dealing with the second part of his question, could we have rationed quicker, I do not propose at this stage, much as I should like to, to go into details, but I would mention this fact. Since July, when the Maize Control was instituted, there was in fact a very severe rationing, rationing not necessarily perhaps on an organized system but rationing necessitated by the supply position. I feel, per-

haps, that it is not sufficiently appreciated how rapidly during the second part of 1942 local consumption increased. The increase, of course, was due to the war developments of which hon. members are aware, particularly in North Africa and the very large influx into this Colony, which necessitated a very considerable increase in the employment of civilian labour.

The question may be asked, why at the beginning of 1942, was not a greater acreage planted if not in Kenya, in the adjoining territories of Tanganyika and Uganda? I have tried to give the picture as it appeared at the beginning of 1942, and to indicate that there was a reasonable prospect of a considerable surplus at that time. Later in the year, when the picture changed, it was of course too late to plant any further acreages under maize, and we had to do the best that we could with supplies from Kenya alone. I would like, if I may, to comment briefly on the present food position in the reserves and the question of seed supplies, because one or two speakers made the statement, which it is very easy to make, that natives are being returned to the reserves and left to starve. That is a statement to which I take great exception. It is true that natives are being returned to the reserves, and in fact to Nyanza some 10,000 have already gone back, but it is not true to say that those natives are being left to starve. Take, for instance, Nyanza, as hon. members are perhaps aware there is still an exportable surplus, small though it may be, from that province, and in the first fourteen days of March, some 15,000 bags of maize were available for export from that province. Arrangements have now been made to keep all further stocks from coming on to the market, whether maize, mtama or wembe, in that province in the event of having to give famine relief there, but that position has not yet arisen there. Dealing with other areas, except for relatively small areas, of which South Kiambu is the most important, although the food position in those areas is I admit not satisfactory it is not such as to warrant at present any famine relief, but I can assure hon. members that the position is being daily and, in fact, hourly watched. I should like to refer to one point mentioned by the hon. member Mr. Paroo, in which he asked what steps are being taken to increase

[Mr. Killick]
 the production of rice in this Colony. It is true, as he says, that for a number of years we have had to rely on rice importations from overseas or from Tanganyika, but steps have been taken since the middle of 1942 considerably to develop rice growing in this Colony in the coastal areas, in Nyanza Province, and more recently at Taveta. As much as is possible is being done, but it is not easy with a crop such as rice to get spectacular increases in a short time.

I would like to mention, in conclusion, that for 1943-44, as perhaps hon. members are aware, not only are we aiming at maximum production of maize in this Colony, but arrangements have been made and are in train for the production of a considerable exportable surplus in Uganda in the nature of 400,000 bags plus a small exportable surplus from Tanganyika, in addition to which those territories anticipate that they will be self-sufficient in maize in a good year and will not require as in this year, imports from this Colony.

MR. RENNIE: Your Excellency, very little time remains this morning and unless we are going to carry this debate on to a third day, which I hope we shall not do, it will be necessary for me to be very brief and to omit many points that I should have liked to answer.

In the first place I should like to begin by congratulating the hon. mover on the forcible and eloquent manner in which he moved this motion. (Hear, hear). Had I been able to close my mind to what has happened in the past three years I would almost have been persuaded, I think, to agree with his indictment of the Government. As it is, sir, as I cast my mind back to what has happened in the past three years I am hardly in that unenviable position, and although I had intended this morning to give a somewhat detailed answer to his statement that one of the chief causes of the shortage of food at the present time was the total failure of the Government, in spite of warnings, to appreciate the real condition of agriculture in this country, although I had intended to give a brief outline leading up to the present state of affairs without in any way attempting to prejudge the result of the inquiry for which a request has now been made, I would merely instead of that refer the hon. member to the state-

ments made in this Council by the then Financial Secretary in December, 1941 and by myself in April, 1942, when somewhat similar allegations were made against the Government.

He mentioned, sir, that the Government had proceeded with this course in spite of warnings, and he mentioned that he himself had given warning and that warning had also been given by the Chairman of the K.F.A. I propose to pass somewhat lightly over his own warnings in case he carries out his threat and reads a number of extracts from his various articles! I therefore pass on to the warnings uttered by the Chairman of the K.F.A., and if I may, sir, I would merely state in that connection that although in the early part of his speech the Chairman made various remarks that the hon. mover has mentioned, towards the end of his speech he struck a more hopeful note when he said: "On the second point I am glad to be able to report that as a result of continued pressure by the Association in its endeavour to obtain a guaranteed price of Sh. 9 from Government they have at long last taken action and are prepared to give a guarantee for all European produced maize grown in 1942." He had been referring in the earlier part of his speech to the fact that "as a result of both Government and unofficial opinion not accepting this maize question as a 'National' problem, my board asserts," and went on "that the country is being allowed to drift into a crisis in the near future . . ." and I suggest, sir, that the statement to which he referred in the later part of his speech—the statement which I made in this Council in December, 1941—indicates that the Government had by December, 1941, accepted this maize question as a 'National' problem.

The hon. mover made a number of statements as regards the guaranteed prices given by Government and stated, among other things, that not until the end of February were guaranteed prices given—a few days before the rains, I think if the hon. mover were to turn to the communiqués that were published at the end of January and at the beginning of February he would find that the Government had there given undertakings—some days before the end of February. I do not propose to take up in this stage a number of points which I had

[Mr. Rennie] intended to take up, but I would merely go on to deal with some remarks made about the Maize Control. The hon. member stated that the appointment of Maize Controller was a wise one and he went on to refer to certain meetings which I in the first place as acting Governor, and later you, sir, had with certain representatives of the producing and consuming interests, at which I first, and you later, had indicated that on the case as presented there was no need in our opinion for any change in the personnel of the Control. Since reference has been made to the particular interview that I gave, I think I should perhaps be permitted to state that I was working on exactly the same basis as the hon. mover; I was working on the basis that the appointment of Maize Controller had been a wise one, and when representations were made to me that that appointment had not been altogether wise, I naturally asked the question in what respects has the Maize Controller failed in his duty. It was after that meeting, sir, that, acting on the advice of Executive Council, a letter was written to some of those representatives at the meeting asking them to state in writing the allegations that they had to make against the Maize Controller, and that was the position when you, sir, met the deputation a short time later. At that time the allegations were under consideration and investigation by the Maize Board, and it was only after that board had come to the conclusion that the allegations had not been substantiated that a reply was sent to the representatives and to the Agricultural Production and Settlement Board that, in view of the finding of the Maize Board, no case for making changes in the personnel of the Maize Control on the grounds put forward by those representatives had been substantiated.

Now as regards the reference to the "iniquitous" scheme of Maize Control, I think in fairness to the present personnel of the Control, I should make perfectly clear—a point that has been forgotten (since I have seen references to the original form of the control in letters in the newspapers)—that the original control was the result of the investigations of a fairly representative committee consisting of the Financial Secretary, the Chairman of the Agricul-

tural Production and Settlement Board, the Deputy Director of Agriculture, two Indian representatives and two representatives of the Kenya Farmers Association, in addition, if I remember rightly, to Major Hearle. I think we should remember that the first Maize Control scheme was drawn up as a result of the recommendations of that Committee, and that it is not, as is commonly stated and commonly thought nowadays, the work of the present Maize Controller.

Now, sir, I do not propose to take up very much time with the remarks of the hon. Member for Trans Nzoia, but I feel I must refer to one or two inaccurate statements that he made. He stated among other things that European maize growers got a second shock when they realized later on in 1942 that the guaranteed price of Sh. 9 for 1942 maize was to be for maize sold in 1942. Now when he himself asked for that price of Sh. 9 for maize in November, 1941, he made it quite clear then that he was referring to the crop that was going to be planted in 1942. If I may quote from Hansard, the hon. member stated: "I suggest that no maize will be grown for export if I can prevent it under Sh. 9 a bag f.o.r. Time is the essence of the contract. Maize is wanted in large quantities. It is a question of seizing a particular time. It has in my own district to be in the ground by the 1st April, and there is very little time if you want me, which I am happy and willing to do, to do everything possible to get a large acreage of maize under during the coming few months." I could also quote, but I won't, from his remarks in April, 1942, which are of somewhat similar tenor. I could also quote, but I will not, from the letter that the Chairman of the K.F.A. addressed to the *East African Standard* in January, 1941, which began: "As a wrong impression may be created by your reported interview with Col. Kirkwood regarding the maize situation, the following facts may clarify the position." I do not intend to quote *in extenso* from that letter; I merely wish to state that if the European maize growers got a shock early in 1942 in respect of the Sh. 9 guaranteed price for maize, that shock did not come from the Government.

COL. KIRKWOOD: On a point of order, I think I am entitled to interpret what happened.

HIS EXCELLENCY: The hon. member is not in order in making a speech.

COL. KIRKWOOD: I was not going to make a speech, but if I am not, on a point of order, allowed to correct the hon. member, I propose to sit down and speak some other time.

MR. RENNIE: There are a number of other inaccuracies in his speech to which I need not refer because time is now short, but if the hon. member wishes me to give him chapter and verse with reference to these inaccuracies I shall be pleased to do so, in case his speech is reported in full in the paper and any erroneous impression gets abroad as a result of that speech.

COL. KIRKWOOD: Am I not in order in saying I am reported correctly and that the interpretation the hon. Chief Secretary has put on it is incorrect?

MR. RENNIE: Turning to the remarks of other hon. members, very little remains for me to say in the short time at my disposal. I would merely mention some of the remarks by some hon. Indian members. I think the hon. member Mr. Paroo said that Government had failed to look after the interests of the Indian community as regards their diet. This is hardly fair, I think, to the efforts of the Government in doing all that it could to ensure that the Indian community had representation on the various organizations and controls that have come into being as regards food distribution in the past few months. There are a number of other points that I should like to take up, but I do not propose to do so in view of the fact that we have still a considerable amount of business to get through this morning. I would merely say in conclusion that, as the hon. Financial Secretary has indicated, the Government accepted this motion, and I trust that as a result of the inquiry we shall have a very definite and decided answer to so many questions that are agitating the public mind to-day.

MR. COULDREY: Your Excellency, the hon. Chief Secretary has just referred at some length to the time which was left him, and of course I have been left with even less time! I must say first of all what has been said half a dozen times; that is, as I happened to move this motion I naturally appreciate the fact

that Government has agreed to accept it. I must say that I did not realize, when I moved what I thought was a straightforward motion, that it would lay open such avenues of verbosity as it apparently has, but I must just reply to one or two things—it is impossible to reply in the short time the hon. Secretary has left me to all the points made by hon. members that side of Council.

First of all, the hon. Financial Secretary, I have to thank him for his speech. Had I needed any more material to make my arguments he provided me with them. He said among other things, or referred, to the question of storage and the fact that Government had it in contemplation to put up a lot more storage. He said he had no doubt that I would say again, "Too late." On this occasion I congratulate the hon. member as representing Government, on Government foresight: I am going to say it is too late. I really will follow the example of the hon. Chief Secretary and be short, but I just want to say a word about what my hon. friend the Member for the Coast said. I have no doubt that he will rise to his feet on a point of order—and if not on a point of order on a point of explanation or information or something—but, as I understood him, he twitted me with the fact that I was making accusations against Government when I should have brought them against the Agricultural Production and Settlement Board. He will probably be surprised to hear that I actually meant what I said, I asked for the inquiry, and I did not want to pre-judge the findings of the inquiry. I asked for a commission, and I did not think I had appointed myself to be a member of the commission and was going to announce the award. As regards the hon. member Mr. Shamsud Deen he twitted me with the fact that my motion was too late but, as I understood him, had I not moved it he himself intended to move it (laughter), so if I have been infected with the Government bug of "too late" I suggest also that he is not uninfected.

Now we come to the speech of the hon. Acting Director of Agriculture, on which perhaps he will not consider it an insult if I congratulate him. He has a very feeble case and has put up a very good defence. I am afraid that I cannot answer all the questions, but he did make one or two points in his very well

[Mr. Couldrey]

thought out defence which must be replied to. For instance, he said as a matter of fact there had been rationing since 1st July and the rationing was brought about by the supply question. I again suggest to you, sir, it is one of the reasons we are asking for this inquiry, that Government did not appreciate until too late that that very unfair method of rationing was operating so unsuccessfully. As regards what the hon. Chief Secretary said, of course he started off with a compliment, and I know him well enough to know that when he makes a compliment you can look out for a pretty hefty hit (Laughter). It was not a very heavy hit, in fact, but he caught me up on one point. I said in my opening speech that not until the end of February were guaranteed prices made, but as he pointed out it was the end of January. That I submit only makes my point even stronger, that Government knew something had to be done at the end of December but did not take the real steps or even commence to take real steps such as the payment of a bonus for breaking new land until the end of January. If they had appreciated the situation at the end of December we might not have had to deplore the fact that they were once more too late.

I think that completes my reply and I trust I have not occupied too much time.

MR. SHAMSUD DEEN: Your Excellency, on a point of explanation. I did not wish to interrupt an eloquent speech, but what I did say was that this motion might well have come from the Indian members.

The question was put and carried.

BILLS

FIRST READING

On the motion of Mr. Harragin the Control of Grass Fires (Amendment) Bill, the Kenya and Uganda Railway (Amendment) Bill, the Employment of Servants (Amendment) Bill and the Alienation of Immovable Property (Restriction) Bill were read a first time and notice given to move the subsequent readings at a later stage.

ADJOURNMENT

Council adjourned till 10 a.m. on Wednesday, 24th March, 1943.

Wednesday, 24th March, 1943

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Wednesday, 24th March, 1943. His Excellency the Governor (Sir Henry Moore, K.C.M.G.), presiding.

His Excellency opened the Council with prayer.

MINUTES

The minutes of the meeting of 23rd March, 1943, were confirmed.

ORAL ANSWERS TO QUESTIONS

No. 8—LOCUST INSURANCE SCHEME

MR. COULDREY:

(a) Will Government state what the result was of the questionnaire circulated among farmers as to the desirability of introducing a locust insurance scheme.

(b) Will the Government further state whether they have any intention of taking steps to initiate such a scheme.

MR. KILLICK: (a) Returns received from cereal growers totalled 406 against the scheme and 169 in favour. The total number of returns received was but a small proportion of the number distributed. It was the intention that growers from whom no reply was received by a given date should be considered as being in agreement with the proposals. Government has, however, reason to believe that the result of the questionnaire does not give a full and accurate picture of the wishes of the majority of cereal farmers with regard to the institution of a locust insurance scheme.

(b) The question as to what further action should be taken in the matter is being examined.

No. 11—MANGO TREE CULTIVATION

MR. KASIM:

(a) Is Government aware that mango trees could successfully be grown in north, central and south Kavirondo districts in Nyanza Province?

(b) If the reply is in the affirmative, will Government encourage the growing of these trees in those districts, because a mango has a high vitamin content and would be an ideal supplementary food to the inhabitants of

[Mr. Kasim]

those areas in case of famine in the future, while the trees would provide shade for domestic animals?

MR. KILLICK: (a) Yes.

(b) While the Government is, in principle, in agreement with the suggestion that the growing of mango and other fruit trees should be encouraged in suitable areas, it is not possible in present circumstances to give more than limited encouragement to work of this nature owing to limitation of staff in relation to greatly increased war-time demands.

MR. NICOL: Arising out of the question and answer, Your Excellency, how long does it take for a mango tree to come into maturity?

MR. KILLICK: The reply to the hon. member is that with due care and watering, a minimum of five years, probably up to seven.

MR. NICOL: Would it not therefore be better to concentrate on cassava?

MR. KILLICK: In my opinion, yes.

CONTROL OF GRASS FIRES (AMENDMENT) BILL

SECOND READING

MR. BROWN: Your Excellency, I beg to move that the Control of Grass Fires (Amendment) Bill be read a second time.

As hon. members are aware, under the definition of "fire-break" in the principal Ordinance a fire-break must be not less than 30 feet on either side of a boundary, making 60 feet in all. The Railway has something like 1,300 miles of track running through country of widely varying conditions and it has been found impracticable in the case of land adjoining the Railway in all cases and in all conditions to insist upon the maximum width of sixty feet. Just as in some cases a fire-break should be more than the statutory width, so in some cases a fire-break of less than that width is ample, and clause 2 of this bill introduces some elasticity in that matter by empowering the owner of land adjoining railway land to come to agreement with the railway that their common fire-break may be of an agreed width and that it should be sited in some place other than their common boundary.

Passing to clause 3 of the bill, the Nakuru District Council conceived the idea of persuading certain farmers to get their more intelligent boys to act as fire-rangers. The boys do that work in their employer's time and they draw their ordinary wages from their employer, but unless they are appointed by the local authority—and as the law stands at present, in order to be appointed by the local authority, they have got to be paid out of the revenues of the local authority—these boys can have no legal standing. The object of this clause is to enable these boys to be appointed as fire-rangers without the necessity of having to pay for them from the revenues of the local authority when they are doing work in their employer's time and drawing their ordinary wages. Under the existing section 11—the section which empowers the owner or occupier of land on whose land a fire is burning to call upon anybody in the vicinity for assistance in putting it out—the only person who has that power is the owner or occupier of the land where the fire is burning. Obviously that power should be extended to the police and fire-rangers, whether paid or unpaid, and that is the object of clause 4.

MR. HARRAGIN seconded.

COL. GHERSIE: Your Excellency, I am rising to support the amendment, but there is just the question of whether there should not be a further amendment, and that is to make fire-breaks compulsory. In the principal Ordinance it says that "any grower or occupier of land who desires to guard against fires spreading beyond the boundaries of such land may call upon the owner or occupier of any adjoining land—" You may have a case where the farmer may have vacant land adjacent to his own; what would be the position there? It would be impossible to call upon your neighbour to create a fire-break. Secondly, I doubt if the average farmer is more likely to accept legislation than a request from his neighbour. I want to hear the hon. member's suggestions on that point.

LORD FRANCIS SCOTT: Your Excellency, this Bill refers only to land adjoining the railway. Am I correct in believing that in the principal ordinance the question of a fire-break between adjoining farms can be of such width as

[Lord Francis Scott] is mutually agreed upon and in such position? If not, why is this amendment not made applicable to farms as well?

MR. COOKE: Your Excellency, I should like to support what has been said by the hon. Member for Uasin Gishu about compulsory fire-breaks.

MR. BROWN: Your Excellency, the noble lord the hon. Member for Rift Valley has asked firstly whether, under the existing ordinance, two adjoining owners can agree to have their fire-break of less width than the statutory width and, secondly, whether the siting of such fire-break can be at such place as they may agree to, not being on their common boundary. The answer to the first question is no, they cannot; the answer to the second question is yes, they can. There is no provision in this ordinance to enable two adjoining land-owners to agree to have a common fire-break of less than 60 feet. That does not mean that there is anything to stop them from having it; they can agree to have a fire-break 20 feet or 40 feet, but that fire-break will not come under the Control of Grass Fires Ordinance, and if one of the two fails to maintain that fire-break, the other will not be allowed under the ordinance to go upon the land of the defaulter and do the work for him and to charge the defaulter with the cost. I see a big difference between the case of the Railway and the case of two adjoining owners. The Railway have their staff of engineers—skilled men with great experience of railway management—and where they express the opinion that at a certain place a common fire-break of 40 or even 30 feet is ample, that is a technical opinion which must necessarily carry a good deal of weight. There is no danger in that case, because they can only have a fire-break of less than the statutory width if the adjoining owner agrees. But it is quite a different matter where two adjoining owners agree, for reasons which may be various, reasons of economy possibly, to have a fire-break of 40 feet or 30 feet; that seems to me to be altogether different from the case of the Railway. As I say, there is nothing to stop them having it, but that fire-break would not come under the Control of Grass Fires Ordinance, with the advantages that attach to that ordinance.

I was particularly interested in the suggestion of the hon. Member for Uasin Gishu, supported by the hon. Member for the Coast, that fire-breaks should be compulsory. As hon. members know, the position at the present time is that I can if I choose give notice to my neighbour to cut his share of the fire-break. If I do so he has got to cut his share of the fire-break and if he does not, I can cut it for him and charge him up with the cost. Of course the past year has been a very severe test of this ordinance. Many of the sections have worked well, but I am frankly doubtful as to whether the most important section of the ordinance, section 7, the fire-breaks section—has worked well, because, as the hon. member says, it is not compulsory. When this bill was introduced it was stated that it was hoped and believed that farmers would co-operate in this section 7 to make it a success; it was hoped that farmers would co-operate to meet a danger which was common to them all. Some have, but many have not, and as we all know there have been an enormous number of grass fires. I think it is a matter worthy of the most careful consideration. I think we have first of all to be satisfied that the grass fires which have occurred have been due to the fact that this section is not compulsory, and secondly, of course, we have got to consider the cost to the individual farmer if it were made compulsory, and to balance that cost against the probable saving to the country which there would be if this section was compulsory. As I say, the suggestion of the hon. member deserves most careful consideration.

The question was put and carried.

KENYA AND UGANDA RAILWAY (AMENDMENT) BILL

SECOND READING

MR. BROWN: Your Excellency, I beg to move that the Kenya and Uganda (Amendment) Bill be read a second time.

This bill is complimentary to the bill which has just received a second reading and introduces a new definition of "fire-break" under the Railway Ordinance, which is made necessary by the last bill. Hon. members have had notice that in the committee stage I shall move the following amendment:—To insert between the words "dimensions" and

[Mr. Brown] "as" in line 4 a comma followed by the words "or sited at such places."

MR. HARRAGIN seconded.

The question was put and carried.

EMPLOYMENT OF SERVANTS (AMENDMENT) BILL

SECOND READING

MR. HARRAGIN: Your Excellency, I beg to move that the Employment of Servants (Amendment) Bill be read a second time.

As hon. members are aware, the provisions of this bill were really enacted by the Employment of Servants (Amendment) Ordinance, No. 16 of 1939, in section 29. When that ordinance was passed, there was a clause put in whereby it would only come into operation by notice in the Gazette. The reason was that a great deal of preliminary work would have to be done regarding registration. Unfortunately, as we all know, the war came on us with the result that there was a shortage of man-power, and generally it was impossible to spare the time to carry out all the provisions of that ordinance. So, in fact, Your Excellency has never issued that notice. Meanwhile, the Secretary of State, believing that this bill was now law, on our behalf in England signed an agreement stating what is in effect the law, namely, that penal sanctions regarding juveniles have been dispensed with in Kenya; I may say that that is also true, I believe, in the whole of the rest of the Empire. The result is that to-day, unless we adopt this amending bill, we shall not be conforming with that agreement. The effect of the amending bill is to bring into force one part of the ordinance which we have already passed, No. 16 of 1939, which abolishes penal sanctions in the case of juveniles.

MR. COULDREY: Your Excellency, I should like to draw the attention of Council to a little matter connected with this bill. On this occasion Government has taken a course which I believe to be a right and proper one, to decide on the abolition of these penal sanctions in the case of juveniles, but they have through their Information Office issued a communiqué by means of the Press explaining why this amendment was being introduced and what its objects were. That

is not quite correct: it is what Government hopes will eventuate from this amendment. In the bill itself the Government has published its "Objects and Reasons" which are, as the hon. and learned Attorney General said, to exempt juveniles from the penal sanctions. But in the communiqué which has been issued by the Information Office it is stated, after first explaining how this amendment to the ordinance will operate, that no employer will have any means of legal redress for damage done by a juvenile in this employ: "It is hoped that this will discourage the continued employment as 'kitchen totos,' particularly in towns, of swarms of children who now work in such surroundings and for such meagre pay as to encourage them to indulge in petty thieving, and often results in their turning into criminals." In other words, whatever the stated "Objects and Reasons" may be, Government in its communiqué to the public state that it is hoped it will have the effect of discontinuing a practice which it does not like, that is, of juveniles being employed in towns as kitchen totos. It may be said that hopes and "Objects and Reasons" are not quite similar terms. I do suggest that this is rather a quibble. I do think really that Government on this occasion is asking us to pass an amendment to an ordinance on one hand for an ostensible reason, which is to prevent juveniles being subject to penal sanctions, but on the other hand the real reason, the real object, is to prevent the public employing totos at all.

I do not quarrel with that object. All I can say is that it would be very much better if Government had made its intentions fully clear in the bill or had adopted other means of bringing their hopes about. After all said and done, supposing its hopes failed and this bill does not fulfil those hopes and people still employ totos, what is the logical consequence? I submit that Government will not do it, but the only logical thing would be to give bonuses for brighter and better damage done to employers' property. I suggest that it is wrong, not to say hypocritical, to bring in a bill with one reason when Government hopes that it will have a different effect. I bring the matter up because the public have a considerable distrust of Government legislation. They think that Government often brings in legislation for one ostensible

[Mr. Couldrey] sible reason when in reality Government has some other reason at heart. I do not wish to stress the point further, but I do suggest that as it is one of the first essays of Government in using its Information Office in what I believe to be its right sphere, that is, as a public relations office, it is very unfortunate that this particular communiqué should have been put abroad.

Mr. HOSKING (Chief Native Commissioner): Your Excellency, I think that I can throw some light on that Government communiqué. The "Objects and Reasons" of the bill are as stated in the footnote to the bill, and those were the objects and reasons of Government in introducing this legislation. The Commissioner of Labour was asked to comment on it by the Information Office, and he mentioned that it would have this effect, and consequently the Information Office included it in the communiqué, but it does not in any way alter the objects and reasons of the bill, which are as stated. If we introduced compulsory education for Africans, it would have the effect of reducing the number of goats, because if all the children went to school there would not be enough left to herd the goats and people would have to get rid of them, but it would not be stated in the "Objects and Reasons" if we introduced a compulsory education bill.

Mr. HARRAGIN: I have nothing to add to that.

The question was put and carried.

ALIENATION OF IMMOVABLE PROPERTY (RESTRICTION) BILL

SECOND READING

Mr. MORTIMER: Your Excellency, I beg to move that the Alienation of Immovable Property (Restriction) Bill be read a second time.

This bill is intended as a contribution to post-war settlement, as part of a plan to ensure that after the war land will be available for those who need it at prices within the limits of sound agricultural economics. I have repeatedly emphasized both in this Council and elsewhere that the amount of crown land suitable for closer settlement and still available for alienation is almost negligible, and that for any real advance in

closer settlement we must look to the seven million acres at present in private ownership, of which I think I am right in saying less than half is developed. The Settlement scheme of 1939 which was adopted by this Government and by His Majesty's Government at home had as part of its main provisions a scheme for the advance of money on long term loans for assisting in the purchase of private property. I have no need to go into the details of that scheme now as they are well-known to hon. members. Suffice it to say that those plans were prepared to meet a normal situation. It was expected that the inflow of new settlers would be at such a rate as to be readily absorbed without undue pressure on the settlement organization and without any special measures being taken to ensure the availability of suitable land. Even then, the Settlement Committee recommended in its report in 1939 that if there were at a later date any tendency towards speculation in land values the Government should be prepared to consider the introduction of further measures: for example, the imposition of a tax on undeveloped land, which would break or retard the tendency to speculation. The situation has entirely changed since the beginning of 1939 because of the war. The settlement scheme is in abeyance and must remain at any rate largely in abeyance until the end of the war. After the war it may be expected that the demand for agricultural land will be heavy, sudden and concentrated. It behoves us then, both official and unofficial sections of the community, to be ready to meet that demand when it comes.

The Land Board has given much thought to this problem, and some time ago presented to Government a series of recommendations with that main object in view. The Board viewed with great concern the tendency to speculate, which it felt was observable in some parts of the country, and recommended a series of steps to retard that tendency. Some of those measures have already been introduced. For example, an investigation is now proceeding into the failure of lessees of farms to develop their holdings in accordance with the covenants in their leases. Another of the measures that has been taken is the framing of the bill now before this Council. On other matters recommended by the Board no

[Mr. Mortimer] final decision has yet been taken. I have digressed from the bill itself in order to make clear the background against which the bill has been framed. I will now refer specifically to the bill and its significance.

As I have said, the Land Board formed the opinion that there was observable in certain parts of the country a tendency to speculation, that undeveloped or partially developed farms were being bought not for immediate development but with a view to holding them for a higher price after the war. It is difficult to produce specific evidence of this assumption, but one thing, I believe, is certain: that is that intending purchasers who require land for genuine development purposes are finding even now that the price is high. That may be due to two different reasons. First of all, farming is now more profitable than it has been at some periods in the past. Perhaps I may be called in question for having suggested that farming is ever profitable (laughter), I should perhaps have said that farming is less unprofitable than at some periods in the past. (Laughter). Consequently, there is less inducement on the part of the land owner to part with his surplus land. Another reason may be that such land as may be available for transfer, surplus land, is being—

Mr. COOKE: Your Excellency, I am very sorry to interrupt on a point of order, but has this bill ever been read a first time, because it is only fourteen days to-day since it was published?

HIS EXCELLENCY: A first time, yes.

Mr. COOKE: The fourteen days had not expired.

Mr. HARRAGIN: I suggest it has expired, it expired yesterday, which was the fourteenth day after publication, which was last Tuesday week.

Mr. MORTIMER: If I may be permitted to resume, sir? (Laughter). The second reason for the increase in land prices may be that such land as may be available for transfer is being sought after by capitalists with money to invest who are not attracted by two and a half per cent war loan, and consequently there has been some hardening in land prices. Whatever may be the reason of that hardening, one thing is clear: that

if any tendency to increased agricultural land prices goes on unchecked, there is grave danger that by the end of the war prices will have reached so high a level as to prejudice the success of any settlement scheme. The Land Board's recommendation was in these terms: that legislation be enacted to prevent during the war and for one year thereafter any sale, lease or sub-lease of agricultural land, whether by way of agreement or otherwise, except with the written consent of the Governor or such officer as he may appoint for the purpose, such consent to be subject to the satisfaction of the Governor as to the intentions and ability, financial or otherwise, of the prospective purchaser to develop the land. It was also recommended that in the consideration of the application the co-operation of district councils should be enlisted. Representations on the same theme were made by no less than ten district associations and man-power committees.

The bill was drafted by the hon. and learned Attorney General to meet these apparent demands from a considerable section of the community. During the two weeks that have elapsed since the bill was first published, the columns of the daily and weekly Press have shown that opinion in the country is divided on this very important subject. Some of the criticisms that have appeared have been based on a genuine dislike of the measure and its intentions, very many more criticisms have been based either upon misunderstanding or upon innocent or deliberate misrepresentations. One of our newspapers published a leading article—perhaps I should say misleading article—in which the following passage appears: "A soldier looking around for a bit of land to settle on after the war, presumably will not be able to buy it. A perfectly honest capitalist willing to buy an estate and spend money on it, say finding water, making roads or otherwise preparing it for the occupation of several families, will not now have the opportunity." From whatever source the writer of that article obtained his information it was certainly not the bill now before Council! Other statements equally unfounded have been made to the effect that a farmer will, if this bill be passed, be prohibited from raising money by mortgage to enable him to continue his production efforts. That certainly is not

[Mr. Mortimer] in the bill. Having said what the bill does not contain, I will now refer to its actual contents.

Clause 2 is the main operative clause, and it provides for the prohibition of any transfer, lease, sub-lease, or mortgage of land outside municipalities, townships and trading centres without the consent of the Governor. There is also exempted coast land which is held under the Land Titles Ordinance on certificate of title. Those lands are for the most part very small areas held by poor people, and they are not likely to cause any disturbance in other land values or prejudice any settlement scheme. Mortgages have been included in the provisions of the bill not because of any desire or intention to interfere with ordinary financial transactions whereby a farmer raises money for the financing of his development programme, but because it is by no means a rare occurrence for a land transfer to be effected in the first instance by means of a mortgage. It was necessary, if control was to have any value at all, that that very easy method of effecting transfer should have the door closed against it. It would simplify the administration of the ordinance immensely if some means could be devised of excluding straightforward financial transactions, and I would have no objection at all to that being considered in the committee stage. Clause 3 of the bill includes within the prohibitions without consent all transactions and contracts that have not yet been completed or registered. It was, of course, necessary to include these uncompleted transactions, or the purposes of the bill would be entirely nullified. I trust that I am right in saying that whoever exercises this control on behalf of Your Excellency will use commonsense and equity in dealing with transactions of this kind.

Clause 4 prohibits the registration of any documents relating to a prohibited transaction. Clause 5 is the penalty section. In an important matter of this kind it is necessary to make the penalties high, and you will notice that the maximum penalty is a fine of £5,000 and/or five years imprisonment. In clause 6 we have the necessary rule making powers which will enable the Governor to lay down what shall be the prescribed form of application, as it is of course im-

portant that applications should all be in similar form and, that similar information should be required from every applicant, and also for all the other things necessary for carrying out the ordinance. Clause 7 contains power of delegation by the Governor to any person or body of persons. It is obvious that Your Excellency could not find time to deal with all the multitudinous matters that will come up under this bill, and therefore power of delegation is essential. I do not know how the power of delegation will be exercised, but I imagine that a small board will be established consisting of people who are knowledgeable on this subject and who could be entrusted with the powers given under the ordinance. Clause 8 limits the operation of the ordinance to the period of the war and one year after. Finally, clause 9 repeals the Alienation of Immovable Property to Enemy Subjects (Restriction) Ordinance, 1940. I should like that to be reviewed in committee, as I have noticed that the complete repeal of that ordinance will leave entirely unguarded land transactions with enemy aliens in township properties and in coast lands.

These are the provisions of this bill, but it must be obvious that in dealing with a measure of this kind everything depends upon its administration. (Hear, hear.) It can either mean much or little, in accordance with the way in which the control is exercised. As to the manner in which that control should be exercised, a very wide divergence of public opinion has been manifest in the discussions which have taken place so far in the Press and elsewhere. There is no one more aware than myself of the difficult problems that will arise in the exercise of this control if the bill becomes law. Without going into detail, which I think is not required at this stage, I can assure hon. members that if the bill becomes law it is intended to apply it in the interests of the Colony as a whole for the assistance of post-war settlement and for the utilization of land to its best advantage. Every endeavour will be made to ensure that the control works speedily and with the minimum of interference with public convenience and wishes. The main objection that has been levelled against this bill is that it is an undue restriction on private property rights and the freedom of a land-owner

[Mr. Mortimer] to sell his land to whomsoever he will at whatever price he can get without any grandmotherly interference on the part of the State. It has been wisely said that land is the one commodity which is at once absolutely essential to human existence and of which the supply is rigidly limited. Apart altogether from war time conditions, when State interference with private rights and comforts and wishes has become commonplace, it is very certain that in the utilization of the land the right of the State to intervene and to override the private interest of individuals if the interest of the community as a whole so demands, will be increasingly recognized and will be increasingly acted upon. The present measure is only a war time measure, its effect is not easy to forecast, but there is a fair prospect. I submit, that it will have a value as a contribution towards the extension of settlement of the kind that we all so earnestly desire.

MR. HARRAGIN seconded.

MR. WRIGHT: Your Excellency, the hon. mover has presented his case with his characteristic skill, both pro and con, and there is no need, as he says himself, to go into detail at this stage. Having heard his own view as to the intention of this measure, I think I can say on behalf of all elected members on this side of Council that the case to ensure space for soldier settlers after the war has our fullest support. In view, however, of the fact that there are snags in the bill—misunderstandings as affecting mortgages and other matters—I should like to suggest that the select committee appointed to go into this bill should have special terms of reference requiring them to take outside evidence, as much as they can get in as reasonable a time as can be apportioned before this bill is pushed through into law. There are so many complications attending it that it would be deplorable if this bill, put up for its second reading, as the hon. Member for the Coast has just emphasized, on its second day, not yet having been referred to District Councils, its terms having not yet been made known to the rentier and other classes who have got to be concerned in these matters, were pushed through without due consideration. While the intention of the measure is to make ample pro-

vision for soldier settlers after the war, or post-war settlement of any kind, we shall in the interval be creating real hardship if those people who are likely to be most affected by it are not given an opportunity of stating their case. For that reason I would ask that special consideration be given to the terms of reference of the select committee and that it be given ample opportunity and instructions to call in outside evidence before the bill is passed through its third stage.

MR. COOKE: Your Excellency, at the risk of incurring Your Excellency's displeasure and of being charged by the hon. Attorney General with being arrogant, I want again to point out that the ruling of Standing Rules and Orders is that at least fourteen days notice shall be given prior to the first reading, and I do submit that the 23rd, yesterday, was not at least fourteen days after to the 10th which is the date on the bill. I am not making this point in order to be vexatious, but if this bill is passed and it becomes the law, the question is perfectly certain to be raised in court by any litigant or anyone who is defending himself under the penalty clauses of the bill, and I do submit, sir, that in the ordinary interpretation of the English language the 10th of March was not at least fourteen days prior to the 23rd March. I incurred the displeasure of my hon. friend the Commissioner of Lands for interrupting him, but of course my hon. friend must realize that important as his speeches are the rules of this Council must be observed, and therefore I raised the point while he was speaking. I have one thing to say on this bill. I agree with my hon. friend the Member for Aberdare, that it is a pity to rush a bill like this; on the other hand, I personally have been in touch with a lot of the younger people in this country and I think there would be very just and bitter resentment if any unavoidable delay takes place. My hon. friend, I am sure, will excuse me, being chairman of the committee on which I sit, if I disclose the fact that in evidence before the Employment of Europeans after the War Committee, we have had some very remarkable returns to the questionnaire which we sent to all members of the forces. A large majority of these members wish to indulge in farming after the war, and I therefore think that any

[Mr. Cooke]

avoidable delay in getting this bill through will be very much deprecated, but if we have to postpone it I hope there will be a very early meeting of this Council so that the bill can be put through. With these remarks I support the bill.

LORD FRANCIS SCOTT: On a point of order, can we have the point raised by the hon. member cleared up as to the legality or otherwise of this motion?

MR. HARRAGIN: Your Excellency, the first point that I wish to make in this matter is that, under Standing Rules and Orders, you alone decide these questions. You have made your decision and it is not within the province of any member of this Council to question that decision once it has been given.

The second point that I should like to make is that these Standing Rules and Orders do not form part of the laws of Kenya; they are the rules of debate which have been made by this Council for this Council, and they can be varied by this Council at any time even if, for instance, there is a rule which is clearly being infringed against, some hon. member may get up and move the suspension of Standing Rules and Orders, and when it is passed there can be no question whatsoever in any court of law. (Mr. Cooke: That is admitted, of course). Therefore I think the hon. member may rest assured that any law which eventuates out of the passing of this bill cannot be questioned in a court of law, as to whether hon. members did or did not have the necessary notice before the bill became law. But as a matter of some interest I would like to point out that the procedure is in common form. It has always been recognised ever since I have been in this Council and this rule certainly was in being long before I ever arrived in Kenya. The 15th day was always the Tuesday following the two weeks after the bill has in fact been published. Now may I read to you, sir, Rule 64: "At least fourteen days prior to the date on which it is proposed to read a bill for the first time" (that was yesterday). As we know, the Clerk does that through the Government Printer. You all know that it is on Tuesday that the Government Printer does in fact send out all bills, and in fact the Gazette comes out, and

by a simple process of mathematics, if you count Tuesday as the first day, you will find that yesterday was in fact the 15th day. The hon. member was incorrect when he stated Tuesday the 10th; it was Tuesday the 9th, which is a very important point. (Mr. Cooke: The bill was dated the 10th). On this particular matter, I would also point out that it is not the day on which the hon. member receives the bill but the date on which the Clerk sends the bill. So much for the legal point which was raised with regard to the courts, and with regard to the other points I will only repeat that it is your duty, sir, to decide these questions once and for all and you have so decided, and therefore far be it from me to say anything more in the matter.

With regard to the point made by the hon. Member representing Aberdare, I may say at once that it is the intention of Government to refer this to a select committee. The select committee will take evidence, and due notice will be given of its sittings, and those who wish to give evidence will be invited to appear before that committee and present it. At a later date in these proceedings I will move that it be referred to a select committee as soon as I have the names from the other side of the hon. members who will serve on that committee.

MRS. WATKINS: Your Excellency, I rise to support the bill, and I should like also to support the hon. Member for the Coast, who has asked for as little delay as possible. I am welcoming this bill very much, and I think that part of the misunderstanding that has arisen with the public has been the idea that it is prohibitive and not restrictive, which is a very different matter. I would like one point made quite clear, and that is we have heard that rules and regulations are going to be formed for applicants and their applications, but we have not heard anything about the lines which are going to be given to your delegates for guidance of their decision on these matters, and I think that very soon an idea of injustice will arise among people who have been prohibited from selling land if there is no clear indication along which lines that land is either going to be allowed to be sold or the sale to be prohibited. I am not attempting to suggest what those lines

[Mrs. Watkins]

should be, but I do suggest that there should be a definite statement produced and that statement should be as far as possible known to the public. It would prevent recurrent grouses and a sense of injustice among certain people.

The only important point seems to me one which I have before stressed, and that is that the men at the front should not be at a disadvantage with those of us who could not go to the front, more particularly, as has been said before, aliens. The position has since—speaking for Kiambu—very considerably clarified itself, but at the end of the last war we know what happened: neutrals who had been making large sums of money trading with both sides, were then able to buy up large tracts of land here. That is what I was afraid of, that is what I am still afraid of, and that is why I welcome this bill. I believe it to be very much better to have all sales under Government control than it is to have special legislation for aliens, and I welcome this as a great step forward, more particularly, I think, because the modern trend of all land legislation is going to be for more State interference—grandmotherly, you may call it, essential it certainly is. Land, as we have already heard from the hon. Commissioner of Lands and Settlement, is not only limited, it is the one indispensable adjunct of our lives, and up till now it has been the too common policy for a few people to be able to take more than they can develop and simply sit on it until prices rise.

But there is one technical difficulty that I see coming forward as the state takes more interest in the land sales of this country, and that is that the men who are controlling us—yourself, Your Excellency, and the hon. Commissioner of Lands and Settlement—are dealing, when they deal with land, with acreages, and I submit that "acreage" is not the right term for land at all. It should be either a holding or a unit. A holding or unit will vary enormously in size: coffee may be 250 acres, a sheep farm may be 5,000 acres. I am not going to elaborate that point, but I do say that in the near future I think district associations, sub-committees, what you will, should be asked district by district to get the land of their district into units, not because one man cannot own a

present more than one unit, but because if he owns one, two or three units and has not developed those units, he should not be allowed to buy any more land that comes on to the market. It is all very well for him to say, "I must increase my farm." This seems to me a most important technical point. We all know that the unit of every social system, above everything else, is the human family. I submit in the case of land the same system should apply, that it has to go in units. A unit of land as I see it is enough to keep a farmer, his wife and family on a more or less comfortable standard of living; that is a unit. I want very urgently to stress that we get over this technical difficulty now during the war, or as soon after as possible, so as to enable your delegates who have the responsibility of prohibiting or allowing land sales to realize what is the real basis. It is no use saying "I have very little land"—I may have 250 acres; it may well be that I have a unit to keep a family, if I have to keep a family—as indeed I have—on 140 acres, I must admit, of course, that we have rather a paying sideline, which is not open to all farmers—a husband who was a civil servant—but I do say that a coffee unit of 140 to 200 acres is a unit that will keep a family, and which compares with 4,000 acres of dry sheep land elsewhere. It is a very important point and should not be forgotten.

I want to welcome this bill and hope it will not be long delayed, and I recognize fully that state interference, if you like to call it that or control, if you prefer to call it that, is bound to come.

MR. COULDREY: Your Excellency, I had not intended to intervene in this debate because I agree entirely with the points made by the hon. Member for Aberdare, but as Government has notified its intention of sending this bill to a select committee there is one point that I would like to make. I agree also with the constructive point made by the hon. Member for the Coast, that time is the essence of the contract. We have asked for this bill, a good many people throughout the country have asked for it. I do suggest that if the select committee can come to unanimity, or practical unanimity, Government might, instead of calling us down for a special session of Legislative Council, enact the ordinance under the powers conferred

[Mr. Couldrey] on it by Defence Regulations, I put that forward as a suggestion.

COL. GIBBS: Your Excellency, I support the bill subject to the clarification of certain points. As stated by the hon. Commissioner for Lands and Settlement, its value will be in the administration of it. There is a certain matter exercising the minds of individuals, in particular where *bona fide* transactions are not yet completed. If there could be an assurance by Government that they may be completed and we could hear Government's attitude in regard to these transactions, it would relieve the minds of a number of people. There are two small suggestions I should like to make. It would be a rather dreadful thing if the Land Bank ceased to function, and I consider that as far as mortgages are concerned there should be an exception made where the Land Bank is concerned, and as far as equitable mortgages are concerned with commercial banks the bill should not hold up legitimate business.

MR. VINCENT: Your Excellency, while agreeing it is essential that this bill is the subject of thorough consideration because the whole subject bristles with difficulties, I do feel and would like to support the hon. member in his suggestion, because I know it will be a case of more haste less speed. I know also that one aspect of it is that several very well-known settlers who have done an enormous amount for this country, have felt that this has been a serious reflection upon them. I do not wish to say anything more now, but in order to speed proceedings I suggest that as the bill is going to a select committee that the question be now put.

MR. NICOL: I beg to second.

HIS EXCELLENCY: It has been moved, I take it, under Standing Rule and Order No. 43 (viii), that with my leave the question be now put. While I am second to none in wishing to expedite the work of this Council, I feel that with a bill of this importance to the country and which by general admission has been hurriedly introduced, it would be improper for me to give that leave if by so doing I might prevent any member from giving his preliminary views or those of his constituents on the

proposal. I therefore rule that the debate should proceed.

COL. KIRKWOOD: Your Excellency, it is astounding really that hon. members on this side of Council especially should try and slyly free speech in this Council. I think it is most regrettable. I hold strong views on this bill, and I hope I can put them in a constructive way, or try to, and I hope too that some, if not all, of my suggestions will be acceded to. The primary object of the bill, as I see it, although it is not stated, is to prevent the transfer of agricultural land to undesirable people. It may be our own aliens, but it is a question: What is an undesirable person? I warn the authorities who may be appointed that there was a case which occurred recently which may or may not be known to everybody. There are certain aliens, and there are aliens who no doubt have been presumed to be undesirable, who have made a considerable amount of money and are still making it in Tanganyika. To my knowledge they have spent up to £50,000 in Kenya mostly in acquiring, developing and improving properties which they have bought. I think these people are very desirable and I personally welcome them with both hands. What is the result? They have been criticized, and though they have put up their case like gentlemen they have now decided to sell out: they do not want to live in an area where there has been very severe criticism of their actions. I consider that may be a commendable action, but I regret that progressive people like that who are helping to develop this Colony with hard cash should be made to feel they are not welcome in Kenya.

The "Objects and Reasons" of the bill state that it "is to prohibit, during the continuance of the present war and one year thereafter, the transfer of agricultural land except with the consent of the Governor." That will get over a great many difficulties, but I maintain that this bill is putting the cart before the horse, though I hope we shall get the horse later on. We should have had it long before now and, after having it, we should have proceeded to get out this wonderful settlement scheme that this bill foreshadows. But the scheme is not in existence, we have no scheme. We have the Soldiers Settlement Com-

[Col. Kirkwood] mittee report, and that has been accepted on general principles, and general principles only. I want to see the scheme as we did previously, with all the details filled in and a map showing where the land is and the conditions under which it can be acquired. I think also that far too much emphasis is laid on the fact that this bill is to preserve land for our serving soldiers. There is no guarantee that serving soldiers will wish to take up land when they return to Kenya. A great number of them were only too happy when they joined up to realize that they could get away from unprofitable farming under our agricultural policy, which is conspicuous by its absence, and what their feelings will be when they come back it is very hard to say.

I hope there will be no attempt to freeze all transfers. That would be a disastrous procedure in this Colony, and I suggest again, probably for the twentieth time, that the Government should proceed to introduce legislation to acquire land, such as an expropriation bill, to acquire land for post-war settlement. But that is still conspicuous by its absence. Also I think Government should announce its agricultural policy. I believe in this Colony, I have great faith in it, I came here wilfully and deliberately for my own personal reasons, and I have no intention of leaving it except for a short holiday, if I can get one! It is my home. I love Kenya—that is why in the last seventeen years I have tried to help the Colony along by being a member of this Council. It has not always been a happy time. I should also point out that if a transfer is refused to anybody, whether because it is going to be transferred to an undesirable or otherwise, a moratorium should be declared in favour of the person wishing to sell. Otherwise Government should acquire the land that they refuse to transfer at the price the purchaser was prepared to pay.

Those are just a few points, I think they are very relevant, otherwise I would not put them up. As regards clause 3, uncompleted contracts, I notice that the hon. Member for Uasin Gishu has mentioned a point I should like to emphasize. The clause says: "Any conveyance, assignment, transfer, agreement, contract or power of attorney for

any of the purposes prohibited by section 2 of this ordinance, which has not been completed and registered before the coming into operation of this ordinance shall, unless such conveyance, assignment, transfer, agreement, contract or power of attorney has received the consent of the Governor, be deemed void to all intents and purposes." I know of some transfers that have proceeded and sales have taken place, and they are complete except that the title has not been transferred as this depends on the last payment being made. Large sums have been spent meanwhile in paying the purchase price, much development has taken place, and I think it would be disastrous if agreements which have been drawn up according to the laws of the country, witnessed and signed and put in the safe of the attorneys, should be declared null and void for any reason whatever. I hope Government will take some steps, or the select committee, to clarify clause 3 further than it goes to-day. With these few remarks I support the bill.

MR. MORTIMER: Your Excellency, as the bill has been received with such unanimity there is very little to be said in reply. There have been one or two points raised to which I will now refer. The hon. Member for Kiambu asked for a specific statement as to the principles on which control would be exercised. I regret that I am not in a position to say precisely how it will be exercised except to repeat what I have already said, that it will be exercised in the best interests of the Colony, the best interests of post-war settlement, and in the interests of the utilization of the land to the best possible advantage. The hon. member laid down some admirable dicta about acreages not being taken into account in preference to holdings of an economic size. These remarks are, of course, well understood and recognized and will no doubt guide whoever is the controlling authority in trying to arrive at decisions in difficult cases. The suggestion of the hon. Member for Nyanza that the select committee when appointed should get on with its work with all speed and if possible report to Your Excellency before the next session of this Council, and that if it recommends accordingly, the bill should be promulgated, in amended form if necessary, as a Defence Regulation, is one

[Mr. Mortimer]

worthy of the fullest consideration, and I can assure the hon. member that that consideration will be given to his proposal. The hon. Member for Uasin Gishu referred to uncompleted transactions and asked what would be the position in regard to them. I can only repeat that I am confident that whoever is entrusted by Your Excellency with the exercise of this control will use common-sense and act in accordance with the principles of equity in deciding on such transactions. I should be quite agreeable personally to the introduction of some provision whereby the ordinary financial transactions with the Land Bank and commercial banks on equitable mortgages should be excluded from the provisions of the bill.

The hon. Member for Trans Nzoia put his finger on one of the difficulties that the controller will be up against whenever he starts to administer this bill: who is undesirable, and on what principle is anyone to decide who is undesirable? The debate has revealed certain differences of opinion already, discussion in the Press has shown that this control could not by any means be an easy matter, and I have no doubt the select committee will give consideration to that point when they get down to their work. I was surprised to hear the hon. member say there was no settlement scheme in existence and that all we had was a report which had been accepted in principle. I can affirm, as I have repeatedly affirmed in this Council and elsewhere, that there is a settlement scheme in existence, and a very good settlement scheme, one that was received with acclamation by the whole country and by this Council when it was promulgated, and was accepted in detail by this Government and by the Imperial Government. I go further, and say that agreement has been reached that when the time is opportune finance will be available for putting that scheme into effect. (Hear, hear.) I trust therefore, that I shall not have to hear again as I have heard so many times in this Council, that we have no scheme for settlement.

COL. KIRKWOOD: On a point of order, I think I am correct in saying that the scheme as announced now by the hon. member has never been published.

MR. MORTIMER: Well, sir, all that I can say in reply to that is that the scheme has been published; it has been embodied in a recent pamphlet and circulated to all who desire to have it and who are interested for their own sake in post-war settlement. The situation, I may point out again, is entirely different from what it was at the end of the last war. We then had a couple of million acres of unalienated land suitable for settlement. It was quite possible then to devise a settlement scheme from unalienated crown land which was still available and which we were anxious to get settled. Under that scheme 780 holdings were taken up and a million and a half acres alienated. We are not in that position to-day. Therefore it is not possible to devise a soldier settlement scheme on anything like the lines we did after the last war. The hon. member also asked for a moratorium on a farmer's debts where he is precluded by the operation of the law from transferring his land. No doubt that will be considered by the select committee in due course.

The question was put and carried.

MR. HARRAGIN moved that the bill be referred to a select committee consisting of: Himself as chairman, Mr. Blunt, Mr. Mortimer, Mr. Wright, Lord Francis Scott, Major Cavendish-Bentinck and Mr. Patel.

MR. BROWN seconded.

The question was put and carried.

BILLS

IN COMMITTEE

MR. HARRAGIN moved that the Council resolve itself into committee of the whole Council to consider, clause by clause, the Control of Grass Fires (Amendment) Bill, the Kenya and Uganda Railway (Amendment) Bill and the Employment of Servants (Amendment) Bill.

MR. BROWN seconded, and the question was put and carried.

Council went into committee.

The Bills were considered clause by clause.

Kenya and Uganda Railway (Amendment) Bill: Clause 2—Mr. Brown moved that the clause be amended by

the insertion between "dimensions" and "as" in line 4 a comma followed by the words "or sited at such places."

The question of the amendment was put and carried.

The question of the clause as amended was put and carried.

MR. HARRAGIN moved that the Control of Grass Fires (Amendment) Bill and the Employment of Servants (Amendment) Bill be reported without amendment and the Kenya and Uganda Railway (Amendment) Bill with amendment.

Council resumed its sitting.

His Excellency reported accordingly.

STANDING RULES AND ORDERS

MOTION TO SUSPEND

COL. KIRKWOOD: Your Excellency, I am rising, with your permission, to move the suspension of Standing Rules and Orders in order to move a motion of public importance and urgency. I wish to move that the reference in the debate by the hon. Chief Secretary yesterday to an extract from a letter taken from the *East African Standard* of 26th January, 1942, be expunged from the records.

HIS EXCELLENCY: Under which Standing Rule and Order is the hon. member—

COL. KIRKWOOD: Rule 29 (iii), I think, Your Excellency.

HIS EXCELLENCY: Will you elaborate your argument? I do not quite know the point you are making.

COL. KIRKWOOD: I asked the hon. Chief Secretary to mark his quotation yesterday. It is this: "As a wrong impression may be created by your reported interview with Col. Kirkwood regarding the maize situation, the following facts may clarify the position." That is the statement made. If that statement is allowed to go, sir, it is an infringement of the rules of debate under which an improper motive has been imputed to me, as in this long letter, which is a most controversial letter, and the truth of which I deny and have denied, and proved it in the debate in Council yesterday in referring to maize; then it is almost a libellous statement,

because it is taken out of its context. Anybody who reads it and then takes the interest to look up this particular letter, would say, "What a scoundrel that man must be." If you read the whole, then my remark would have been that it is quite irrelevant, because the letter is hearsay evidence; the gentleman who signed that letter was not present at the interview which took place between me and another gentleman, and consequently was only taking the advice of somebody else right through that long controversial letter, and I am quite sure the hon. Chief Secretary does not wish to impute dishonourable motives to me.

I did try yesterday to intervene and I rose to my feet, but Your Excellency told me I was not allowed to make a speech, but I am quite conscious I was not allowed to clarify the point, and I am trying to do it now, sir, and I maintain in justice to myself, and also the procedure that is followed in this Council should be parliamentary procedure, and also under the laws of evidence, I believe the hon. and learned Attorney General will agree with me, you cannot take a statement like that out of its context in reply to anything. The whole letter is irrelevant, for the information of gentlemen in this Council. That is my point, and I hope, the hon. Chief Secretary will welcome the expunging of that short reference that he made which infers what I consider an improper reflection on my honour and integrity.

HIS EXCELLENCY: As I understand the hon. member, you wish Standing Orders to be suspended in order that a motion may be introduced expunging certain statements from the record of Hansard. Is that so?

COL. KIRKWOOD: That is my point, Your Excellency.

HIS EXCELLENCY: While I am only too anxious to give the hon. member an opportunity for a personal explanation on a point of this kind, I should like to hear the hon. Attorney General before I give a ruling as to the propriety of permitting the suspension of Standing Orders in order to debate a motion without notice on a point of explanation.

MR. HARRAGIN: Your Excellency, where it is a matter for personal ex-

[Mr. Harragin] planation, it is governed by Rule 50, which reads as follows: "By the indulgence of the Council a member may explain matters of a personal nature although there be no proposition before the Council, but such matters may not be debated and the member must confine himself strictly to an explanation of his own conduct." The hon. member was not invoking Rule 50, as I understood it, when he said that he was asking that Standing Rules and Orders should be suspended in order that a motion, of which notice has not been given, should be debated. My suggestion is that a motion of this description could only be brought if it is a matter of grave public interest, and important as it may be for the hon. member to make his explanation at the proper time and place, of which no doubt opportunity can be given, I cannot advise that this is a matter of public importance.

HIS EXCELLENCY: In that case I am not prepared to give permission under Rule 29 (iii) that a motion for the suspension of Standing Orders for this purpose should be debated now.

COL. KIRKWOOD: Do I understand, sir, that you are not allowing me to move this motion and put it to the vote of this Council? I ask your indulgence to quote a previous case in this Council where a similar motion was moved by the late Capt. Schwartz in this Council to expunge certain remarks made by the Member for Mombasa.

HIS EXCELLENCY: Order, order! I do not think the hon. member is quite clear as to the procedure. There is nothing whatsoever to debar him from tabling a motion in the sense that he has just suggested. What he is asking me to do is to permit a motion, of which we have not even yet received the exact terms, to be debated this morning under suspension of Standing Orders as a matter of urgency. In the interests of the orderly procedure of this Council—and I know all members are as jealous of preserving such procedure as I am myself as President—the suspension of Standing Orders should not lightly be given, and my ruling therefore is that though it is quite in order for the hon. member to give notice of that motion, I am not prepared to permit him to propose a motion to suspend Standing Orders this

morning for the purpose of debating this motion, of which we have had no previous notice. That is my ruling. We will proceed with the order of the day.

SCHEDULE OF ADDITIONAL PROVISION

No. 4 of 1942

MR. RENNIE: Your Excellency, I beg to move that the Standing Finance Committee report on Schedule of Additional Provision No. 4 of 1942 be adopted. This report indicates that the Standing Finance Committee at its meeting on the 19th February, 1943, examined the schedule now under consideration and recommended approval of the expenditure contained therein. I need not enter into details regarding the expenditure covered. A summary of the contents of the schedule is given on the outside of the report, and I think a full explanation is given there and in the schedule itself of the various items.

MR. HARRAGIN seconded.

The question was put and carried.

LAND AND WATER PRESERVATION BILL

SELECT COMMITTEE REPORT

MR. RENNIE: Your Excellency, I beg to move that the select committee report on the Land and Water Preservation Bill be adopted.

The report indicates amendments to four clauses. The first amendment deals with clause 2 and suggests a brief amendment, to which I alluded in my remarks when I moved the second reading of the bill. There is no necessity for me to elaborate further. The second amendment is to clause 3 and is merely a verbal alteration: the insertion of the word "of" between the words "Protection" and "slope" in item (ii) of paragraph (b) of sub-clause (3). That word "of" must have been omitted inadvertently on the previous occasion. The next three amendments (b), (c) and (d), are tied up together. The amendment suggested in (d) is the one to which I have already referred in the case of any order being given in native areas by the director or any person authorized by him with which the District Commissioner concerned does not agree. The amendments suggested under (b) and

[Mr. Rennie]

(d) of that paragraph 2 are merely consequential on that proposal. (e) is also consequential in view of the fact that it is necessary to make clear that the appeals referred to in the fourth line of sub-clause (5) of clause 3 are limited in their nature—namely, appeals other than those provided for in paragraph (d) of sub-clause 3 of this clause. The amendment to clause 4, sub-clause (1), is merely for the sake of clarification. Some doubt was expressed as regards the real meaning of that sub-clause and the wording has been arranged in a slightly different fashion to remove any ambiguity that might have existed.

The fourth clause to which an amendment is suggested is clause 7 and the suggestion is that sub-clause (2) of that clause be deleted. As hon. members are aware, that sub-clause refers to collateral security, and after going into the matter at considerable length the select committee came to the conclusion that no provision for collateral security was really necessary in view of the security provided for in sub-clause (1) of that same clause. Before coming to a final conclusion on the matter the select committee consulted the Chairman of the Land Bank, and since the Land Bank Chairman and the Secretary of the Land Bank had no objection to raise to the proposal, the select committee has proposed that sub-clause (2) be deleted. I would make this point, however, in this connexion. The money which is provided by way of advances in respect of orders given under the bill now under consideration is Government money in the sense that it is money voted by this Council, and the Land Bank is merely acting as the agent of the Government in dealing with applications for advances. If, therefore, it should later appear or be proved that there is any loss of Government money through the deletion of this sub-clause, the question of its restoration at a later date would have to be considered. As at present advised, however, the select committee is of the opinion that this sub-clause (2) of clause 7 is unnecessary and should be deleted.

MR. HARRAGIN seconded.

The question was put and carried.

INCREASE OF RENT AND OF MORTGAGE INTEREST (RESTRICTIONS) (AMENDMENT) BILL

SELECT COMMITTEE REPORT

MR. HARRAGIN: Your Excellency, I beg to move that the select committee report on the Increase of Rent and of Mortgage Interest (Restrictions) (Amendment) Bill be adopted.

This report deals with a series of details, and only contains one matter of what I might call principle. I will proceed to take the amendments one by one, and the first, in paragraph 1, deals with clause 2, and there we make provision for more than one board. As the bill was presented it envisaged one board dealing with the whole of the Colony, but the select committee were of the opinion that it was more than likely, particularly in such places as Mombasa, that it might be necessary for Your Excellency to set up additional boards. It was therefore necessary to put in a definition of boards which you now see appearing in this report. The next is a drafting amendment in (b) making it clear that it is the board which will determine what the market value is at the particular time under review. As the bill stands at present, it rather leaves it in the air in that it refers to "not exceeding ten per cent of the market value" without setting out who was the person or body of persons who should decide what this market value was which, as you all know, is not a very easy matter. We have therefore made it clear that it is the board which will have to decide. Sub-paragraph (c) of the report refers to temporary buildings such as one sees more particularly in the vicinity of Mombasa, which are as a rule only occupied during the favourable seasons of the year, and it is only fair that some special provision should be made for them. To tie them down (I am speaking broadly now) to ten per cent of the market value when such buildings are only rented for three months of the year, will, I think, mean that the unfortunate man would get only two and a half per cent of the market value. We therefore make provision for the board to deal with cases such as that.

Paragraph 2 of the report, which deals with clause 3, again refers to the amendment which envisages boards in different parts of the country, and in this con-

[Mr. Harragin] nextion I would mention that we have not taken away from the central board its power to delegate for certain purposes certain of its powers in country districts or any district. The reason for that again must be obvious. Whereas a board might not be wanted for Thika, as the Nairobi board might be able to deal with the few cases from that vicinity, nevertheless, if it was necessary for evidence to be taken in Thika, it is necessary for the board to have power of delegation so as to get that evidence. Sub-paragraph (b) inserts the words "Infringement of this ordinance." As the bill reads at present the board can only deal of its own accord with matters in dispute between landlord and tenant. The select committee thought they should have the right on their own account of interfering where they were satisfied that both landlord and tenant were possibly breaking the provisions of this ordinance. If we do not put these words in, the position will be that unless either landlord or tenant make application to the board, the board has no jurisdiction to give any decision. That such a thing may happen would be extremely unlikely, because in those cases where both parties infringe the ordinance it is unlikely that they will make any representation to the board. From a practical point of view I am the first to admit that I do not think the board will even be able to interfere with regard to an infringement of the ordinance, because it is not often that they will get the necessary evidence; if the two people who know (the landlord and the tenant), decide to keep quiet on that particular point it is unlikely that the board itself will become aware of what is going on. But there is no reason in our opinion why, if the board are fortunate enough to obtain the evidence, they should not be able to move in the matter of their own accord. (c) is a drafting amendment, substituting "the" for "such."

Paragraph 3 of the report is possibly the most important part of the report, for it substitutes seven per cent for five per cent in line two of the proposed new section 3 (4) and ten per cent for seven per cent in the third line from the end. What we are doing is this. We are saying that where a man has rented his house at a peppercorn rent—I am using the word peppercorn although it does

not appear in the report for purposes of explanation—the seven per cent shall be taken as the low level. What I mean by that is this, Speaking generally, the standard rent of any house, let us refer to Nairobi, will be the rent it was rented at on the 3rd September, 1939. If the landlord can show that at that time he was renting it, for any reason you like to think of, for reasons of charity or anything else, well below what I will call the market value, in fact less than five per cent, the market value, then he is allowed to raise the rent, and he was going to be allowed to raise it to seven per cent, whereas the man who was renting it at five and a half or six per cent was entitled to raise it to ten per cent. We have now decided that a fair percentage to take should be instead of five and seven per cent, seven and ten per cent, and I do not think there can really be any argument about it, because if you admit that under certain circumstances the landlord is entitled to get ten per cent why, because at some particular period in his career he happened to rent his house well below the market value, he should be precluded from getting that ten per cent when occasion rises, is not a very logical argument, and we are putting him in the same position as every other landlord.

Paragraph 4 deals with points raised by hon. members where we make special provision for a landlord regaining possession of his house, not only for himself but for his wife or minor children. Some hon. members pointed out that a man might get two or more of his houses back under that provision. I am not personally impressed with it from a practical point of view, but there is a possibility, and we therefore put in a provision that you see under (1A), which reads: "Nothing in this section contained shall be deemed to permit a landlord to recover possession of a dwelling-house if by such recovery he and his wife and/or minor children would be in occupation of, or would acquire the right to occupy, more than one dwelling-house at the same time." I think that was the intention of the ordinance, and this makes it doubly sure. Paragraph 5 deals with clause 11, and covers the point raised by the hon. Member for Mombasa with regard to the insertion of the words "per annum." (b) adds the words "kitchen utensils" to all those

[Mr. Harragin] other articles called "soft furnishings" such as glassware, cutlery, linen and so forth, and I do not think there can be any argument in regard to that. Paragraph 6 again is a perfectly good point taken by the hon. Member for Mombasa as to the repetition of the word "the."

In paragraph 7, which is an amendment to clause 13 of the bill, the proposed new clause 14 will be deleted from the report. One of the witnesses who appeared before the select committee pointed out possible difficulties between landlord and tenant particularly with regard to business premises. He pointed out that whereas a tenant was affected by not having to give any particular notice the unfortunate landlord had to put up with that same tenant and could do nothing about it for all time as long as the ordinance was in force. We inserted the clause to meet the point, but on referring to the original ordinance we find that the point is sufficiently covered to meet that difficulty, and the hon. Solicitor General will move the deletion of this part of paragraph 7 in due course. The proposed clause 15 meets the point raised by the hon. Member for Nairobi South, who said on the second reading of this bill that the ordinance had been amended several times, it was a measure which affected many people, and it was extremely difficult to understand in view of the innumerable amendments to the principal ordinance; This is put in *pro forma*, and is a clause which is to be found in several ordinances which have been similarly amended, whereby it will be my duty in the immediate future to consolidate all the existing amending ordinances into one, which will be published.

Mr. RENNIE seconded.

Mr. BROWN moved that the report be amended by the deletion from paragraph 7 of the proposed new clause 14 and the consequent renumbering of the proposed clause 15 as 14.

Mr. TESTER seconded.

Mr. COOKE: Your Excellency, I rise to oppose the motion on the ground that the select committee have wantonly and wilfully neglected to call important evidence on this matter. I was informed yesterday evening by a distinguished

lawyer of Nairobi that he had offered to submit evidence on an important point but has never been called on and had no notice that the select committee was sitting. Whether this was done wilfully or not is a point which no doubt my hon. and learned friend will clear up, but it seems to me a matter of discourtesy, a discourtesy which we had this morning towards an hon. member of this Council. This seems also to me discourteous towards a member of the general public. Certainly the point he wished to bring up was a most important point, and he assures me he had no notice whatever that the select committee was sitting and therefore he had no opportunity of bringing it before them. I therefore oppose this motion.

MR. HARRAGIN: On a point of order, is the hon. member opposing the amendment?

MR. COOKE: I am opposing the whole motion that the report be adopted.

The question of the amendment was put and carried.

The question of the motion as amended was put and carried.

INCREASED PRODUCTION OF CROPS (AMENDMENT) BILL,

SELECT COMMITTEE REPORT

MR. KILLICK: Your Excellency, I beg to move that the select committee report on the Increased Production of Crops (Amendment) Bill be adopted.

In doing so I would like to draw attention to a typographical omission on page 2 of the report, paragraph 4, referring to section 31 of the Principal Ordinance, line 4, where the word "or" has been omitted between the words "Ordinance" and "for." Dealing with paragraph 1 of the report, the amendment suggested by the committee, as you will note, provides for an increase in the personnel of the sub-committee of the Board, which is in effect the executive of the board. The principal Ordinance provides for such sub-committee to consist of not more than five members, of whom four are named in the section, and it is the desire of the board that there should be provision for an extension of membership of the executive of the board—an extension and possibly a strengthening of that executive. Para-

[Mr. Killick]

graph 2 of the report corrects what is purely a typographical error in the printed copy of the bill.

Paragraph 3 of the report: this section of the principal ordinance No. 26 is one that from the time of the original regulations has given a great deal of difficulty and has given rise to a great deal of thought, and, in the discussions of the select committee, the committee had the advantage of meeting a representative of the insurance companies. The recommendation contained in the report is this: firstly, in regard to sub-section (1) of section 26 of the principal ordinance (clause 14 of the bill) that the farmer should take out an insurance to cover a particular crop up to the value of the advance he may have received from the Bank, acting under the instructions of the board, or for the value of the crop reaped, whichever is the less. This subsection refers to the crop when in store and all that the board requires is to safeguard its position in regard to any advances that have been made. If, of course, the value of the crop when stored is actually less than the amount of the advance made, or less than the guaranteed minimum return, then of course the board would lose the difference, whether the crop was insured or not. Sub-clause (2) of clause 14 is similar to the provisions contained in the principal ordinance, and states that if a farmer has received an order from the board but has not applied for an advance under the provisions of the ordinance, he shall have no claim against the minimum guaranteed return if he has failed to effect insurance against the risks defined. Sub-clause (3) is new and it provides that whether or not a farmer has applied for an advance under the provisions of the ordinance, he shall take reasonable precautions against the risk of fire between the time the crop is severed from the soil and the time it is stored. Failure to do so would debar him from claiming against the guaranteed minimum return.

Paragraph 4 of the report is an addition proposed to section 31 of the principal ordinance. That section, as it stands in the principal ordinance, gives powers to officers and servants of the board to enter on to premises and to make inquiries in respect of certain specific obligations which the farmer has

undertaken in respect of planting orders and such like, but experience has shown that such servants or officers of the board should be given rather wider powers than are contained in section 31 of the principal ordinance. For example, it has been found desirable that such a person entering on a farm to make inquiries should be in a position to ascertain from the farmer the stocks of grain, or whatever crop it may be, so held by the farmer, and the amendment includes the provisions of section 31 of the principal ordinance and in addition gives him power to make inquiries for any purpose connected with the administration of the ordinance.

Paragraph 5 of the report is inserted for this reason. In the principal ordinance the date of expiration of the ordinance is the 31st December, 1943, and when the amending bill was framed it was the intention that the deletion of part 6 of the principal ordinance should indicate that the ordinance would be in force for more than one year's duration. At the meeting of the committee the point was made that in view of the fact that farming must be planned for a number of years ahead, because war conditions and demands for production have in many cases necessitated a radical change in the type of farming practised by farmers—changes which have necessitated capital expenditure on machinery and so on—that the insertion of a date some years ahead as the date of termination of the ordinance would give farmers a feeling of security and confidence in Government's intention that they would continue to afford the assistance to farmers in the future which has been afforded under the principal ordinance.

With regard to paragraph 6 of the report, I do not think that calls for any long explanation. Farmers, district sub-committees and district production committees are all intimately concerned with this particular ordinance and it is desirable that at any time they should be in a position to have a complete picture of the provisions of the ordinance before them.

MR. BROWN seconded.

COL. GHERSIE: Your Excellency, although we are debating the report of the select committee, I think you did indicate yesterday when you ruled me

[Col. Gherisie]

out or order that I would be able to put forward any suggestions on production during this debate. I will not repeat what I said on the subject of fertilizers because it is provided for under rules under section 18, but I would like to emphasize that I consider farmers should be subsidized up to the extent of fifty per cent of the cost of the fertilizer. The reasons I have already stated and will leave it at that. On the subject of vermin, I do think permission should be granted whereby vermin may be shot on adjoining farms. You cannot increase production alongside a game reserve, at least not under normal farming conditions.

There is another point, and that is an incentive to the native to work. His ration has been cut and due to lack of imports his purchasing power has been restricted, and I submit that such items as cotton goods, if imported, would help in the way of providing one of his requirements, and thereby assist in restoring the necessary incentive in the average native for work. In this connexion I think it would be as well if Government gave some indication of the policy governing native production in the reserves. What I have in mind is the possibility that the native, due to the increase in the price he is receiving for produce—and in particular—might consider that where in the past he planted ten acres, he need now only plant five, his cash return today being probably more from five than he received from double that acreage in the past. In that case I consider some directive should be given to administrative and agricultural officers in this connexion, failing which I am afraid that not only will there be no increase in native production, but a definite danger of a decrease.

MR. VINCENT: Your Excellency, I was very pleased when appearing before the select committee to have an assurance given by the legal member of the Government that section 22 of the original ordinance did provide that the Production Board could purchase, hold, and market the crops in this country as the power was already there. I would like that assurance to be confirmed by the hon. and learned Attorney General, because the conditions are likely to arise in the not very distant future, when that power may have to be used, and it is a

pity to think that if that possibility is in the offing a further amendment to this bill would have to be made.

MR. HARRAGEN: In my opinion, the opinion offered by my representative on that committee was correct.

MAJOR CAVENDISH-BENTINCK: Your Excellency, naturally I support the report, but there is one thing omitted from the report which I would have had inserted had I not been given certain assurances, but I would like the assurance formally reiterated in Council. Under section 22 of the principal ordinance it is provided that—"All crops produced by a farmer shall, unless the board otherwise orders, be disposed of in such manner as the board may direct or approve, and, until so disposed of, shall be held in trust for the Government of the Colony and shall be managed and stored with due care by the farmer. For the purposes of this section, any crop produced on the land of a farmer by any resident labourer within the meaning of the Resident Labourers Ordinance, 1937, or by any native servant within the meaning of the Employment of Servants Ordinance, 1937, for his own use or consumption shall not be deemed to be a crop produced by the farmer."

There has been a great deal of difficulty in respect of maize which has been purchased by farmers on whose land native squatters reside, that is maize surplus to the requirements of the native resident labourer. In some cases that maize, having been purchased, is used by the farmer and is considered not to come within the meaning of this ordinance. In consequence, in some cases farmers claim to be allowed to keep a considerable quantity of their own maize for their ordinary requirements, without taking into consideration the squatter maize they already have. Another difficulty is that some farmers do not wish to buy their squatter maize and that maize, even in the last few weeks, has disappeared into the black market. I think it is most important that at any rate for the period of the war all squatter maize surplus to the squatter's requirements should be bought by the man on whose land that maize is grown, and although I do not propose—because that can be dealt with under maize regulations—to suggest that provision should

[Major Cavendish-Bentick] be made in under this ordinance requiring a resident native labourer to sell his maize. I do want to ensure that under the wording of section 22 as it stands, that maize once bought by a farmer does become a "crop" under the meaning of this section and does come under my control. Lastly, before I sit down, I should like to add that I do sincerely hope it may be possible to produce a consolidated ordinance in printed form so that all my sub-committees throughout the country can have one booklet to rely on, and not this, plus the amending ordinance, plus the committee's report, which they will not be able to understand.

MR. HARRAGIN: Your Excellency, as I have already spoken I am not allowed to speak again, but if I were permitted to speak the answer to the hon. member would be in the affirmative (laughter).

MR. KILLICK:—Your Excellency, I would like to make two points in reply to the hon. Member for Uasin Gishu. As regards the first point in connexion with fertilizer grant I would mention that a sub-committee of the Agricultural Production and Settlement Board has recently reported to Government making recommendations for fertilizer grants, but not quite on the scale envisaged by the hon. member, and also grants to farmers for the manufacture of farm yard manure and compost. The second point I should like to refer to is the point made in connexion with the policy in native reserves, and the danger there may be that owing to high prices there is a tendency to reduce acreages. That, of course, is a danger, but up to the present there has been no sign of such tendency; in fact the reverse, there has been an increase in clearings and actual plantings in 1943.

COT. GIERSTEIN: On a point of explanation, when the hon. member uses the word "grant" does he mean grant or subsidy?

MR. KILLICK: I regret I did not make myself clear—I mean a grant.

The question was put and carried.

BILLS

THIRD READING

MR. HARRAGIN moved that the Control of Grass Fires (Amendment) Bill, the Kenya and Uganda Railway (Amendment) Bill, the Employment of

Servants (Amendment) Bill, the Land and Water Preservation Bill, the Increase of Rent and of Mortgage Interest (Restrictions) (Amendment) Bill, and the Increased Production of Crops (Amendment) Bill be read the third time and passed.

MR. BROWN seconded.

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

PROPOSED LEGISLATION

FOR PROTECTION AGAINST LARCENY

MRS. WATKINS: Your Excellency, I beg to move: "That by legislation or by Defence Regulation the Government initiate measures for the better protection against larceny of (a) the producer, and (b) the public, with especial reference to military stores and imported drugs." I will be as brief as possible; I think I can finish in twenty minutes. This motion plainly covers a very wide field, already well traversed by legislation, but the point I wish to make is that these are extraordinary times and that extraordinary times offer extraordinary temptations to receivers and to thieves, and extraordinary opportunities to the legislator. If we fail to avail ourselves of that opportunity we shall be left at the end of the war with a body of African criminals, very well trained by non-African receivers, and that body will be in efficiency and in numbers entirely disproportionate to the resident community.

Let me first deal with the producer. He is asked very often nowadays to increase his contribution to the markets for foodstuffs. Whether he is a small man in the agricultural way—that is, a man who only has a small garden and earns his living elsewhere—or whether he is an agricultural man, we cannot expect any real additional contribution to foodstuffs at the present time unless we ensure that he shall reap where he has sown. From the producer I should like to go to the courts for a moment. I think it would interest hon. members to be present at a court case regarding the possession of stolen property. The court is heaped with hundreds of yards of khaki drill, hundreds of army blankets, very hard-to-get drugs, thousands of cigarettes—all completely unidentifiable, and all in the possession of some ragged individual who cannot possibly

[Mrs. Watkins] have bought them, but who, under the superb insurance of our laws, cannot be asked for any explanation as to how he came into possession, or in any other way to incriminate himself. Meantime we, the taxpayers, are losing thousands of pounds, and while the magistrate or the police are perfectly well aware that the property belongs to Government, the taxpayer, yet we have to let it go because we can bring no adequate evidence. How better protection is to be afforded both to the laborious ox, the producer, and to that patient ass, the taxpayer, is for the learned gentlemen on the other side of Council to determine, but I may perhaps be allowed to make a few suggestions, which fall into two parts. The first part is for the better and more certain apprehension of the criminal, and the second part is for more deterrent sentences.

Dealing with part one, the first suggestion I should like to make is for the Stock and Produce Theft (Levy of Fines) ordinance (I do not know if I have got the correct name) to be applied to every part of the country. That ordinance, as everybody knows, puts the onus of proof in suspicious circumstances upon the person carrying the produce, or found with the produce. I would here interpose that I am not now dealing with petty pilfering from orchards and so on. (In which I am sure most of the hon. gentlemen present have probably assisted in their early youth!) I am dealing more with organized stealing, which means that certain firms are getting produce for their firms simply at the price they are paying the natives to steal it and bring it in. That is what I am really dealing with. One neighbour, for instance, lost the entire contents of his very large vegetable garden, beautifully tended and irrigated, which was carried away in a scotch cart one night a little time ago. It is a deplorable fact that the only scotch cart in the district belongs to me (laughter), but as far as I know it was not out that night, and the presumption is, I hope, that that scotch cart came from Nairobi or some other place like that. This neighbour says that not only has he had to stop production, but that his considerable number of squatters have had to stop production on any part of their shambas which is further than twenty or thirty

yards from their doors. They cannot carry on because they never reap the produce they have sown. Another neighbour who used to supply about half a ton of vegetables per day for the troops during the last war, and who is now far better equipped to do it than he ever was before, says he has had to go out of business in the vegetable line because of stealing. On one occasion a couple of sacks of oranges were discovered at dawn on the backs of two natives—who were making for the high road, and although he is the only grower of that particular sort of orange this side of Nakuru, the police, rather naturally, take the point of view that an orange is an orange and nothing more, and therefore unidentifiable. The thief could not be convicted, and whether he is the same thief or another one, he has had very many oranges ever since. Of course, if the Stock and Produce Theft Ordinance had then been applied to our district—perhaps it had been, but we did not know it had, anyway, because we did not avail ourselves of that ordinance, we could have had that particular man convicted.

My second suggestion, which I should like to read you because it is in rather legal language with which I am not too familiar, is this: "In view of the number of serious thefts of articles essential to the prosecution of the war, it is suggested that where property (of certain classes, to be enumerated in a schedule) is reasonably suspected of having been stolen and is found in the possession of any person, the onus of proving to the satisfaction of a court that he came into possession of it lawfully should be upon the accused; not only in cases where he is stopped by a police officer and found to be conveying the property (which is already covered by a certain section of the Criminal Procedure Code) but in all cases of possession. It is further suggested that some provisions such as those contained in section 25A of the Native Liquor Ordinance, 1941 should be applied, casting upon the landlord and others occupying or having access to the place where the property is found the onus of proving that it was upon the premises without their knowledge. The classes of property referred to are such things as blankets, nails, screws, nuts and bolts, valuable drugs and medicines (by valuable I do not

[Mrs. Watkins] mean necessarily in money; I mean in life-saving properties), automobile engineering and electrical parts and accessories, and khaki drill, needed for the Army's uniforms." These, we think, should be in the schedule. This is only a suggestion, and of course I am expecting these suggestions will be very much improved—improved, shall I say, out of all recognition—if any gentlemen opposite will consider the need for applying any type of legislation.

The third suggestion, from the point of view both of the ox, the producer, and the ass, the taxpayer, is that confessions to the police, or rather to selected police, should be admitted in evidence. Most of our laws, I believe, are based on British laws; some of them, I believe, have been linked to the Indian Penal Code, but I have found under section 25 of the Indian Evidence Act that no confession made to a police officer shall be proof against a person accused of any offence. This Indian Evidence Act, as most members know perhaps far better than I do, applies to Tanganyika and to Kenya but not to Uganda. Now, of course, the reason is quite obvious: the rank and file of the police are drawn from Africans, to whom the niceties of formal caution and abatement from forcing confession are quite incomprehensible, and I would like to say at once I would not for a moment recommend that that precaution be relaxed entirely, but I would like to see it relaxed within very well defined and suitable limits. I fear that even within those limits I may be treading on legal toes. If so, I am sorry, but I am going to take refuge in the Bushe report, for while the Hon. Attorney General, may, and probably will, wipe the floor with the Member for Kiambu, perhaps the Bushe report may not be quite so useful for mopping-up purposes.

The late Attorney General of Kenya was of opinion that with native askaris one would have an uneasy feeling that all was not well if admissions made to them were allowed in evidence. With that I think the whole public opinion of Kenya would be in full support, but there was a great deal of evidence taken in front of the Bushe Commission on this point, from those people whom the Bushe commissioners themselves "considered were the best people to give it,"

provincial commissioners, police officers of high standing, the registrar of the High Court, and so forth, and of course the Commission itself was fairly formidable: the legal adviser to the Secretary of State for the Colonies, we had the then Attorney General of Kenya, the Secretary for Native Affairs from Tanganyika, a judge from Uganda, and last but not least, we had the then Member for Kiambu. I am quite sure that these people, with all the time they had in front of them to consider the point, and all the evidence from these people spread before them, would have come to a just decision, and this, Your Excellency, is the decision they came to: "We incline to the view that in Kenya and Tanganyika the rule might be relaxed to render admissible a confession properly made to certain European police officers. In Kenya to any officer of or above the rank of a European police constable and in Tanganyika to a commissioned officer. Possibly if this were done Uganda might be disposed to come into line in the interests of uniformity of procedure." I wonder if that could be implemented. We know the difficulty that our magistrates are faced with is this: a criminal, perhaps a habitual criminal, is caught on the scene of his crime, caught with a great deal of circumstantial evidence. He sees that the game is up and admits that he has done it, and is taken off to the police station where he may again admit to a European police constable that he was caught just after the crime. After that he goes to gaol to await his trial, and there is nothing to do for a fortnight or three weeks but sit in a ring with his friends and discuss the best methods for his defence. When he comes into court and submits his defence it is then extraordinarily difficult to break it down, and to the raw native's amazement, and to the more sophisticated native's joy, the fact that he made a confession to the police bwana is completely forgotten. He thinks he has succeeded, and so he has. He then goes off and is probably allowed to take the stolen property with which he was found, and repeats the whole business. The Bushe report contains further evidence, and it said this. It was stated by a magistrate in this country and recorded in evidence in this report here. I cannot find the actual quotation, but the purport of it was that it was

[Mrs. Watkins] as bad for the cause of justice to let off criminals on technical matters as it was occasionally to imprison an innocent man. It was Mr. Lamb who said in the Bushe report that to let off criminals was a direct encouragement to crime.

That finishes the three suggestions for the better apprehension of criminals, three which I know can be very much augmented and very much improved when they are considered by the men trained to deal with these matters. But there are three more points I want to deal with about deterrent sentences; they are shorter than the others. A magistrate in Mombasa stated recently that if only we could clear up receivers, stealing would disappear to negligible proportions. That magistrate is a very experienced man and I believe he said that sincerely; I believe it to be a perfectly true statement. The first minor suggestion I should like to make is that there should be a ruling from the Commissioner of Police to police officers who have to take prosecutions that no cases involving non-African receivers should be taken before a junior court. It seems to me disastrous when a case is heard in front of a junior court, as one was a few years back, when the junior court, knowing how rushed the senior court was, awarded the receiver five months (the receiver must have been in the business for years), while the wretched first offender native got two years hard labour. I am certain that if that had been before a higher court the sentence would have been the other way round. The next, I think, perhaps revolutionary suggestion is, quite simply, that we should have a penal battalion. We can conscript every honest man in this country of suitable age and health, and if we can conscript the honest man, why can we not conscript dishonest men? Why should they be allowed to stay behind? If we had a penal battalion it would mean that some of these men who have so far lived on stealing would get a healthy discipline, good food, and do a useful job for the country, a thing which most of them have never yet done. You might have different companies for Europeans, for Indians and for natives, but there must be hundreds of disagreeable jobs in the Army now being done by perfectly honest, loyal citizens who

have been conscripted or who have volunteered, and I cannot see why the disagreeable jobs should not be shared at least by these gentry who are only preying on the country in her time of need. I think it would be an excellent thing to have a penal battalion, though I am not certain of course what the reactions of the G.O.C. would be. The officering of such a battalion can safely be left to him.

The last point to which I would like to draw the attention of the hon. Attorney General is the following fact, which is very well known to me and to everybody here, and that is that there are two main deterrents in crime, according to the state of civilization you have reached. One is corporal punishment for the lower state of civilization, the other is the glaring and detested light of publicity for those of a higher civilization. I know that it sounds cruel to advocate flogging. Do not think that I am advocating flogging. I am advocating caning, if it could be brought in, perhaps under Defence Regulations, for people who are what one might call looting, not ordinary burglary. It is not ordinary burglary when you go and take the whole of somebody's vegetable produce—that is looting; it is war-time looting, and might be dealt with under war-time legislative action. When I come to publicity for receivers, I mean thorough, good, sound publicity. I mean perhaps a board posted up in the law courts with the name of the receiver painted on it in white or black and the name of the firm to which he belongs next to it, and left there for three months. I should like to see the same thing inserted in a special corner of the *Standard* and the *Official Gazette*. I think the detested light of publicity would help to clear up the towns and country. I think it is urgent. Your Excellency may say what exaggeration! what cases have you got? I do not want at this late hour to keep hon. members, but I should like to say that I have a list of receiving cases in that I have a list of receiving cases in the last three months, eleven cases. I think it is. Sixteen natives were convicted of being found in possession of military property—Sh. 1,400 worth of khaki drill, over Sh. 2,000 worth of nails and so on. We know perfectly well that there is a factory in this country—not discovered yet—where bicycles are taken to pieces and put together again; that is

(Mrs. Watkins)
in the hands of receivers. So that if anyone lost a bicycle you would have to get six stolen-bicycles before you could say "that is mine," "this is mine," because the bicycles are so jumbled up.

Now there is a further point, a most important one. When I asked a loyal native, a Kenya clerk working for the Government, the other day why he did not give some of these facts to the proper authorities, he said, "Do you not realize my life would not be worth a week's duration if I did?" Now that is the beginning of gangsterism, and a very serious thing. We know lives are taken lightly out here sometimes. I do not think it is any exaggeration to say that if we do not avail ourselves of the opportunities that war time gives us for a new type of legislation—penal battalions and so forth—and a new kind of comprehension of what is happening, we may be in the same position as New York, where the expression "bumped off" is a common one and not a happy one. Your Excellency, I am far too fond of Kenya to want her to be in that position; I want her to produce good citizens within her boundaries, not gangsters, and all that would entail in racial rancour out here, so I hope very much that you will allow this motion to pass.

MR. COOKE: Your Excellency, I beg formally to second, reserving the right to speak later.

MR. VINCENT: Your Excellency, I want to support the hon. Member for Kiambu as shortly as I can, because I think her tenacity of purpose in trying to get something done to improve conditions of combating crime in Nairobi in particular, and in Kenya in general, are highly notable. We all appreciate that the increase of crime is caused through lack of police or lack of personnel to a very great extent, but what has surprised me—and it is difficult to find an expression—what has not only surprised me but has also pained me is to find that the law here is held in such contempt. Al Capone has certainly come to Nairobi! The organized robberies which have gone on, which owing to the lack of paper have not received the amount of publicity they should, are astounding. You may or may not know, sir, that in Limoru there were actually fights with weapons on the part of one

farmer to preserve his crops and keep them, and the thieves had their advance guards and their outposts, and the robbery was carried out by natives in a most extraordinary fashion. Then we had the case where one of the warehouses in Nairobi was robbed in a most systematic way, and only one criminal was brought to book because he was a "stool pigeon," a stupid receiver, who offered the stolen goods to the man from whom it was stolen. Nevertheless, brains were behind that job. There was no doubt about it, it was thoroughly well organized. It was not just a case of stealing a case or two or brandy but a large number of cases, with a lorry in the right place and askaris held in conversation well away from the spot where the robbery occurred. I know another case where a receiver had a lot of goods and it was getting too hot for him. And I do not even have to use the word "alleged" in this case. He sent a message to the firm to whom the goods belonged, or most of them, and said: "I have got these parked away on crown land, they are not in my possession, nothing can happen to me. Pay me £300, the amount I paid the boys to steal these goods, and you can have your own property back, which I estimate the value of at £3,000." This has been in the hands of the C.I.D. for many months.

This motion is not a frivolous one by any means, and I know that the Commissioner of Police has had extraordinary help from the auxiliary police and K.D.F., and without that assistance I do not know what would have happened. Again, the hon. mover is right in regard to sentences being too small, especially in regard to the "brains" of the ventures. It seems to me that magistrates might well consider severer sentences to-day—as I have said before, these are abnormal times and justify abnormal sentences. They should not take a percentage of the maximum sentence and thus arrive at a sentence which is merely arbitrary. The only suggestion which is constructive that I can make in regard to this matter, beyond the vexed question of man power, is that I believe in regard to fruit and orchards we could bring in a Defence Regulation to prevent the movement of orchard fruit except under licence. We have stopped vegetables and eggs very successfully from coming into Nairobi on the one hand! (laughter). Let

(Mr. Vincent)
us take our example from that and do it with fruit. I am very serious about this, and I have discussed it thoroughly, and I believe in that way we could stop one avenue of crime and locate receivers. I am sure it is very disheartening when one has gone through the difficulties of creating an orchard when it comes to maturity to have not only matured fruit stolen but the immature too, which does add insult to injury.

I support this motion briefly, more to demonstrate to this Council that the position in Nairobi in regard to thieving and every other form of crime is likely to cause another war within our own portals after the great war ceases, if we do not take care!

MR. SHAMSUD-DEEN: Your Excellency, the motion was rather peculiar to me, but after hearing the explanation of the hon. mover I have not the slightest hesitation in supporting it. I have always maintained that, especially during a time of war, the only way to stop these crimes is by shooting these people! I may appear to be rather exaggerating this viewpoint, but I have seen things with my own eyes, I have been through a country that had a state of famine, a condition of starvation, yet in the whole of that vast gathering there was only one case of theft where the hand of the perpetrator was cut off and suspended in public, and this is the behaviour of people who had been accustomed to thieving and robbing pilgrims for many years. I think that to sentence people to a few weeks in prison is a waste of time, and it will take us nowhere at all. Unless we adopt drastic measures, especially during a war, I am afraid no result will be achieved. In this category I should like to include the black marketeers before anybody else.

COL. GHERSIE: Your Excellency, I should like to make one point on this motion, which I am supporting. When one reads of the petty larcenies which take place in a town like Nairobi, it does not require a vivid stretch of imagination to imagine what is taking place up-country. For obvious reasons a lot of the thieves are never brought to justice, generally because of the loss of time involved. Only quite recently a travelling magistrate on the Plateau solved the difficulty to a great extent. He has since

been withdrawn, and that particular duty has fallen on the shoulders of the local district commissioner, who already is very much overworked. I hope that the magistrate will be returned or replaced.

MR. HARRAGIN: Your Excellency, as hon. members probably realize, this is a motion with which I have the greatest sympathy. My difficulty in advising you, sir, not to accept it, as I should like to, is that by doing so I should be indicating to you that I had at the back of my mind some new and satisfactory legislation, because that is how the motion is worded: "that by legislation or by Defence Regulation the Government initiates measures . . . etc." Well, if I could think of any legislation that would protect hon. members from larceny, I trust I should be the first to bring it to the attention of this Council. A great many of the things that have been said by hon. speakers on the other side of Council of course I agree with, as everybody must, but for various reasons they are not practicable. Just take first the last point made. Any one listening might imagine that I objected to a travelling magistrate; in fact, Government had a travelling magistrate but, owing to the man power position at the moment, he has had to be withdrawn. He has not been withdrawn because he was not doing a good job or not doing his work, but simply because he was required elsewhere. I can assure the hon. member that we have every intention of re-appointing the travelling magistrate as soon as we can possibly find one.

Of course the hon. mover has gone a great deal further than I expected. For instance, she has given two examples. The first is with regard to unidentifiable goods and she referred to fruit and vegetables. We have tried in the past to deal with that type of thing, as she well knows, because in her speech she made reference to it. I refer, of course, to the Stock and Produce Theft Ordinance of 1933, where in that case the burden of proof is cast upon the person who is found in possession of in one case stock, found in possession of in one case stock, found in the other case produce. I would just like to read very shortly the part in regard to produce, and which reads as follows: "If any person is found in possession of produce on any farm or in the immediate vicinity thereof under circumstances which may reasonably lead to the belief that such produce has been

[Mr. Harragin] stolen, such person shall be deemed to have stolen the same . . . Well, that I suggest to the hon. mover should to some extent meet her difficulty with regard to produce. I admit at once that it does not meet her next difficulty, which is with regard to property which is stolen in the town, which is also unidentifiable, and I particularly would like to be able to put the burden of proof on the other side, it relieves me of the duty of proving my case, but it is an elementary principle of British justice that the Crown has to prove a man guilty. We have, I know, deviated from that, as the hon. mover quite rightly said, and she has just quoted me the Stock and Produce Theft Ordinance where we deviated from that. That is perfectly true and the answer is this: that it was deviated from because in the case of produce it is impossible for the farmer to identify that produce. You cannot expect him to mark his apples, or whatever has been stolen; therefore we have to stretch a point in his favour.

As regards these other thefts which the hon. mover has referred to and which have been giving the Commissioner of Police a great deal of thought, and myself not a little, military property, I frankly am of the opinion that the owners of that type of goods could put a mark on them which would make them identifiable, and the moment they are identifiable then I think you will all agree that there is no necessity to alter the law. If a native, or an Indian, or a European is found in possession of 200 army blankets with the army mark on them, well, he will have a difficult job in showing how he came by them honestly. All that has to be done is to prove the mark. But I know it is a real difficulty; I am not dismissing anything that the hon. member has said lightly by any means. I am with her in attempting to find some way round it, but if you had it in war time as far as these particular goods are concerned, there is no logical reason why you should not always have it; in other words, the prosecution would not have to prove theft, because the burden of proof would be on the other side.

The hon. mover was very constructive in many ways. She did, for instance, suggest that the landlord should be made responsible. I would like also to be able to do that, but there is every opportunity

of that being abused. Let us take any landlord you like to think of who owns one or even twenty houses which he lets, let us say, to natives. Are you really going to go so far as to suggest that, if you happened to go on to his property which he has rented and there find property suspected of having been stolen, the landlord shall be responsible? I think the hon. mover quoted the Liquor Ordinance, and that is rather exceptional. It would be very convenient if all we had to do was to find Mr. X who owns fifty houses when you found in one of his houses stolen property, and pop him into dock and say "Now, prove yourself innocent, you are responsible, you are the landlord". Whether the hon. mover meant it in a more restricted sense and that the landlord should be living on the premises . . .

MRS. WATKINS: On a point of explanation, Your Excellency, what I meant was this, that the responsibility should be upon the landlord and others occupying, or having access to the place. It must be in the law that the hon. Attorney General himself . . .

MR. HARRAGIN: Of course every landlord has access to his own premises. I am not quibbling on any small point like that; I thought the hon. member realized that. The point is that you cannot suddenly put a person in a position where he is responsible for all his tenants. If, as I say, you could restrict it to the landlord who is living on the premises and therefore able to keep an eye on what was happening on his premises, there would be something to be said for that. There are innumerable difficulties; we are thinking on one side of the fence only, namely, by all means down with thieves and receivers! But I do not agree with the hon. mover when she suggests—I have forgotten the exact numbers—that it was far better for a few innocent men to go to prison than that many criminals should escape. Whether it is in the Bushe report or whether it is not, I do not agree with it and I do not agree that it is a principle of British law. The fact is that it has always been an axiom of our constitution that it is up to the Crown to prove the accused guilty and when you depart from that you have to do so very warily.

Now I come to a point I can be a great deal more sympathetic about; that is

[Mr. Harragin] with regard to confessions to police officers. I will not worry Council by giving a history of why the law is as it is, but I can tell you that it has not, and has never been, with my advice. I have always been in favour of certain police officers, those of certain ranks, being able to receive confessions, but so far, as you know, no one in East Africa, with the exception of Uganda, has managed to get that through, and I can only tell you that I have hopes before I leave this Colony that that will become the law here. It is at the moment under active consideration. The question of deterrent sentences, of course, is a matter entirely for the courts, and I have no doubt that the Chief Justice will note all that has been said in this Council on the subject. I am not quite *ad idem* with the hon. mover with regard to the control of non-African receivers. In point of fact, I think she will agree with me, and certain hon. members on the other side of Council who have had anything to do with the workings of the court will agree, how extremely difficult it is if a man pleads guilty to bring him in before a magistrate and get him sentenced to whatever the sentence may be, and actually I am not in the fortunate position of finding the Supreme Court so much more severe than the magistrate.

MRS. WATKINS: On a point of explanation, the Supreme Court has more power.

MR. HARRAGIN: I quite realize they have more power, but I must repeat what I said, that I have not found from my experience that the Supreme Court is more severe than the magistrate; I would go so far as to say I have often found the reverse. Therefore for me to suggest that it would be advantageous to remove a case from the magistrate and send it to the Supreme Court because you are likely to get a heavier sentence would be deceiving you, as in fact all that would happen would be that after considerable trouble—you would probably have to have a jury, in the case of a European, and in any event there would be great delays—you would find that the man is convicted and gets perhaps a few months less than if a plea of guilty had been taken in the lower court. It is entirely a matter of opinion; I may be wrong; it may be that more

severe sentences are given in cases tried before a judge. Certainly he has greater powers, but I have voiced my opinion on the subject.

With regard to publicity, of course I am a great believer in publicity. I entirely agree that the more publicity we get the better, and I will let you into a secret: that is, that in cases where I know that a magistrate is going to take a lenient view of a case in which I am interested, in the event of conviction I see that it is well reported, even though the fine may be very small, and therefore I must be in complete agreement with the hon. mover on that particular point. Corporal punishment has been discussed so often in this Council that I do not think that even the hon. mover expects me to give a reply. The fact is that the trend of modern thought is that people should not be beaten except in exceptional cases which we have in the law, and I do not think that under any circumstances one could get an amendment to increase the cases of beating. I do not know if you remember, but only a few days ago we removed beatings in the case of juveniles who offend against the Master and Servants Ordinance. That is another small step in the march of progress. With regard to the particular points raised by the hon. Member for Nairobi South, I am in some difficulty because I do not actually know about them. He mentioned certain cases where the receiver sent a message to the owner of the property and said "If you pay up whatever the amount was—£300—I will return the goods which are worth £3,000 to you . . ." etc. Well, he told me about this two days ago. The hon. member was good enough to tell me about it, and I at once got on to the Commissioner of Police and said "Now, what is all this about?" and he was most interested and said he had never heard a word about it and considered it was the duty of the man to report it to the Police before they could take any steps, which of course is 'true enough, but again I am the first to admit that there is the human side to it and presumably the owner of the property thought "If I report it to the Police—which is undoubtedly my duty as a citizen—it may well be that I will not ever get . . ."

MR. VINCENT: On a point of explanation, that statement has been in the hands of the C.I.D. for months.

MR. HARRAGIN: That is even more interesting as the Commissioner of Police has heard nothing about it yet (slaughter). But in that event the only thing one can say is there is nothing we can do about it under the law. Once we catch the man there is any amount of law to deal with it, but the difficulty is in the catching.

As you know, things have improved to a great extent for reasons already given by hon. members on the other side. The special police are doing a very good job of work and few people realize what they are doing. When they see them at a march past they say "Gracious me, if an African could not run away from that lot on any dark night, I would be surprised!". That is not their function at all; what they do is to go round and see that the African police, who can catch the thieves if they see them, are in fact about and doing their job, which, as you who have anything to do with the African know, is a big point. The African is excellent as long as he is kept on the job and the thing is to have someone to keep him on the job, and that is what the special police are doing to-day. In that connexion I would mention that a large number of special police can be expected, and are in existence, in the out-districts to-day, because the G.O.C. has handed over to the Commissioner of Police all C category of the K.D.F. on the condition that they are made into special constables, with the result that in some districts it has happened already, and in other districts you are going to get a large number of special police.

There is, of course, power to control the sale of fruit if necessary. I hope it will not have the same effect that every other control has had and that fruit will disappear altogether, but the hon. member is perfectly correct in saying that under Defence Regulations, instead of potatoes or maize you just insert any fruit you like and bring them under any form of control you like, and if that will have the effect of stopping the stealing of fruit it will be a very useful thing to do. If, on the other hand, it has the effect of keeping all fruit out of the market I do not think it can be so highly recommended. I do not think there is anything further that I can usefully say. I can only tell the hon. mover that in the main I am most sympathetic with

her objects in view, that I am perfectly prepared to discuss or go into any scheme for meeting existing conditions. My own feeling is that once we catch the people all would be well and amending the law will not help this. I would just make this point, that in the last three months there has been an improvement. I do not want you to think that I believe that anything has happened to prevent stealing in the future, but we have had a bad year with regard to thieves (in Nairobi particularly), but the returns for the last three months which I looked into are, I am glad to say, a great deal better than the previous six months. But as I said before, what we want to do is to be able to catch these thieves. That is the first thing we have got to devise ways and means of doing; it is not a fact that many of them get away on a mere technicality or for lack of evidence. It might be possible in the ways I have indicated to strengthen the position with regard to confessions, but I am not going to waste your time now with the point of view of the courts with regard to confessions; but do not imagine that by permitting confessions to the police or even by creating a penal battalion that you have solved our problems. In regard to penal battalions I did not know the Army refused to take a man into the army because he had been convicted of a criminal offence. If on the other hand you are going to have a special battalion for ex-criminals, I very much doubt whether I need discuss that as I feel sure that the G.O.C. would never think of it.

With regard to matters we can do, I can assure the hon. mover that any suggestion that she makes will be carefully considered, and I will certainly endeavour to get on with the things I have indicated as soon as possible. My difficulty in accepting this motion is that I cannot imagine what legislation will achieve the hon. mover's object. If I knew the legislation I would accept the motion and bring in the legislation. As I do not know the legislation I must advise you, Sir, not to accept the motion, but at the same time to tell the hon. mover that if she can suggest any satisfactory legislation to me I should be only too pleased to put it before the Council.

MRS. WATKINS: Your Excellency, I will be very brief indeed. The hon. Attorney General has made a very sympathetic re-

[Mrs. Watkins].
I am in some respects but not in others. He says he is adamant in this matter himself. Is it possible that our differences arise over the definition of adamant? Perhaps when he goes away and thinks things over he may be able to adopt some of my suggestions or will put into force some of his own, for if he is only going to consider things and turns down these suggestions I, probably very feebly, put up, there may be other suggestions I could put to him. I had thought that the penal battalion would be an excellent idea. I did not mean for ex-criminals; I meant for the thieves and receivers who had been caught, European, Indian or African, and they should serve in the battalion for the duration and for a year after the war. You have conscripted men for the duration and one year after; why not criminals? That is a point he does not wish to discuss now; now, when time is so vital. I think it is rather an insult to the Supreme Court to say that they probably give less severe sentences than a magistrate. In certain cases they may have done so, of course, I am not disputing that, but I think when a receiver has been convicted of an offence, and has probably been receiving for a good many years, if the magistrate or any one judging that case with the power to give more than five months were to say in court that he would not have done it if he could, is deplorable. Again this is perhaps a matter of opinion.

The hon. Attorney General said that first we must get the thief before we can do anything else. The whole of my first three suggestions were directed towards the better catching of the thief. I see he is very sympathetic about confessions made to the police, but about the other suggestion he says we cannot put the onus of proof on the accused, that you can only do that in the special matter of crops. Very humbly, I should like to differ categorically from the hon. Attorney General because certain things cannot now be imported; they cannot be bought in the open market—khaki drill cannot be bought; M & B 693 can only be bought under licence. Surely you can put the onus of proof on the accused every bit as justly in these cases as you can in the case of crops? It is either just for crops, and then we can do it for these things, or it is unjust for crops and you should not have done it at all.

You cannot have it both ways. Here we have a situation in which every import is controlled and no one can buy these things.

I am glad to see that the court cases have got less in the last three months, but it is rather a formidable list that I hold in my hand. In one court only, there were 57 cases of receivers and thieves caught within three months, quite a number of them with property belonging to Government. If it is an improvement, I do not know if I should congratulate or commiserate with him. All I can say is that the less said about it, if it is an improvement, the better. I do not know how the hon. Attorney General would like the Military to mark the 693 drug, or, say, 100 yards of American which has had the first two yards with the marks on torn off, and various things like that. These things are quite unmarkable; therefore they are unidentifiable and I think we should realize that we can bring in legislation for this purpose, in exactly the same way as the Stock and Produce Theft Ordinance.

Your Excellency, quite honestly I am not at all surprised or overmuch disappointed at not having this motion accepted because sooner or later every single item in it will, I think, be accepted. It is only a matter of lasting the course and continuing until it goes through.

HIS EXCELLENCY: Does the hon. member wish to withdraw the motion?

MRS. WATKINS: Oh, no, I would like it put please, Your Excellency.

The question was put and negatived.

ADJOURNMENT

Council rose at 1.40 p.m. and adjourned *sine die*.

Written Answers to Questions No. 4—EUROPEAN-GROWN WHEAT AND MAIZE

MR. COOKE:

Will Government state (a) the acreage under European-grown wheat in the years 1940, 1941, and 1942, and (b) the amount in tons produced in those respective years? And (a) the acreage under European-grown maize in the years 1940, 1941, and 1942, and (b) the amount in tons produced in those respective years?

Reply:

(a) The acreage under European-grown wheat is not definitely known for 1940 and 1941, but for 1941 was estimated to be 103,001 acres, and according to returns received by the Agricultural Production and Settlement Board the acreage for 1942 was 131,383.

(b) The amount of Kenya wheat delivered to the Agency under the Sale of Wheat Ordinance during the 1940/41 crop year was 16,581 tons. The amount of Kenya wheat delivered to the Agency under the Sale of Wheat Ordinance during the 1941/42 crop year was 21,904 tons. The 1942/43 pool is not yet completed, but it is estimated that the amount delivered to it will approximate to 37,000 tons.

With regard to maize:—

(a) The acreage under European-grown maize is not definitely known for 1940 and 1941, but for 1941 it was estimated at approximately 63,000, and according to returns received by the Agricultural Production and Settlement Board the acreage for 1942 was 86,842 acres.

(b) Deliveries of Kenya European-grown maize to the Kenya Farmers' Association Pool were 43,000 tons for the year ending 31st August, 1941, and 26,300 tons for the pool year ending 31st August, 1942. Deliveries of Kenya European-grown maize for the 1942/43 pool are not yet completed, but it is estimated that the total amount of Kenya European-grown maize which will be delivered will not be less than 31,000 tons.

No. 9—MAIZE DISTRIBUTION

Mr. WRIGHT:

Will Government please state the quantities, in bags, of Maize distributed by the Maize Controller month by month for internal consumption (including and differentiating deliveries to Uganda and Tanganyika Territory) from, and including, the month in which maize control began up to the end of February, 1943?

Reply:

1. The month to month distribution of maize in bags by the Maize Controller for internal civil and military consumption and seed from and including the

month in which maize control began up to the end of February, 1943, is as follows:—

	Kenya	Uganda	Tanganyika
1942			
July	69,251	—	—
Aug.	46,778	—	—
Sept.	72,071	—	—
Oct.	93,611	—	1,232
Nov.	118,304	—	2,435
Dec.	148,871	616	4,853
1943			
Jan.	139,061	790	3,946
Feb.	97,000	4,286	398
	784,947	5,692	12,864

2. In addition to the quantities mentioned in part 1 above as distributed to Uganda and Tanganyika, distribution of the following quantities in the form of maize meal and seed maize has been authorized from the amounts distributed to Kenya:—

	Uganda	Tanganyika
1942		
July	584	—
Aug.	28	—
Sept.	12	—
Oct.	14	462
Nov.	865	141
Dec.	3,367	6,123
1943		
Jan.	4,525	772
Feb.	839	169
	10,234	7,667

No. 12—GHEE REQUIREMENTS

Mr. SHAMSUD-DEEN:

(1) Is Government aware that the normal monthly consumption of ghee of the Indian population of Nairobi and Mombasa is about 5,000 tins (36 lb. each) equivalent to 5½ lb. per head? (2) Will Government state what quantity has been placed at the disposal of the Nairobi and Mombasa

Commodity Distribution Boards from 1st of January to 15th of March, 1943, for distribution to Indian consumers? (3) Is it a fact that the supply to the consumers in Nairobi and Mombasa has been totally inadequate during the months of January to the middle of March, and should the reply be in the affirmative will Government state the reasons for such a short supply? (4) Will Government state what steps are being taken to provide an adequate supply of this essential supply in the future?

Reply:

(1) The requirement according to the Nairobi and Mombasa Distribution Boards is 5,500 tins of ghee per month which on the basis of the registered Asiatic population amounts to 3.33 lb. per head per month.

(2) Mombasa, 1,577 tins; Nairobi, 2,478 tins.

(3) (a) Yes.

(b) The absence of rain since September last has caused considerable damage to grazing in the native reserves with a resultant fall in milk supplies and in the production of ghee. The general shortage of food in the reserves has increased the local consumption of milk. Kenya is normally an importer of ghee. In 1940 the imports retained for civil consumption amounted to 36,200 tins, in 1941 to 46,700 tins, and in 1942 66,000 tins. Imports during 1943 have been negligible.

Some animal fats and vegetable oils are normally added to certain types of ghee during manufacture but these have not been available during recent months, thereby reducing the quantity of ghee produced.

(4) The import duty on ghee has been abolished and licences to import 12,000 tins from India have been issued to Mombasa ghee distributors. The marketing of ghee in the Nyanza Province, the largest producing centre, has been regularized. Purchasing agents have been appointed throughout the Colony. Inquiries have been made in other countries but without success except that 620 tins were obtained from Somalia. The Government does not expect any real amelioration in the position until the rains begin and grazing improves.

No. 13—RICE AND GHEE IMPORTS AND EXPORTS

Mr. PAROO:

(1) Will Government please state what quantity of rice and ghee was promised by the Government of Tanganyika Territory to Kenya from 1st July, 1942, till 28th February, 1943, and what quantities have been received during this period? (2) If the reply is that the Tanganyika Government has been unable to supply the quantities promised, will Government please state the reasons for such failure? (3) What quantity of ghee has been exported from Kenya to overseas countries from 1st July, 1942, to 28th February, 1943?

Reply:

(1) No promise was given in regard to ghee supplies. The quantity received between the 1st of July, 1942, and the 28th of February, 1943, was 41,070 tins. The Tanganyika Government estimated that 5,470 tons of rice for Kenya civil consumption would be available between July, 1942, and June, 1943. The quantity received between the 1st of July, 1942, and the 28th of February, 1943, amounted to 3,300 tons. A further 614 tons are expected by the 30th of June, 1943.

(2) The quantity of rice delivered by producers has been less than expected; moreover, rice has been used in Tanganyika for famine relief purposes.

(3) The quantity of Kenya ghee exported to overseas countries between the 1st of July, 1942, and the 28th of February, 1943, was 3 tins to Iraq and 663 tins for merchant ships.

No. 14—GOVERNMENT INDIAN BOYS SCHOOL, NAIROBI

Mr. THAKORE:

Will Government please state if the Advisory Council on Indian Education held on 7th December, 1942, recommended the appointment of a committee thereof to inquire into and report on the management and administration of the Government Indian Boys School, Nairobi, and to suggest necessary changes? If the reply is in the affirmative, will Government please state why such a committee has not so far been appointed?

Reply:

The answer to the first part of the question is in the affirmative.

With reference to the second part of the question, the Government does not consider that any useful purpose would be served by the appointment of a committee of inquiry at the present time. The school committee, which has been in abeyance since February, 1942, has recently been re-established and will no doubt make such recommendations as it may consider necessary for improvement in the administration of the school.

NO. 15—"SABOTAGE" EDITORIAL

MR. PATEL:

(a) Will Government please state, if its attention was drawn to a statement appearing in the editorial of *The East African Standard* dated 4th March, 1943, under the caption "Sabotage", which read: "The authorities are already aware of the efforts to defeat the rationing plans. Certain Indians, it is reported, are signing the *kipandes* of loafers at fees from Sh. 5 to Sh. 10 indicating that the bearers are in employment", which was alleged to have come from official sources? (b) Was such information supplied to *The East African Standard* by any official or officials of Government? If the reply to this part of the question is in the affirmative, will Government please disclose the name or names of the official or officials concerned and the name or names of the Indians in question, and also the steps taken by Government against such Indians? (c) Is Government aware that the said editorial of *The East African Standard* has caused great resentment among Indians and bitterness of feeling among Europeans towards the Indian community as a whole? (d) Does Government intend to take any steps for preventing a recurrence of such a nature?

Reply:

(a) The answer is in the affirmative.

(b) No official statement was made on the matter by a Government officer nor so far as it has been possible to ascertain was the information given to *The East African Standard* by a Government officer.

(c) The answer is in the affirmative.

(d) The attention of the editor has already been drawn to the impropriety of publishing general allegations of this character ascribed to official sources without first satisfying himself as to their authenticity. In the present case no confirmation was sought prior to publication of the editorial in question either from the Chief Secretary, the Labour Commissioner, or the Information Officer.

NO. 16—V.A.D. TRAINING

COL. GHERSIE:

Will Government please state whether, having regard to the future of the young-women of East Africa, it is prepared to—

(a) Make provision whereby the appropriate lectures and training are made available to V.A.D.s.

(b) Introduce legislation whereby the period of service as a V.A.D. shall count towards the total period necessary to qualify as a trained nurse.

Reply:

(a) Facilities for the training of personnel of voluntary aid detachments are already provided by the St. John Ambulance Association and the British Red Cross Society at several centres in the Colony. Many women have already undergone the training and have obtained the certificates of the Association or Society, and a number of them are employed in military and civil hospitals and in Air Raid Precaution Services.

(b) The answer to part (b) of the question is in the negative, as no object would be achieved by the introduction of such legislation until facilities for the training of European nurses in the Colony have been provided. Such facilities cannot be provided at present, but the Government considers that when the Group Hospital at Nairobi has been completed, it should then be possible to arrange for European girls who wish to enter the nursing profession to undergo some part of their probationary training in this Colony. On completion of a probationary period they could proceed overseas to complete their course and obtain a certificate.

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SECOND SERIES

VOLUME XVI

First Session: 16th to 24th March, 1943

EXPLANATION OF ABBREVIATIONS

Bills: Read First, Second or Third time=1R, 2R, 3R;
Com.=In Committee; SC.=Referred to Select Committee; SCR.=Select Committee Report; Re.CL.=Re-committed to Council.

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Corrigenda—

Col. 126: for 17,000 read 73,000

Col. 127: for 1,500,000 in 3 months read 1,500,000 in 12 months

Col. 161: for "military and civil contracts" read "military contracts and civil requirements is correct".

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