

KENYA NATIONAL ARCHIVES

PHOTOGRAPHIC SERVICE

Description of Document LEGISLATIVE COUNCIL DEBATES. VOL. III.

Covering Dates 29th Oct., to 21st Dec., 1937.

Reference No. From Central Government Library.

The following reproduction(s) of document(s), the property of THE KENYA GOVERNMENT have been made by the Photographic Service of the Kenya National Archives solely for the purposes of research, and must not be quoted or otherwise reproduced by any means, either in whole or in part, without the express permission of the Chief Archivist, Office of the Vice-President, P.O. Box 30520, Nairobi, Kenya, to whom all communications respecting this film should be addressed.

Date of Reproduction 28th November 1965



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

OFFICIAL REPORT

Second Series

Volume III

1937

29th OCTOBER to 21st DECEMBER

CHRONOLOGICAL INDEX

	<i>Column</i>
29th October, 1937	1
1st November, 1937	21
3rd November, 1937	36
4th November, 1937	59
5th November, 1937	99
9th November, 1937	141
10th November, 1937	185
12th November, 1937	234
15th November, 1937	277
16th November, 1937	322
17th November, 1937	386
18th November, 1937	431
19th November, 1937	467
22nd November, 1937	514
23rd November, 1937	608
15th December, 1937	700
16th December, 1937	736
20th December, 1937	773
21st December, 1937	816

COLONY AND PROTECTORATE OF KENYA

List of Members of the Legislative Council

President:

HIS EXCELLENCY THE GOVERNOR, AIR CHIEF MARSHAL SIR ROBERT BROOKE-POPHAM, G.C.V.O., K.C.B., C.M.G., D.S.O., A.F.C.

Ex Officio Members:

- COLONIAL SECRETARY, ACTING (HON. H. G. PILLING, C.M.G.). (1)
ATTORNEY GENERAL (HON. W. HARRAGIN, K.C.). (2)
TREASURER, ACTING (HON. G. B. STOOKE). (3)
CHIEF NATIVE COMMISSIONER, ACTING (HON. E. B. HOSKING, O.B.E.). (4)
COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT, ACTING (HON. C. E. MORTIMER, M.B.E.). (5)
DIRECTOR OF MEDICAL SERVICES, ACTING (DR. THE HON. F. J. C. JOHNSTONE). (6)
DIRECTOR OF AGRICULTURE (HON. H. B. WATERS). (7)
DIRECTOR OF EDUCATION (HON. E. G. MORRIS, O.B.E.).
GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS (BRIG.-GEN. THE HON. SIR J. D. RHODES, C.B.E., D.S.O.).
DIRECTOR OF PUBLIC WORKS (HON. J. C. STRONACH). (8)
COMMISSIONER OF CUSTOMS (HON. E. G. BALE).

Nominated Official Members:

- HON. G. H. C. BOULDERSON (Prov. Commissioner, Coast Province).
HON. H. M. GARDNER (Conservator of Forests).
HON. S. H. LA FONTAINE, D.S.O., O.B.E., M.C. (Prov. Commissioner, Central Province).
HON. S. H. FAZAN, C.B.E. (Prov. Commissioner, Nyanza Province).
HON. G. B. HEDDEN (Postmaster General).
HON. R. DAUBNEY, O.B.E. (Director, Veterinary Services).
HON. C. W. HAYES-SADLER (Deputy Colonial Secretary, Acting).
HON. S. O. V. HODGE (Prov. Commissioner, Rift Valley, Acting).
HON. T. D. WALLACE (Solicitor General, Acting). (9)

European Elected Members:

- HON. F. A. BEMISTER, Mombasa.
MAJOR THE HON. F. W. CAVENDISH-BENTINCK, Nairobi North.
HON. CONWAY HARVEY, Nyanza.
HON. A. C. HOEY, Uasin Gishu.
LT.-COL. THE HON. J. G. KIRKWOOD, C.M.G., D.S.O., Trans Nzoia.
MAJOR THE HON. G. H. RIDDELL, M.V.O., Kiambu.
HON. M. MAXWELL, Nairobi South (Acting). (10)
LT.-COL. THE HON. LORD FRANCIS SCOTT, K.C.M.G., D.S.O., Rift Valley.
MAJOR THE HON. SIR R. DE V. SHAW, Bt., M.C., Ukamba.
HON. E. H. WRIGHT, Aberdare.
HON. H. PARKER, Coast (Acting). (11)

LIST OF MEMBERS OF THE LEGISLATIVE COUNCIL—Contd.

Indian Elected Members:

HON. ISHER DASS.
HON. N. S. MANGAT.
HON. J. B. PANDYA.
HON. SHAMSUD-DEEN.
DR. THE HON. A. C. L. DE SOUSA.

Arab Elected Members:

HON. SHERIFF ABDULLA BIN SALIM.

Nominated Unofficial Members Representing the Interests of the African Community:

VEN. ARCHDEACON THE HON. G. BURNS, O.B.E.
DR. THE HON. C. J. WILSON, M.C. (12)

Nominated Unofficial Member Representing the Interests of the Arab Community:

HON. SIR ALI BIN SALIM, K.B.E., C.M.G.

Clerk to the Legislative Council:

MR. R. W. BAKER-DEAL (Acting).

Reporters:

Mr. A. H. Edwards, Mr. H. Thomas.

- (1) *Vice* Sir Armigel de V. Wade, C.M.G., O.B.E., on leave.
- (2) *Vice* Mr. H. C. Willan, M.C., acting.
- (3) *Vice* Mr. G. Walsh, O.B.E., retired.
- (4) *Vice* Mr. H. R. Montgomery, C.M.G., retired.
- (5) *Vice* Mr. W. M. Logan, O.B.E., transferred N. Rhodesia, 20th November, 1937.
- (6) *Vice* Dr. A. R. Paterson, on leave.
- (7) *Vice* Mr. H. Wolfe, O.B.E., acting.
- (8) *Vice* Mr. C. H. Walmsley, M.C., acting.
- (9) *Vice* Mr. H. C. Willan, on leave.
- (10) *Vice* Capt. H. E. Schwartz, absent from the Colony.
- (11) *Vice* Major E. S. Grogan, D.S.O., absent from the Colony.
- (12) *Vice* Col. T. O. FitzGerald, O.B.E., M.C., acting.

ABSENTEES FROM LEGISLATIVE COUNCIL SITTINGS

29th October, 1937:

The Hon. the Acting Director of Agriculture.
The Hon. Elected Member for Mombasa.
The Hon. Elected Member for Nairobi North.
The Hon. Elected Member for the Coast.
The Hon. Nominated Arab Member.

1st November, 1937:

The Hon. the General Manager, K.U.R. & H.
The Hon. Elected Member for Nairobi North.
The Hon. Elected Member for Kiambu.
The Hon. Nominated Arab Member.

3rd November, 1937:

The Hon. Elected Member for Kiambu.
The Hon. Nominated Arab Member.

4th November, 1937:

The Hon. Elected Member for Kiambu.
The Hon. Arab Elected Member.
The Hon. Nominated Arab Member.

5th November, 1937:

The Hon. Elected Member for Mombasa.
The Hon. Elected Member for Kiambu.
The Hon. Shamsud-Deen.
The Hon. Arab Elected Member.
The Hon. Nominated Arab Member.

9th November, 1937:

The Hon. Elected Member for Kiambu.
The Hon. Elected Member for Uasin Gishu.
The Hon. Arab Elected Member.
The Hon. Nominated Arab Member.

10th November, 1937:

The Hon. Arab Elected Member.
The Hon. Nominated Arab Member.

12th November, 1937:

The Hon. Elected Member for Aberdare.
The Hon. Elected Member for the Coast.
The Hon. Arab Elected Member.
Dr. the Hon. C. J. Wilson, M.C.
The Hon. Nominated Arab Member.

15th November, 1937:

The Hon. Arab Elected Member.
The Hon. Nominated Arab Member.

16th November, 1937:

The Hon. Elected Member for Kiambu.
The Hon. Arab Elected Member.
The Hon. Nominated Arab Member.

17th November, 1937:

The Hon. H. M. Gardner.
The Hon. Arab Elected Member.
The Hon. Nominated Arab Member.

ABSENTEES FROM LEGISLATIVE COUNCIL SITTINGS—Contd.

18th November, 1937:

The Hon. Arab Elected Member.
The Hon. Nominated Arab Member.

19th November, 1937:

The Hon. G. B. Hebden.
The Hon. T. D. Wallace.
The Hon. Arab Elected Member.
The Hon. Nominated Arab Member.

22nd November, 1937:

The Hon. the Commissioner for Local Government, Lands and Settlement.
The Hon. H. M. Gardner.
The Hon. S. H. La Fontaine, D.S.O., O.B.E., M.C.
The Hon. Arab Elected Member.
The Hon. Nominated Arab Member.

23rd November, 1937:

The Hon. the Commissioner for Local Government, Lands and Settlement.
The Hon. the Acting Director of Agriculture.
The Hon. H. M. Gardner.
The Hon. G. B. Hebden.
The Hon. Elected Member for Nairobi North.
The Hon. Arab Elected Member.
The Hon. Nominated Arab Member.

15th December, 1937:

The Hon. H. M. Gardner.
The Hon. R. Daubney, O.B.E.
The Hon. N. S. Mangat.
The Hon. Nominated Arab Member.

16th December, 1937:

The Hon. H. M. Gardner.
The Hon. Arab Elected Member.
The Hon. Nominated Arab Member.

20th December, 1937:

The Hon. G. H. Boulderson.
The Hon. Elected Member for Uasin Gishu.
The Hon. Nominated Arab Member.

21st December, 1937:

The Hon. Elected Member for Nairobi South.
The Hon. Elected Member for Uasin Gishu.
The Hon. Elected Member for Trans Nzoia.
The Hon. Nominated Arab Member.



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

THIRD SESSION, 1937

Friday, 29th October, 1937

Council assembled at the Memorial Hall, Nairobi, at 11 a.m. on Friday, 29th October, 1937. His Excellency the Governor (Sir Robert Brooke-Popham, G.C.V.O., K.C.B., C.M.G., D.S.O., A.F.C.) presiding.

His Excellency opened the Council with prayer.

The Proclamation summoning Council was read.

INVESTITURE

By Command of His Majesty the King, His Excellency presented—

the insignia of an Officer of the Most Excellent Order of the British Empire (Civil Division) to the Hon. R. Daubney, Director of Veterinary Services;

the insignia of an Officer of the Most Excellent Order of the British Empire (Military Division) to Major S. E. Bagley, Northern Brigade, King's African Rifles;

the insignia of a Member of the Most Excellent Order of the British Empire (Civil Division) to W. L. Watt, Esq., Agricultural Department;

and the insignia of an Honorary Member of the Most Excellent Order of the British Empire (Civil Division) to R. A. Oliver, Esq., Head Clerk, Treasury.

COMMUNICATION FROM THE CHAIR

His Excellency made the following Communication from the Chair:

Honourable Members of Council,

This is the first occasion on which it has fallen upon me to open the Estimates Session of this Council and, following the established practice, I propose to commence by making a brief review of some important features in the current year.

Although the international situation continues to give rise to anxiety, our own internal conditions give every reason for optimism. First, to take our financial circumstances. There is every indication that, generally speaking, 1937 will prove a very prosperous year. Hon. members will recall that the Budget of 1937 provided for a surplus of some £5,000. I am glad to be able to say that there is every prospect of this estimated surplus being considerably exceeded. During the past three years the net revenue has risen at the rate of about £100,000 per annum. It would, however, be unwise to assume that revenue will automatically continue to increase at this rate. Recovery from slump conditions is now more or less complete, and further increase of revenue will be mainly due to further economic development. The general economic outlook is hopeful. Most countries now show a considerable degree of internal recovery, and

[H.E. the Governor] though international trade is still hampered by the barriers that have been set up during the past six or seven years, there is evidence of a movement towards free-trade. So far as can be seen, there is no reason to expect any material lapse in the general level of commodity prices.

Some disappointment may be felt that the price of commodities has not recently reached a very high level. Actually, that ought to be regarded as one of the most hopeful signs of continued prosperity. What this country and indeed the whole world wants is not a temporary boom followed by a slump, but stability in price at a moderate though still profitable level.

Earlier in the year there was some doubt whether the United States Government would not allow the dollar price of gold to depreciate. These fears have now been dissipated, and it does not seem likely that there will be any marked alteration in the price of gold in the near future.

The total value of our exports for the first eight months of this year showed an increase of £306,000 over the same period last year. This later on is likely to be reflected in increased imports. A certain time lag will always take place, but the fact that exports are up this year indicates a still further increase in imports and in the general trade of the Colony in 1938.

An important factor in the continued prosperity of the country is the maintenance of satisfactory communications. Of course, in an agricultural community roads take a foremost place. The abnormally heavy rains this year have created two difficulties—first, the heavy cost of repairing flood damage, and secondly, delay in the construction of new roads. However, the Kisumu-Kakamega road has been completed and the Lumbwa-Kericho road is due to be completed in January, 1938. Work is in progress on the continuation of the road from Kericho through Jamji to Chiemagel. It is hoped that a satisfactory decision will shortly be reached as regards the road Kisumu-Kibigori, and that construction will be started at an early date.

A survey of another important road has been carried out this year, the more direct route from Mombasa to the Tanganyika

border, taking off from the present south coast road at Diani. A satisfactory alignment has been found 20 miles shorter than the present road. Construction of this road will be considered with the general road programme.

The one main point to which I wish to draw attention as regards our future road programme is the necessity for concentration of effort. There is a limit to the amount of energy and of money that can be devoted to road construction. If we spread that amount equally over many roads, we shall dissipate our resources and never have anything but second class roads; I believe it would be wiser to concentrate on getting fewer roads but really good ones, paying particular attention to those districts not served by the railway. This principle of concentration can however, be applied to individual roads, and I believe that we eventually should get better results by making a few miles each year up to a high standard rather than by patching along the whole length.

Finally, we must remember that every new road means an increased annual charge for maintenance.

To turn now to the subject of buildings, I have stressed on other occasions that increased sums for maintenance are necessary for our existing buildings and I want to refer to that again. As regards new buildings at the European School, Nairobi, the new girls' boarding block has been completed and the new boys' boarding block is under construction. It is hoped that a start will be made very soon on the Indian Elementary School.

Orders have been issued to start work on the new Group Hospital in Nairobi, but that does not mean that the first sod is going to be turned next week. Starting work on a big job like this means months of preparation in the drawing office, and unless adequate time is devoted to that portion of the work, waste of money will ultimately occur. As will be seen from the report of the committee which will be laid on the table at this Session, the total cost of the full scheme amounts to some £230,000; but in Appendix B of that Report an alternative scheme is shown: The cost for this is given as £95,500 plus twenty per cent, and this Scheme B provides for the Asian and

[H.E. the Governor] African section of the full scheme. For the present the work is being confined to the permanent buildings enumerated in Appendix B. By the time work on these has been completed a decision will have to be made as to whether we shall have enough money to go on with the full programme of the Group Hospital, or whether we shall have to confine ourselves to the scheme as given in Appendix B, together with some improvements to the European Hospital. We have got a sum of £78,500 available for this scheme, so that at any rate Scheme B will be within our resources.

There are many other building projects under consideration, but I will only mention one, and that is the removal of the gaol from the Fort of Mombasa. The more or less temporary buildings erected to make the Fort practicable as a gaol are now in a bad state of repair, and it is considered that the time has now arrived for the reconstruction of a new gaol on a different site.

As you know, a new aerodrome for the Royal Air Force is to be constructed at Eastleigh. The acquisition of the land is under negotiation, and the whole of the construction work is being carried out by our Public Works Department acting for the Air Ministry. Funds for construction are provided by the Imperial Government at home, not by Kenya.

Turning to Post and Telegraphs. During the year several tests have been carried out to ascertain the possibility of introducing a radio telephone link with South Africa. Rates have now been agreed to by the Imperial Communications Advisory Committee, and it is hoped at an early date to inaugurate this service.

A sum of £11,300 appears in the Estimates towards a new telephone exchange at Mombasa.

It is hoped that during the Standing Finance Committee stages of the Estimates it may be found possible to make provision for a school to be situated at Dar es Salaam for the purpose of training African and other personnel in postal, telegraph and telephone duties. It is not possible to put any sum for this scheme into the Estimates, because agreement has only recently been reached between the

three Governments concerned, but the need for some school of this nature is becoming increasingly obvious.

As regards the Railway, statistics of which of course include Uganda, there has been a considerable fall in export tonnages since the early months of this year, due mainly to the bulk of exports having been moved during the first few months of the year and to the temporary embargo which was placed on export maize in April last. Import tonnages have, however, shown a steady improvement over the 1936 figures. Passenger traffic, more particularly third class, has shown a decided improvement.

The satisfactory revenue position of the Railway has been maintained, but working costs are rising, due mainly to increased cost of fuel, particularly coal, supplies of which have had to be obtained from Great Britain owing to the failure of supplies from South Africa, whilst the cost of imported materials and labour have also increased.

Present indications, however, are that the estimated surplus of £319,169 for both Railways and Harbours services for 1937 will be considerably exceeded.

The Railway has no private shareholders to consider, so all surplus balances after providing for adequate reserve funds are available for distribution to the community in the form of cheaper and more efficient transport facilities. The ultimate disposal of whatever surplus may be realized on the current year's working is now being examined by the Railway Advisory Council, and I am not in a position at present to forecast the advice which they will tender in due course.

I can only refer to a few points as regards agriculture, although it is unnecessary to emphasise the paramount importance of agriculture to our country.

First, I would emphasise that quality must be our foremost consideration. There is abundant proof that in some products at any rate, our quality stands higher than that of any other country in the world. What we must do is to extend this reputation for high quality to all our produce, and continually search for means of increasing our quality. We have got natural advantages in soil and climate,

[H.E. the Governor] but we must not rest content with that; we must make every possible use of these natural advantages.

In the native reserves, the prime need for the moment is not an extension of production and development, but instruction so as to ensure the correct utilization of land and an improvement in the types of food crops. Food production must be considered not only from the point of view of maintaining life but of producing a properly balanced diet so that the physical standard of the African has a chance to improve. The report issued by a committee of the League of Nations this year stated: "the malnutrition which exists in all countries is at once a challenge and an opportunity; a challenge to men's consciences and an opportunity to eradicate social evil by methods which will increase economic prosperity". Well, we will accept that challenge and we must take the opportunity. It is a matter for co-operation between many activities, including the Administration, the Agricultural Department, and the Medical services, but it can be done.

There is no need to reiterate the danger of squandering our great capital resources, namely, the soil of Kenya. I merely confine myself, therefore, to indicating some of the measures which the Government is taking to reduce the dangers of soil erosion.

An officer of the Agricultural Department has been seconded for the purpose of preparing reports of different areas, and a civil engineer has also been engaged for a period of three years. An application has been made to the Colonial Development Fund for a further grant of £10,000 for the purpose of carrying out experimental and constructive work in the Kamba country. The Local Native Council in the Machakos Reserve has been spending £1,000 a year on reconditioning services. That amount is too small and the work is getting on too slowly; so an application has been made to the Colonial Development Fund for a further loan of £24,000 which may be regarded as capitalizing the sum that would be spent by that Local Native Council for some years to come. Stock

restrictions, including prohibition of goats, are being introduced on the Yatta Plateau.

A sum of £2,500 appears in the Estimates for a special soil conservation service within the Department of Agriculture to which the officers concerned will be able to devote their whole time. This service will, to begin with, consist of the agricultural officer and the civil engineer I referred to a few minutes ago, and a water engineer; they will have the responsibility of carrying out advisory work and propaganda in both European and native areas, of preparing constructive schemes and assisting in their execution. In the matter of propaganda in particular, this service will maintain close touch with the Kenya Arbor Society, which has already done such good work in awakening the public conscience to the need for the preservation of the soil, forests and water of the Colony.

Work is in progress on schemes for water supplies in the native reserves, and the Colonial Development Fund has contributed a total of £42,000 for this work. The programme for the expenditure of these funds extends over four years. The initiation of the work has been somewhat delayed owing to the difficulty in obtaining suitable and experienced staff.

Labour shortage is being felt in many parts of the Colony. In regard to this, there are three points. First, the importance of the matter is realized by Government; secondly, it is not a matter that can be solved merely by the issue of an order or by a stroke of the pen, nor is it indeed capable of being solved solely by Government action; and thirdly, the principle that Kenya is *one* applies to this problem as to many others. It is my firm belief that prosperity in the native reserves brings prosperity to other parts of the country; but the reverse is also true, and if European farms are unable to get labour, say for picking coffee, then the native reserves will suffer later on.

Arrangements are being made to participate, as usual, in the British Industries Fair and also in the Empire Exhibition, to be held at Glasgow next summer.

Referring briefly to the question of public health, it is fair to state that the general standard of health has been as

[H.E. the Governor] good as or possibly better than previously. Plague has been lower this year than last, on the other hand malaria has increased. In connexion with malaria I was glad to see at Kisumu that excellent progress is being made with the anti-malarial works which are being carried out there on a grant of £18,000 obtained some time ago from the Colonial Development Fund. The demand for hospital treatment on the part of the African population continues to increase. We have a bed capacity of 1,372 in the hospitals, and the average number accommodated daily in the first six months of this year was 1,657. That rise in numbers does not mean an increase in sickness, but rather greater confidence in western methods of treatment and an increased desire for health. Both these are excellent, but they present an obvious problem with regard to accommodation.

As regards education, European schools are well staffed but accommodation is short. The Overseas Bursary scheme is working well. Eleven bursaries have been awarded up to date, and the reports on the progress and conduct of the bursars have been uniformly satisfactory.

In the Indian schools the total school population has increased by forty-seven per cent in the last five years, and there is a constant demand for more buildings and more staff. The recent London Matriculation results were satisfactory, 60 Indian students sat of whom 39 were successful; ten passing in the first division. Four overseas Indian bursaries have been awarded, and the holders are making good progress. The employment of pupils from the Indian schools is likely to present a problem in the near future, and it is very important that the curriculum shall be related to the after-needs of the average student.

With regard to the African, his education must be based mainly on the fact that he forms an agricultural and rural community, and therefore his education must have a strong agricultural bias. Every effort is being made to keep education in the African schools closely related to the pupils' needs and environment. The training of teachers is being given special attention. In the African,

as indeed in all education, there is a danger to be guarded against; that is of education being allowed to become a purely academic course, thus turning out pupils from the schools equipped with nothing but a literary knowledge for which they will be able to find no use in their future life.

In my travels round the country I have seen many of the missions, and I would like to pay a tribute to the good work that is being done by them, not only in education but also on the medical side.

I would draw attention to two openings for the youth of Kenya, albeit only in very limited numbers; namely, the facilities now given for obtaining short service commissions in the Air Force and the opportunities offered for training as aircraft apprentices. Details of the former have already been published and several applications have been sent in. Permission has just been received for the aircraft apprentices scheme to be put into operation. In their case, the Air Ministry do not pay for the passage home, but arrangements are being made for assistance to be given locally and a small sum appears in the Estimates for this purpose. I would emphasize that the training received by these aircraft apprentices in the Air Force Training establishments is very thorough and fits them for many jobs in future life, apart from aviation, after they will have left the Air Force.

As non-members will see from the Memorandum on Estimates, progress has been made in putting into effect the recommendations, as regards reorganization of the report of Sir Alan Pim. The next big step will be the reorganization of the Secretariat; that will complete the execution of such of the main recommendations as will have been practicable for Government to carry out.

I now want to say a few words about the Abyssinian refugees. It will be remembered that there have been 507 refugees and deserters stationed for some time in the camp at Isiolo. Now all the refugees have been concentrated there. They number some 6,200, which includes all the refugees, bar perhaps half a dozen individuals who are still sick. That concentration has been no mean effort, and marks the first stage in the settlement of the

[H.E. the Governor] problem of the Abyssinian refugees. These people, some few with money and animals, many of them destitute and diseased, arrived in Kenya with no claims on us except their need for help. They have not looked for that help in vain. I will not go into details, nor will I emphasize the difficulties of communications, of supplies, and of language, and so forth, but had it not been for the prompt assistance and the initiative of individuals on the spot, there might have been no Abyssinian refugee problem because there would have been no Abyssinian refugees! Certainly those who arrived at Kharsa some weeks ago would have ceased to exist but for our help. At Isiolo they get regular rations and are housed in grass huts which they build themselves. In the hospital there were 172 in-patients when I visited it last week, and it is well run. The intercal organization is progressing—for instance, there is a Local Tribunal which has been set up to deal with minor disputes.

I have emphasized the good work that has been done, not because I want to praise any particular individual (I mention no names), but merely because this is a work of mercy in which the whole of Kenya can feel a just pride, because after all, the individuals who did the work are part of Kenya. And in the midst of all the misery and destruction of life that is being caused in other parts of the world, this contribution Kenya has made to civilization stands out like a ray of sunshine in the murky mass of cloud.

That is the first stage of the problem; there will be others to come. For the present, the policy at Luolo is to concentrate on the physical welfare of the refugees, many of whom are still suffering from the effects of starvation, and in this phase will be included improvement of the hospital, of the water supply and so forth. The next stage will be to provide for their needs in other directions. Most of them belong to the Coptic church and they have got their own priests there, so they will be put on to build themselves a church or churches; then there are some 300 orphan children, about half of whom had been seized for slaves in Abyssinian villages as the refugees passed through;

their welfare has got to be considered. It is a problem of making them self-supporting.

As regards their future, it has been agreed by the Colonial Office that the final settlement for these refugees cannot be in Kenya. I am sure that to endeavour to absorb them here would be most unwise and unfair on our own people. I have no information as to where they will finally go or when they will go; we are simply working on the basis that they will be with us for a further twelve months.

At the time of the influx of the refugees who arrived at Kharsa, there was some fear that the Gelubba, who had acquired many rifles from these refugees, might make an attack on them with the object of seizing what cattle and money they still possessed. Aeroplane patrols therefore were carried out up to the frontier as a warning. How far an attack was obviated thereby we shall probably never know, but it is in the opinion of those who are best qualified to judge that the mere presence of these aeroplanes had a decided deterrent effect and contributed towards preventing an unfortunate incident.

There are other activities in which Kenya has gained distinction; I will only mention two.

There is first the rifle shooting. Our rifle team won the Manning Cup for the ninth year in succession. At Bisle, Major Elliott was second in the Grand Aggregate, only three points behind the winner, and won a total of twenty-two prizes there. Captain Irvine's son Donald was selected as a member of the British Public Schools rifle team that went to Canada this year.

Secondly, aviation. We all know that Brigadier-General Lewin was second in the King's Cup this summer. I would like to emphasize that the conditions of this race are such that it forms a test of the man rather than of the machine. The whole of Kenya learnt with a sigh of relief that he and Mrs. Lewin had been found in that very desolate country between Malakal and Bor and had been brought safely to Malakal. That rescue would not have been possible without very full and close co-operation between the Royal Air Force, Imperial Airways,

[H.E. the Governor] and those who were responsible for organizing rescue parties on the ground. In doing this work the Royal Air Force and Imperial Airways carried out the tradition that a lost or stranded aeroplane must be found and its crew rescued, a tradition which those who go up in the air inherited from those who go down to the sea in ships.

I now come to what is really the most important matter for Kenya; that is, its constructive development.

The period through which this Colony has recently passed has been one of holding on in the face of severe difficulties and adverse circumstances. We have now reached the stage where consolidation is necessary to ensure a firm foundation on which to build; the next step is to work out a policy of constructive development. In working out this policy it is not a matter of days or weeks, but months, and all I can indicate at present is the plan as to how to work it out. The duty of framing it is for the Executive Council. It must be a long-distance policy looking forward twenty to perhaps thirty years. And because it is impossible to foresee every change that may come about in that period, the policy must allow of flexibility in the path to be followed and in the rate of progress.

Development can be divided up into several sections, e.g. utilization of land, which includes communications, medical services, and so forth. It will be quite impossible for the Executive Council to work out details of each section themselves, so this work will be handed over to committees, many of which already exist and in some cases have already started on the work. For instance, the Settlement Committee has been formed and the Central Roads and Traffic Board has been functioning for a long time. The principal work of the Executive Council will be, first, to indicate the ultimate goal we are to aim at; secondly, to co-ordinate the detailed plans; and thirdly, to synchronize the rate of progress of each form of development. That last point presents some special problems. For instance, it is easy to correlate the number of settlers with the amount of school accommodation that is required,

but I cannot foresee anyone working out a formula connecting, say, the mileage of tarmac road with the number of dispensaries required in the native reserves!

This policy will, I hope, form the basis on which future Budgets are framed.

The Budget for 1938 is based on consolidation: consolidation partly by increasing reserves, and partly by making good liabilities that inevitably accrued during the years of depressed revenue. Its main object, as I have indicated, is to form a foundation on which development can be built.

No change is proposed in taxation, neither remission nor increase. But in working out this policy of constructive development one of the points that will have to be borne in mind is the effect of tax reduction on progress.

Part of the policy of consolidation is establishment of a reserve. At the end of 1937 it is probably that this reserve will amount to a total of about £500,000 of which, after deducting immobilized assets and for what we may call working capital, the free balance can only be counted as in the neighbourhood of £100,000. The amount of surplus balance at which we should aim is again part of the policy of constructive development, but the need for it is twofold. First, should a difficult period arise in the future, we must have a reserve to fall back on with the aid of which we shall still be able to balance the Budget; and secondly, should the occasion arise when we want to raise another loan, a satisfactory surplus balance will be of great assistance as it affords evidence that our finances are sound.

I will only touch on one section of the Estimates for 1938, namely, Defence.

The total Defence Votes are in four parts. There is the Military Vote, the Vote for the Kenya Royal Naval Volunteer Reserve, and the extraordinary Votes in each case. The sum shown in the Estimates includes the share contributed by Uganda and Zanzibar. The total for Defence amounts to £188,106 of which Kenya's share is £116,172, an increase for Kenya over last year of £20,761. I feel that no one who reads the papers or follows what is happening in other parts of

[H.E. the Governor] the world will fail to realize that increased expenditure in defence is inevitable.

I would like, however, to quote some extracts from a pamphlet called "Statement Relating to Defence" which was issued in March, 1935, to the House of Commons in England. Its object was to explain the need for rearmament. It is not a secret document, its purchase price is two pence at His Majesty's Stationery Office. It starts off:—

"The establishment of peace on a permanent footing is the principal aim of British foreign policy."

After indicating how Great Britain sought to do this by unilateral disarmament, it states that our desire to lead the world towards disarmament by our example has not succeeded, and goes on:

"In the above circumstances, His Majesty's Government felt that they would be failing in their responsibilities, if while continuing to the full efforts for peace by limitation of armaments, they delayed the initiation of steps to put our own armaments on a footing to safeguard us against potential dangers."

"The National Government... notwithstanding their confidence in the ultimate triumph of peaceful methods, in the present troubled state of the world realize that armaments cannot be dispensed with. They are required to preserve peace, to maintain security and to deter aggression."

That was in March, 1935, two and a half years ago. It is difficult to see that any improvement has taken place since, for instance, so lately as the 16th October Mr. Eden is reported to have referred to the present as "a time when obligations are ignored, engagements cynically torn up, confidence shaken and methods of making war without declaring war are adopted". Only at the end of last week Mr. Thomas Inskip, the Minister for Co-ordination of Defence, said that there would be no relaxation but rather intensification of the Government's rearmament programme.

As you know, the British Government is spending a sum of £1,500,000,000 on armaments over a period of five years,

and in the current financial year the defence expenditure of Great Britain amounts to over 20 per cent of the total budget for defence.

It would be very wrong for a country in the development stage like Kenya to spend anything like this proportion of the budget on defence; I am merely quoting this to show what the responsible people in Great Britain have found necessary. To some extent we reap the benefit of this expenditure—for instance, the British Navy, or the Royal Air Force Squadron at Nairobi. But though Great Britain bears the main burden of Imperial Defence, we like other colonies and dominions have our part to play in the general defence scheme. Our part, briefly, may be said to be to provide for our own internal security, for protection against frontier raids, and to provide a means of defence that will be sufficient, in the event of external aggression, to hold on until we can be reinforced. That is the basis of our defence policy. In working out details of what is required there we have all the recommendations of the Committee of Imperial Defence in London, and also the advice of responsible officers outside the Colony such as the Naval Commander-in-Chief, East Indies Station, and the Inspector General, King's African Rifles.

Including the extraordinary Vote, the total military Vote in the Estimates amounts to £170,000, of which Kenya's share is £108,300. I just want to touch on quite briefly two of the main increases in this Vote.

For the first time, the details of the East African Coast Defence Unit have been included in the Estimates, instead of only the Kenya share of expenditure as was the case in the current year. Hon. members are aware that this Unit which means the coast defence guns, has been in existence throughout the current year. Its object is the defence of Mombasa, and I need not emphasise the importance of keeping the harbour at Mombasa open in the event of hostilities.

Under the head Military Extraordinary it will be found that there is a big increase in arms and ammunition both for the King's African Rifles and the local forces. This is necessitated mainly by three

[H.E. the Governor] factors: first, the gradual purchase of new rifles to replace our reconditioned war rifles; secondly, the building up of a reserve of ammunition; and thirdly, the purchase of a new type of machine gun, the Bren gun.

The reserve of ammunition has been allowed to fall too low, and the scale to which we are building up is based on the recommendations by the Committee of Imperial Defence in England. The total is so adjusted to the expenditure that necessarily takes place annually in rifle practice so that a complete turnover takes place within a prescribed time, and thus no ammunition will have to be destroyed of this reserve owing to its having reached the end of its permissible life in this climate; there is a regular turnover.

With regard to the Bren guns, this is a new and improved type of machine gun that is being introduced into the British Army. To a large extent it combines the mobility of the Lewis gun with the advantages of a so-called heavy machine gun like the Vickers. It is essentially a simple gun, and therefore very suitable for native troops, and it is also particularly useful in the sort of country in which we should have to operate should occasion arise. As regards this point again, particularly regarding the Bren gun, I want to emphasize this—the necessity of the organization of our armament corresponding closely to that of the British forces. Quite apart from the question of reinforcement and co-operating with them, we have got to consider this: that spare parts and replacements of obsolete weapons will become increasingly difficult to obtain, and further that instructors in obsolete weapons will not exist.

The object of the Kenya Royal Naval Volunteer Reserve is to provide a minesweeping unit for Mombasa Harbour. It is complementary to the Coast Defence Unit and has the same object, namely, to ensure that merchant ships shall be able to reach and enter Mombasa harbour in time of war. The main item in the expenditure of £7,849 is on account of the purchase of a training vessel. Now one of the lessons of the war of 1914-18 was that it may take an untrained minesweeping

unit two months to free a port of mines. It is therefore of great importance if we are going to have a minesweeping unit that it shall be maintained in a high state of efficiency and thus be able to function from the commencement of hostilities should they occur. To do this it must have training at sea. Various alternatives have been proposed, investigated and tried, but the only satisfactory solution of the training problem is for this unit to have some vessel of its own. I may say that the Naval Commander-in-Chief of the East Indies Station has, as one might expect, expressed himself in very forcible terms as to the need for this training vessel.

In conclusion, touching on defence, I would remind hon. members of Napoleon's dictum that in war the moral is to the physical as three to one. We must not forget this moral aspect in our defence schemes. For instance, the movement of merchant shipping is held up not so much by actual sinkings at sea as by reluctance on the part of owners and insurance companies to run the risk of damage. That reluctance will be reduced if the owners and masters know that their port of destination has effective means of defence.

And further, if the means of defence are known to be adequate and efficient, a possible enemy is likely to be deterred from even attempting an attack because he will realize that any advantage he might gain thereby will not compensate for the losses that he himself will suffer.

Hon. members will have learned with relief that the number of Bills which they will be asked to consider during this Session is considerably smaller than the number presented last July. The consideration of two of these, the Employment of Servants Bill and the Native Registration (Amendment) Bill, commenced when we last met. The Committee appointed to examine and report upon these Bills during the course of their second reading, with a view to their modification in certain particulars, has now reported. These reports are in the hands of hon. members, and I feel that no useful purpose would be served by any further reference to them by me. I trust that further progress with these Bills will have been simplified.

[H.E. the Governor]

Of the remaining eight Bills, five are of a somewhat formal nature, the Game Bill is of a more lengthy nature, since it is intended to consolidate preceding legislation, while the Coffee Industry (Amendment) Bill makes provision for certain alterations in the constitution of the Coffee Board. Apart from the two Bills, therefore, which are already under consideration by this Council, the only measure of major importance to be introduced during this present Session is the Transport Licensing Bill.

Honourable members are already aware of the general principles reflected in this Bill since it is very largely the one previously published for criticism on the 31st August. The control of various forms of transport in this Territory has received considerable attention of late, and data obtained has been made available to the general public, both through the medium of the Report of our own Local Committee and through that of Sir Osborne Mance. Read in the light of these Reports, the measure is self-explanatory. In order to allay any misapprehensions, however, I wish to make quite clear that this Bill is not a taxation measure, the intention being that receipts from fees for the new licences should not provide more funds than are required to meet the cost of the proper administration of the Bill.

Honourable members, in now opening this Session of Council, I earnestly trust that, with the blessing of Almighty God, its deliberations may tend to the further peace, prosperity and welfare of Kenya. (Applause.)

MINUTES

The minutes of the meeting of the 13th August, 1937, were confirmed.

PAPERS LAID

The following papers were laid on the table:

BY THE ACTING COLONIAL SECRETARY (MR. PILLING):

Draft Estimates of Revenue and Expenditure for 1938.

Memorandum on the Draft Estimates of Revenue and Expenditure for 1938.

Report on the Audit of Accounts, K.U.R. Branch Offices, 1936, and

copy of despatch No. 76 of 1937 thereon by the High Commissioner for Transport to the Secretary of State.

Schedule of Additional Provision No. 3 of 1937.

BY THE ACTING TREASURER (MR. STOOKE):

Report of Committee appointed to consider the proposed Scheme for a Grouped Hospital at Nairobi.

BY THE ACTING CHIEF NATIVE COMMISSIONER (MR. HOSKING):

Annual Report on Native Affairs, 1936.

BY THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. LOGAN):

Annual Report of the Commissioner for Local Government, Lands and Settlement, 1936.

BY THE DIRECTOR OF MEDICAL SERVICES (DR. PATERSON):

Medical Department Annual Report, 1936, including the Research Laboratory Annual Report, 1936.

BY MR. WILLAN (SOLICITOR GENERAL):

Report of the Committee appointed by His Excellency the Governor in Council to Examine and Report upon the provisions of the Employment of Servants Bill.

Report of the Committee appointed by His Excellency the Governor in Council to Examine and Report upon the provisions of a Bill to amend the Native Registration Ordinance.

BILLS

FIRST READINGS

On the motion of the Attorney General (Mr. Harragin), seconded by Mr. Willan, the following Bills were read a first time:

The Native Tribunals (Amendment) Bill.

The Native Passes (Amendment) Bill.

The Special Districts (Administration) (Amendment) Bill.

Notice was given to move the second readings at a later stage of the session.

ADJOURNMENT

Council adjourned till 10 a.m. on Monday, 1st November, 1937.

Monday, 1st November, 1937

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Monday, 1st November, 1937. His Excellency the Governor (Sir Robert Brooke-Popham, G.C.V.O., K.C.B., C.M.G., D.S.O., A.F.C.), presiding.

His Excellency opened the Council with prayer.

MINUTES

The minutes of the meeting of 29th October, 1937, were confirmed.

PAPERS LAID ON THE TABLE

The following papers were laid on the table:

BY THE HON. THE ACTING DIRECTOR OF AGRICULTURE (MR. WOLFE):

Department of Agriculture Annual Report, Vol. II, 1936.

16th Agricultural Census (European Areas), 1936.

EMPLOYMENT OF SERVANTS BILL

SECOND READING—Continued

The debate on the motion to read the Employment of Servants Bill a second time was continued from the 30th July, 1937.

ACTING COLONIAL SECRETARY

(MR. PILLING): Your Excellency, as hon. members are aware, the second reading of this Bill was moved and seconded at the last session of this Council, and the hon. Member for Nairobi North (Major Cavendish-Bentinck) and the hon. Member for the Coast (Major Grogan) spoke on the Bill. During the adjournment, Your Excellency in Council appointed a committee to consider and report on the bill, and their report has been circulated to hon. members. That report was also considered by Your Excellency in Council, and with one small exception was accepted.

It is the intention of Government that this Bill shall be referred to a select committee and, so far as the Government members of that select committee are concerned, they will support all the amendments accepted by Your Excellency in Council which were contained in that report.

LORD FRANCIS SCOTT: Sir, I was not present when this Bill was debated before, and while the European elected members appreciate the attitude the Government of Kenya have taken up in this matter in meeting their points of view, I do wish to enter a formal protest against the practice that legislation should be forced on this Colony by an outside body not in Africa at all, dealing with matters which may be of very vital importance to this country and which, irrespective of the views of responsible people in this Colony and of their experience, has to be incorporated in our legislation, whether for the better or for the worse.

I wish to make this protest, Sir, at this time on general principle.

MR. HARVEY: Your Excellency, I was a member of the special committee which examined the Bill as originally drafted, in very great detail, with various Government members, the report of which I signed. Since the date the committee sat further representations have been made to me from the area of the country which I especially represent on this Council.

As a result of a meeting held at the Songhor Club—which was attended by my hon. friend Mr. Fazan, the Provincial Commissioner, his district commissioner for Central Kavirondo, and the labour officer, the chairman of two of three farmers' associations' representations, so I am informed, were made to Government for the incorporation in this Bill of some provision in order to prevent employers from employing natives on, say, the first and third Monday and Tuesday of every month in the year, and the rest of the time allowing them to loaf about in the native reserves contiguous to their places of employment.

It is rather a select committee point, but I mention it now in order that my hon. and learned friend in charge of the Bill may look it up and find out whether or not it can be inserted and, if so, in what form.

Those gentlemen at the Songhor Club meeting must be regarded as authorities in this matter, and I respectfully suggest that similar provision should also be made in the next Bill which is coming up for

[Mr. Harvey] consideration this morning, the Registration of Natives (Amendment) Bill, in order that a very large force of potential labour shall not be held up by employers who behave in the manner I have indicated.

ARCHDEACON BURNS: Your Excellency, as the Bill is to be sent to select committee of this Council, there are points which I had intended to deal with in the discussion on the measure which may perhaps be more the business of that committee.

First of all, I would just mention the medical examination of people who are being recruited to do work on a given farm or given estate a long way from their homes. That medical examination should, if at all possible, take place at the place of recruitment.

The next point I should like to mention is the recruitment of juveniles and taking them a long, long way from their homes. I know of juveniles who have been taken from Kayirondo down as far as Voi without anyone seemingly in charge of them. The recruitment of juveniles is dealt with in this Bill, but I think the greatest care should be taken, because even the labour officer himself told me that he is unable to keep any track of youngsters between the age of 9 and 12 years who are taken away from their homes and who very often are never heard of again. They are taken away, and the labour officer and their own people were unable to find any trace of them afterwards.

With regard to those who fall sick during their term of service on any European estate, I hold very strongly that on large estates where there are *neapara* or headmen it should be their business to report to the owner or the man in charge of the estate the absence of any employee through sickness after one day, certainly on the second day. If that was done, the fact of a man being sick would mean that the owner or manager of the estate would be cognisant of it and would perhaps be able to give the man some simple remedy or medicine which would save him from serious illness. I think that on large estates the *neapara* or headman should be able to report cases of sickness.

There are other points in this Bill, and also in the Native Registration (Amendment) Bill, which I should like to deal with in select committee when they sit.

COL. KIRKWOOD: Your Excellency, I have a large number of points in connexion with this Bill, but I understand that my name has been put forward by the Elected Members Organization for the select committee, so that I have no intention at the present moment of wearying the Council with matters that can be covered at a later date.

COL. FITZGERALD: Your Excellency, paragraph 26 of the committee report, page 8, relating to clause 47, lays down various items which have got to be given to a servant for his journey to the place of his employment. It does not however, say anything at all about a cover or housing during the inclement weather during his journey to that place of employment.

I mention this because it was lately brought to my notice that labour recruited in the Kavirondo country for farmers on the Trans Nzoia have to spend several nights on the journey and, in the past, women and children in particular belonging to this labour have suffered very severe hardships in having to sleep out in the open during the heavy rains. Perhaps it may be possible to add to clause 47 after the words "two blankets," "and suitable shelter in inclement weather."

In another clause of this Bill it mentions something about sleeping accommodation. I contend that that might mean anything. It does not necessarily mean shelter in inclement weather. During the war, most of the nights I spent sleeping in the open, and that might be considered sleeping accommodation, but it certainly was not shelter from inclement weather! and I was continually wet through. It may be possible to add something to this particular clause about suitable shelter in inclement weather, which would be a good thing.

MR. WILLAN: Your Excellency, my task has been made considerably lighter by the very reasonable attitude adopted by my hon. friends on the other side of Council.

[Mr. Willan]

Referring back to the previous debate on this Bill, when I moved the second reading, and the then hon. Member Mr. Wallace seconded, the hon. Members for Nairobi North and the Coast, spoke and the two raised certain points.

The first was the definition of task and the number of hours stated in that definition. Hon. members will see in the report of the committee appointed by Your Excellency in Council that reference to hours has been deleted and that the definition has been considerably modified.

Another point raised by the hon. Member for Nairobi North was on clause 9 of the Bill, in which he suggested that "Governor in Council" should be substituted for the word "Governor". As hon. members will see in the report to which I have just alluded, the whole of clause 9 is suggested to be redrafted on the lines of the relevant section in the Resident Labourers Bill.

Clause 17 was criticised by the hon. Member for Nairobi North. That clause has now been redrafted, or it is suggested it should be, and I hope the draft suggested by the committee will meet all the objections raised by the hon. member.

Clause 35 deals with the question of an employer's liability for providing medicine and medical attendance during the serious illness of any of his servants. As hon. members will see, that clause has been redrafted on the lines suggested by the hon. Member for Nairobi North. He suggested that it was impossible for an employer with a large labour force on a large farm to go around that farm and find out if the absence of any servants was due to illness. Hon. members will now see that it is suggested that employers shall provide a servant with proper medicine during illness and also procure medical attendance during serious illness, but that liability is rather restricted by the proviso that—

"an employer shall not be held liable under the provisions of this section if he proves that he did not know that the servant was ill and that it would have been unreasonable, in all the circumstances of the case, to have required him to know that such servant was ill."

I feel that that meets the objection raised by the hon. Member for Nairobi North.

The final criticism of the hon. member was to clause 79, the rule-making clause, and if this Bill had gone to the same select committee which dealt with the Resident Labourers Bill there is no doubt whatsoever that that committee would have recommended that all rules made under this Bill should come before this Council in the same way as is provided in the Resident Labourers Bill.

The hon. Member for the Coast only dealt with two particular sections, apart from general disagreement with the whole Bill, and also dealt with the definition of "task". The hon. member will see that, although he suggested a new definition of "task", his definition has not been accepted by Government!

He also dealt with clause 79, and my reply to him is the same as I have given the hon. Member for Nairobi North.

The point raised by the hon. Member for Nyanza (Mr. Harvey) will be borne in mind in select committee, but I rather feel myself that it more particularly applies to the next Bill and not to this one.

The venerable and hon. Member representing native interests (Archdeacon Burns) suggested that the medical examination of servants should take place at the place of recruitment. If he will refer to clause 40 (1), he will see that it reads as follows:—

"Every Arab, Baluchi born in Africa, Comoro Islander, Malagasy, Somali or native who is recruited by a professional or private recruiter or engaged by a labour agent shall be immediately examined at the place of recruitment or engagement, as the case may be, or as near to such place as may be convenient by a medical officer."

Therefore, I suggest that his point is already provided for in the Bill.

The hon. member also suggested that great care should be taken with regard to the recruitment of juveniles. The recruitment of juveniles is dealt with in clauses 27 to 30 of this Bill, and the hon. member will see in clause 28 (1) that before a

{Mr. Willan}

juvenile can be recruited he has to possess a certificate from the district officer. If he will turn to sub-clause (3) he will see that—

"A district officer may withhold such certificate for any reason deemed by him to be sufficient: Provided that—
(a) when there is a parent or guardian of a juvenile living and when such parent or guardian is unwilling to grant permission to such juvenile to seek employment the district officer shall withhold the certificate."

Therefore I do suggest that the recruitment of juveniles is adequately protected by proper provisions in this Bill.

The hon. Member for Trans-Nzoia (Col. Kirkwood) has apparently a number of points which he did not disclose to-day, but as he is going to be a member of the select committee no doubt he will bring them forward then.

I do not think I can usefully add anything to my present remarks. I think the committee appointed by Your Excellency in Council has done really good work, and I trust and believe it has made the task of the select committee much less arduous than it otherwise would have been.

SIR ROBERT SHAW: Your Excellency, before leaving the subject I have one very brief remark to make in regard to the little reservation at the end of the report signed by myself and the hon. Member for Nyanza and the hon. Member for Nairobi South (Mr. Maxwell).

That reservation means exactly what it says. But, in the second part where we state "that we should have found our task considerably easier had we been allowed somewhat more latitude," I wish you to clearly understand that that remark does not apply to the action of the Government of this country, or more particularly to the official members of the committee on which we sat. At the last session of the Council, following our protest, Government did not rush this Bill through but at our request put it off and gave the country plenty of time to consider it, and appointed a committee to deal with it. I can only say that on that committee the official members met us in every way they

could, and we are grateful to them for the patience and careful hearing they gave to all our points.

That reservation at the end of our report refers to the matter of which the Noble Lord, the hon. Member for Rift Valley (Lord Francis Scott) spoke, and his remarks were foreshadowed by this reservation, and I wish to associate myself with them.

THE ATTORNEY GENERAL (MR. HARRIGAN): Your Excellency, technically, as the Council is aware, I have the right of reply to this debate, but having heard the hon. Member Mr. Willan, who in fact has replied on my behalf, I will not detain Council further.

The question was put and carried.

MR. HARRIGAN moved that the Bill be referred to a select committee consisting of the following members:

Mr. Willan, Chairman.
Mr. Hosking.
Mr. Boulderson.
Mr. La Fontaine, D.S.O., O.B.E., M.C.
Mr. Harcourt.
Colonel Kirkwood.
Mr. Maxwell.
Archdeacon Burns.
Mr. Isher Dass.

MR. WILLAN seconded.

The question was put and carried.

NATIVE REGISTRATION (AMENDMENT) BILL

SECOND READING—*Continued*

The debate on the motion to read the Native Registration (Amendment) Bill a second time was continued from the 30th July, 1937.

MR. PILLING: Your Excellency, I have to repeat almost word for word what I said in regard to the Employment of Servants Bill. The second reading of the Native Registration (Amendment) Bill was moved and seconded during the last session of Legislative Council, and the same two hon. members also spoke on this Bill. During the adjournment Your Excellency appointed a committee to consider and report on the measure, and their report has been circulated to all members of Council.

{Mr. Pilling}

In this case also it is the intention of Government to refer the Bill to a select committee and again, so far as the Government members are concerned, they will support the amendments in the report which Your Excellency in Council has accepted.

ARCHDEACON BURNS: There are two or three points, your Excellency, in connexion with the amendments to this Bill to which I should like to draw the attention of the Council, especially to the hon. members who will be dealing with it in select committee.

The first thing I would call attention to is paragraph 3 of the committee report relating to the severity of the fine imposed on a person who for some cause breaks the rules laid down in this Bill; and that is, upon conviction, a fine not exceeding £20 or, in default of payment, imprisonment for a term not exceeding three months. £20 seems to me to be exorbitant. I understand perfectly well that this is the limit to which a magistrate can fine a person—that the maximum fine is £20. But, supposing that boy is fined £20 and his clan comes to his rescue and provides the Sh. 400 for him, it would take him a whole year, even though he is earning Sh. 30 or Sh. 33 a month, to provide the money necessary to pay that fine. If he is not in a position to pay it of course he goes to prison for three months.

What I want to say is this: That boy, during the time he is in prison or during that twelve months he is making provision to pay back that money lent to him by his friends, is not in any way a help to his people. Many of these boys have wives and families in the reserve who are to a great extent dependent upon them for help. At the same time the Government expect that man to pay his hut and poll tax—with that I entirely agree. I think that every able-bodied man in the Colony should pay something towards the revenue of the Colony. But it makes it very, very difficult if he has, during the year or two years as the case may be, to provide the Sh. 400 that his people have provided for him, or spend three months in prison. I should like to see that reduced to Sh. 200 or three months imprisonment.

Another point I feel strongly about is that of leave, as given on page 3, paragraph 8A. I think there is an easier and more effective way of dealing with this. I am entirely in agreement that those labourers should not be let loose in the reserves by their masters sending them off for an indefinite period of time. I think every employer who wants his labourers to come back to him—and he is justified in expecting them to come back to him—should do one of two things. He should either write them off, which, at the moment, is the proper thing to do, or give them a letter and say "This is my cook, or houseboy," as the case may be, and I am paying him a retaining fee of Sh. 5 a month, until such time as I want him back again." When the district officer or whoever it is reads that note, he knows that the boy is really in the employ of his master and that, when the time comes, his master expects him to return to his work. Instead of that we have it here laid down that he has to report to the District Commissioner—the District Commissioner who has more work, perhaps, than he can do—then report to the Chief Registrar of Natives, and fill that sort of thing. The other way, to my mind, would be very much more simple and more effective. I admit it is illegal and that the thing should be stopped. But whether it is possible to stop it in the way suggested or not, I do not know.

There are one or two other points that I should like to lay before the Council, but I see the select committee is dealing with these subjects, as with the other, so I will confine myself to these points.

COL. FITZGERALD: Your Excellency, I would like to support my hon. and venerable colleague in this matter of objection to the fines in this Bill. I find several instances in this Bill of various fines being raised considerably. And in the "Objects and Reasons" of the Bill it does not explain why these fines have been raised. Now, if these fines are raised to this extent it is a foregone conclusion that the offender will have to go to prison because he will not be able to find the money to pay. Surely, it would be better to reduce the fine to an amount that the offender could pay, otherwise he would

[Col. FitzGerald]

have to be kept in prison for a certain time at the expense of the Government.

I am sure it is not the intention of the Government to fill our prisons with natives for these petty misdemeanours. I understand our prisons are already chock-a-block with these people, and I am sure if the fine is reduced to a reasonable amount then the natives would be able probably to pay the fine and would not be kept in prison at the expense of the Government for a period, and be contaminated probably with the habitual criminal. This is a way of reducing the Government expenditure—possibly in a very minor way but I consider that every mickle makes a muckle.

There is one other point, with regard to paragraph 3, section 6, on page 2 of the report. There are many people in Nairobi, and possibly in other towns in Kenya, who engage casual labour during the rains for weeding gardens and that kind of thing. It would be interesting to know if such casual labourers should have their certificates entered up in the same way that the more permanent labourers have to be done. I suggest that this need not be necessary unless a native is possibly engaged for a month and then, of course, it would be necessary to have his certificate entered up.

MR. HARVEY: Your Excellency, the hon. and gallant gentleman who has just spoken asked the reason why the penalties have been fixed as specified in the Bill before us. I think a very simple answer to that is that, in order that the punishment may fit the crime. A lot of these offences are very serious and require correction by law. The two previous speakers unduly emphasized the maximum penalty and it should be unnecessary to draw attention to the fact that the magistrates in Kenya very rarely, if ever, impose the maximum penalty. If anything, during the past twenty-five or thirty years, in cases of this nature, the main criticism is in the fact that the magistrates are far too lenient in the interests of the natives. It is very important, and let me repeat that the penalty they object to so very strongly, is merely the maximum one.

On a point made by the Ven. Archdeacon on the subject of leave, if he reads the first paragraph 8A on the relevant page, he will see that his second alternative was one of the motions and recommendations of the sub-committee. That committee with the assistance of various officers, the Registration Officer and the Labour Officer among others who have a very detailed knowledge of this particular aspect of the problem, decided that it would be adverse to the interests of the whole Colony for employers to be in a position to give employees unduly long leave. There it is recommended that they should be allowed to give leave up to 30 days in the form of an ordinary retaining chit. But, if, for any special reason they exceed that fairly long period they should have their recommendations endorsed by the provincial commissioner or the district officer or some officer appointed for that purpose.

MR. WILLAN: Your Excellency, if silence means consent to the amendments of this Bill, or the suggested amendments made by that committee, then I take it that all the members on the other side of the Council Chamber support this Bill.

There is, therefore, nothing left for me to say, Sir, as the hon. Member for Nyanza has anticipated my replies to the small matters raised by the hon. members representing native interests.

There is only one thing to say before I sit down and that is an apology on my part. Your Excellency will see, and the hon. members will see, that there are no names appended at the end of the report. Well, Sir, that is my fault in checking the proof copy. Actually the names which should have been appended are the same as appended to the report on the Employment of Servants Bill.

The question was put and carried.

MR. HARRIGAN: moved that the Native Registration (Amendment) Bill be referred to the select committee appointed to consider and report on the Employment of Servants Bill.

MR. WILLAN: seconded.

The question was put and carried.

NATIVE TRIBUNALS (AMENDMENT) BILL

SECOND READING

MR. HARRAGIN: Your Excellency, I beg to move the second reading of the Native Tribunals (Amendment) Bill.

This very short Bill has been introduced in order to avoid coming to this Council and referring to the Secretary of State (as we have to do at the present) every year in order that the Bill may continue in force.

Hon. members are aware that this Ordinance has now been in force for the last seven years and, except for minor criticisms I think it can be said—and so I am informed by those in close contact with it—that it works extremely well. Speaking personally as a sort of final arbiter to whom the returns are sent I can say that in my opinion native tribunals are becoming more and more efficient.

The effect of this amendment will be that in future this Ordinance will remain in force until it is repealed by this House.

MR. WILLAN: seconded.

The question was put and carried.

NATIVE PASSES (AMENDMENT) BILL

SECOND READING

MR. HARRAGIN: Your Excellency, I beg to move the second reading of the Native Passes (Amendment) Bill.

This very short amending Bill is in order to make it possible for the police to arrest offenders against the Native Passes Ordinance.

As hon. members are aware, this Ordinance is merely an ordinance which gives rule making power. It has been found of great inconvenience that it has been impossible for the police to make an arrest without having in their possession a warrant. It is therefore proposed, in this amendment, to give the police these particular powers.

I may mention for the information of hon. members that the Chief Native Commissioner is at the present revising the actual rules which have been made under the Native Passes Ordinance in order to remove any hardships that might arise by this amending Bill.

MR. WILLAN: seconded.

ARCHDEACON BURNS: For information, Your Excellency, I would like to ask the hon. member if any constable can arrest, if this Bill gives authority to the whole police force no matter what their position in the Force may be?

MR. HARRAGIN: The answer is in the affirmative.

SPECIAL DISTRICTS (ADMINISTRATION) (AMENDMENT) BILL

SECOND READING

MR. HARRAGIN: Your Excellency, I beg to move the Special Districts (Administration) (Amendment) Bill.

This amending Bill is similar to the one I moved earlier. It makes it unnecessary for this Council to consider year after year, whether this Ordinance should remain in force for another year. This Ordinance has been in force for the last three years and has operated extremely well to my knowledge there have been no complaints whatever about it—and the recommendation of the officer in charge of the Northern Frontier is that it should become a permanent statute of this Colony.

MR. SHAMSUD-DEEN: Your Excellency, since the principal Ordinance is not before members of the Council, I should like to be corrected if my reading of this amending Bill is wrong.

Unless there is something in the principal Ordinance which makes it perpetually effective, to my mind the deletion of section 30 by this amending Bill takes away the right from Your Excellency, the Secretary of State as well as this Council, of extending the operation of the principal Ordinance; for if you take out section 30 there is no more power left to continue the measure.

I may be wrong, and shall be glad to be corrected if I am.

MR. HARRAGIN: Your Excellency, as hon. Members are aware, in every Ordinance that we pass in this Council there is, unless especially inserted, no time limit during which that Ordinance will run. A Bill once passed remains in force until repealed.

In this particular Ordinance, as it was an experiment it was thought that it would be wise for the first year or two that there

35 Bills

(Mr. Harragin) should be a clause to ensure revision by the hon. members of this Council and by the Secretary of State, year by year. In order to do this we inserted section 30 which necessitated year by year that a motion to continue the Ordinance should come before Council in order that members could have the opportunity of discussing and revising it, hear how it was operating and, if they agreed, to extend its operation.

This has been done for the last three years. By deleting this section as we propose to do, the Secretary of State and the Council will be deprived of considering it year by year. I might say that the Secretary of State has already agreed (if this action we are taking).

The question was put and carried.

BILLS

IN COMMITTEE

MR. HARRAGIN moved that the Council do now resolve itself into committee of the whole Council to consider the following Bills clause by clause:

The Native Tribunals (Amendment) Bill.

The Native Passes (Amendment) Bill, The Special Districts (Administration) (Amendment) Bill.

MR. WILLAN seconded.

The question was put and carried.

Council went into Committee.

His Excellency moved into the chair.

The Bills were considered clause by clause.

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

The question was put and carried.

Council resumed its sitting.

His Excellency reported the Bills without amendment.

THIRD READINGS

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

MR. WILLAN seconded.

The question was put and carried.

The Bills were each read a third time and passed.

ADJOURNMENT

Council adjourned till 10 a.m. on Wednesday, 3rd November, 1937.

Wednesday, 3rd November, 1937

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Wednesday, 3rd November, 1937, His Excellency the Governor (Sir Robert Brooke-Popham, G.C.V.O., K.C.B., C.M.G., D.S.O., A.F.C.) presiding.

His Excellency opened the Council with prayer.

MINUTES

The minutes of the meeting of the 1st November, 1937, were confirmed.

PAPERS LAID ON THE TABLE

The following papers were laid on the table:—

By MR. WILLAN:—

Report of the Select Committee on the Employment of Servants Bill.

Report of the Select Committee on the Native Registration (Amendment) Bill.

ORAL ANSWERS TO QUESTIONS

NO. 35—MOMBASA SHOP ASSISTANTS' EMPLOYMENT ORDINANCE, 1937.

MR. ISHER DASS asked:—

With reference to my questions Nos. 70 of 1934 and 64 of 1936 and the replies thereto in regard to the application of the Shop Hours Act to Mombasa, will Government now be pleased to inform the Council of the date of application of this Ordinance?

THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. LOGAN): Before the application of the Mombasa Shop Assistants' Employment Ordinance, 1937, it is necessary to frame Rules under the Ordinance for certain purposes. These Rules are in course of preparation, and it is proposed that the Ordinance should be applied at an early date.

NO. 56—THIKA WATER SUPPLY

MR. ISHER DASS asked:—

With reference to my questions Nos. 100 of 1934 and 19 of 1936 will Government please state if further provision is being made in the present Budget with regard to the Water Supply at Thika.

37 Oral Questions

MR. PILLING: The draft Estimates for 1938 provide £2,400 for this purpose under Head XXXVII, Item 11.

NO. 58—PRISON MANUFACTURES

MR. ISHER DASS asked:—

1. Is Government aware that Nairobi Prison has entered into agreements or contracts lately with some individuals or firms or Government Departments for the supply of certain articles manufactured by prisoners?

2. If the reply is in the affirmative will Government be pleased to state if Government does not consider this to be against public policy in so far as these products compete with the products of firms who employ paid labour?

3. Would Government issue instructions for the stopping of this uneconomic competition?

MR. PILLING: 1. No contracts have been entered into lately by the Nairobi Prison with individuals or firms for the supply of articles manufactured by prison labour.

Such articles as furniture, clothing and sisal products are, however, supplied by the Prison to Government Departments and His Majesty's Forces.

2. Care is taken to avoid, as far as possible, direct competition with private enterprise employing paid labour.

It is on the other hand considered that the manufacture by prison labour of articles required by Government Departments and His Majesty's Forces is amply justified in the interests of the general public as a very considerable economy is effected.

3. In view of the replies to 1 and 2, this question does not arise.

NO. 61—CONTAGIOUS DISEASES

MR. ISHER DASS asked:—

1. Is Government aware that there are some unfortunate Africans suffering from leprosy, elephantiasis and other contagious diseases wandering in the streets of Nairobi?

2. If the answer is in the affirmative, then will Government be prepared to take immediate steps to abate this public nuisance?

HON. DIRECTOR OF MEDICAL SERVICES (DR. PATERSON):

1. Government is not aware that there are any Africans suffering from leprosy and other contagious diseases wandering in the streets of Nairobi. Elephantiasis is not a contagious disease.

2. In view of the answer to 1, the second part of the question does not arise.

MR. ISHER DASS: There are cases wandering in the streets at the moment!

DR. DE SOUSA: Your Excellency, arising out of the reply, a question was put by me recently. I think it was last session, and I quoted instances in which cases of leprosy had been seen wandering in the streets of Nairobi. I said I had witnessed it then and even now.

HIS EXCELLENCY: If you wish you can ask a question arising out of the reply, but this does not appear to be a question. You cannot debate the matter, you can merely ask a supplementary question. It must be a definite question.

DR. DE SOUSA: I am asking whether this is correct information by a head of a department? and that arises out of the reply given, Sir.

DR. PATERSON: Your Excellency, I think I asserted very clearly that Government is not aware. If the hon. member is aware of any particular case, his correct course is to bring it to the notice of the medical officer of health of the Municipality, which is the local authority responsible for the public health of Nairobi. I have no doubt at all that they will take action if any particular case is brought to their notice.

A PROTEST

MR. SHAMSUD-DEEN: Your Excellency, before we proceed with the Order of the day, I wish to lodge a protest against the hon. Indian members not having been consulted as regards the adjournment of the Council on Monday last.

MR. HARRAGIN: On a point of order, is this a question?

MR. SHAMSUD-DEEN: I only wish to say that this is our public holiday to-day, and that I cannot possibly participate in the deliberations of the Council to-day.

MR. SHAMSUD-DEEN then retired.

AGRICULTURAL MORTGAGORS RELIEF ORDINANCE, 1934

MR. HARRAGIN: Your Excellency, I beg to move:—

"Be it resolved, that the Agricultural Mortgagees Relief Ordinance, 1934, shall remain in force until the 31st day of December, 1938."

As hon. members are aware, this Ordinance was brought into force as one of the relief measures in 1934 during the slump. At the time, there were protests made by both mortgagors and mortgagees. The mortgagors were certain that the Bill did not go far enough, and the mortgagees asserted that it was an interference with the rights of the individual. Be that as it may, be it has during the three years it has been in force—although there have not been a great many cases actually arising under the Ordinance—been an excellent bargaining weapon to bring mortgagors and mortgagees together.

Whatever may be true in a time of slump, I think is even more true in the rising tide of prosperity, and mortgagors should be protected under the conditions laid down in the Ordinance against rapacious mortgagees, if there are any.

MR. WILLAN seconded.

LORD FRANCIS SCOTT: Sir, I rise to support the motion before Council.

What the hon. and learned mover has just said is quite true. This Ordinance has been of great assistance in helping some of the mortgagors who were in a bad way. Though times have improved they are not out of the wood yet, and it will be of great assistance for this measure to be carried out for a further period.

I support the motion.

The question was put and carried.

PENSIONS AND GRATUITIES

ABDULLA KHAN

THE ACTING TREASURER (MR. STOOKE): Your Excellency, I beg to move:—

"In consideration of Mr. Abdulla Khan's 30 years, 6 months and 23 days

satisfactory service in the Police Department of this Colony, this Council is pleased to award him a compassionate pension at the rate of Sh. 640/50 a year (which is equivalent to three-fourths of the pension which would have been awarded to him had he been serving on the pensionable establishment of this Colony), with effect from the date of his retirement, viz. the 1st April, 1935, instead of a gratuity of Sh. 966/14 (vide Regulation 12 (1) of the Non-European Officers Pensions Ordinance, 1932) to which he is strictly entitled under the Regulations."

Before the Non-European Officers Pensions Ordinance was enacted, this Council on many occasions granted compassionate pensions to Asian officers with long and meritorious service. The object of the Ordinance was to provide once and for all pensions for non-European officers on a proper footing, and it was definitely stated at the time that that Ordinance would remove the necessity for any further motions such as these.

Unfortunately, the case of Mr. Abdulla Khan was overlooked. Had he retired in 1931, and he could have done so had he wished, there is no doubt that he would have received a compassionate pension. I say that because a colleague of his did in fact retire in 1931 and was awarded a compassionate pension by this Council.

It was most unfortunate that his case was overlooked when the Ordinance came in, but it does seem only just, that, having extended his period of service—and I might say that by so doing he did not in any way increase the prospective pension—he should now be deprived of it. Careful inquiries have been made, and no other case has been discovered in which an officer is likely to put forward a claim for a compassionate pension on these grounds.

This proposal has been examined and considered by the Standing Finance Committee, which supports it subject to the reservation that this shall be the last motion of its kind.

MR. HARRAGIN seconded.

LORD FRANCIS SCOTT: Sir, I had intended to raise a protest with regard to this motion, on the grounds that if we in

[Lord F. Scott] This Council are continuously differing from the correct regulations with reference to these matters we do turn ourselves into a sort of philanthropic society, which is not our duty as guardians of the public money.

Since then, I have gone into the case very thoroughly with the Hon. Treasurer, and on the Standing Finance Committee, and I do recognize that this is an exceptional case, though we were told a year or two back that we had had the last case. But this one has turned up, owing to a mistake on the part of Government, which overlooked the case, and we are now assured that there will be no further case of a similar nature.

Therefore, I will not oppose the motion.

MR. BEMISTER: Your Excellency, I should like to know if this is the man who was employed in the Customs Department, because if so, I have heard of another case. Your Excellency has been petitioned concerning it, and the late Member for the Coast and myself have done everything possible in connexion with it. All the circumstances are exactly the same as this, but the man has never had a pension or gratuity of any kind.

I should like to know if this is the same man, that you might have altered your view, or if there is still another case which you have overlooked.

MR. STOOKE: Your Excellency, Mr. Abdulla Khan was a police sergeant, and was not in the employ of the Customs Department. I am afraid I have not seen the matter to which the hon. Member for Mombasa (Mr. Bemister) refers, but from what he says—that he has not even received a gratuity—I do not think the case is on the same basis as the present one.

The question was put and carried.

G. K. PATEL

MR. STOOKE: Your Excellency, I beg to move:—

"This Council approves the payment of an unreduced pension of £26/17/4 a year to Mr. G. K. Patel, who retired from the service of this Government with effect from the 1st July, 1937,

inclusive, in lieu of a reduced pension of £20/3/0 a year, together with a gratuity of £67/3/4."

This is the case of an officer who was retired on the abolition of his office and, in accordance with the principle already accepted by this Council, it is proposed that he should be allowed to review the option he has exercised.

MR. HARRAGIN seconded.

The question was put and carried.

MISS G. PLASKITT

MR. STOOKE: Your Excellency, I beg to move:—

"This Council approves the payment of an unreduced pension of £215/9/7 a year to Miss G. Plaskitt, who is due to retire from the service of this Government with effect from the 3rd November, 1937, inclusive, in lieu of a reduced pension of £161/12/2 a year, together with a gratuity of £538/14/2."

This is almost identical with the previous resolution, with the difference that Miss Plaskitt is retiring having attained the age limit.

THE DIRECTOR OF EDUCATION (MR. MORRIS) seconded.

The question was put and carried.

MRS. C. RODRIGUES

MR. STOOKE: Your Excellency, I beg to move:—

"This Council is pleased to award the widow of Mr. C. Rodrigues, who died on the 31st March, 1937, while in the service of this Government, an *ex gratia* gratuity of Sh. 2,415/34, which amount represents the gratuity which would have been payable to Mr. Rodrigues under Regulation 12 (1) of the Non-European Officers Pensions Ordinance, 1932, if he had retired from the Service on the date of his death."

For approximately thirty years the late Mr. Rodrigues was master tailor in the Prisons Department. When the Non-European Local Civil Service was inaugurated, this post was scheduled as a post in that service, but on account of age Mr. Rodrigues was debarré from contributing to the Provident Fund. Previous

(Mr. Stooke) to that, the post, although he had filled it so long, had been filled on a rather temporary basis, and the position was really never satisfactorily settled.

Consequently, he never had an opportunity of contributing to the Asian Widows and Orphans Pension Scheme. In other words, he had no chance of providing at all for his wife through the two accepted methods, the Widows and Orphans Pension Scheme and the Provident Fund. It is thought that after his thirty years' service it is only just that the widow should receive the gratuity which he himself would have received had he retired on the day of his death.

MR. HARRAGIN seconded.

The question was put and carried.

KISUMU WATER SUPPLIES

MR. STOOKE: Your Excellency, I beg to move:

"Be it resolved; that this Council hereby approves the expenditure of a sum of £4,000 upon the purposes specified in the Schedule hereto, as a charge against Loan Account, and further approves provision being made therefor by reallocation of the amount from Item 3 'Such further items as the Governor may, with the approval of the Legislative Council, signified by resolution, and of the Secretary of State, determine', of the £305,600 Loan (1933).

SCHEDULE

Water Supplies, Kisumu. £4,000.

The circumstances are that, owing to some peculiarity of the water, the main pipe line has corroded and has to be replaced at a much earlier date than would otherwise have been the case. Normally, replacements of pipes and so on are made from the Renewals Fund, but hon. members will recollect that during the depression we unfortunately had to cease making any contributions to that fund, and the charge in this particular case of £4,000 against Kisumu Water Supplies Renewals Fund would exhaust it.

I do think it is important that these water supplies renewals funds should be built up now that times are improving,

and it is a great pity, I think, immediately to take out the whole of the balance of one of these funds. The money is available in the loan, and it would seem an appropriate object for the expenditure of loan funds.

MR. HARRAGIN seconded.

MAJOR GROGAN: May we have some information, Sir, as to how long this pipe line has been down, and if it were for only a short period, whether or no adequate steps were taken to prevent its corrosion? because we had a similar case in connexion with the water supply of Mombasa, which involved large sums of money. Owing to failure on the part of the Public Works Department to take the necessary precautions to protect the pipe the community was subjected to enormous losses which might easily have been prevented.

THE ACTING DIRECTOR OF PUBLIC WORKS (MR. WALMSLEY):

Your Excellency, steps were taken to prevent corrosion, but such steps as one can take are not always entirely successful. The system of control is only of recent date, of control by which one can absolutely ensure that the corrosion will not take place faster than the consumption goes up.

In this case, this sum of money is being devoted to the replacement by a type of pipe in which corrosion will not take place. It is to replace a portion of the gravitation main, thereby releasing that portion before the end of its life in order that we can recondition it and re-lay it elsewhere wherever it is needed. The reduction in the capacity of the line has got now to about the same degree as the increase in consumption, and further steps must be taken to increase the capacity.

But the increase will be in a pipe which does not suffer in the same way. Steps are still being taken to preserve the remainder of the piping, but when we have replaced this we shall be in a position to recondition the remainder and so avoid further corrosion to as great an extent as possible.

MAJOR GROGAN: May I have an answer to my question: how long has it been down.

MR. WALMSLEY: The exact date I am not aware of. It was either 1926 or 1927 when it came into service. It was designed in 1925, and I think completed in 1926. That will be about ten years.

The question was put and carried.

SETTLEMENT OF MINORS' ESTATES

MR. STOOKE: Your Excellency, I beg to move:—

"Whereas under the Public Trustee's Rules the Public Trustee is authorized to invest monies in his hands in charges secured on immovable property within the Colony:

And whereas the Public Trustee in exercise of the aforesaid powers has invested the trust monies of certain minors in agricultural property in the Colony:

And whereas these minors have now attained the age of majority and are desirous of terminating the trust by payment to them of the capital sums so invested;

And whereas the investments cannot be realized at present without undue loss in respect of such trust monies;

Now, therefore, it is hereby resolved that the Treasurer be authorized to advance to the Public Trustee from the public funds of the Colony such sum or sums as may from time to time be required, not exceeding £15,000 in the aggregate, in order to reach an equitable settlement with minors who, on attaining their majority, seek repayment of capital sums administered during their minority by the Public Trustee and invested in mortgages in agricultural property.

MR. STOOKE: I feel, Your Excellency, a certain amount of embarrassment in making this resolution. I fear, it may possibly be taken as an indictment of a public servant who is no longer here to defend himself, a public servant who gave valuable service to this Colony and whose sudden and untimely death was, I knew, deplored by all sections of the community.

It is so very easy to be wise after the event, and I would like to ask the hon. members to cast their eyes back to

the circumstances prevailing in 1928 when these particular investments were made. The Colony was prosperous and agriculture was going ahead, and there was no sign then of the depression which subsequently overtook us. I do happen to know that when the Public Trustee made those investments it was only after consulting people best qualified to judge and I know he believed, and had reason to believe, that he was doing the best he possibly could for his wards.

Those wards have now attained their majority and they of course view the matter from the standpoint of to-day. There are charges under two heads which perhaps to-day it is a little difficult to defend. Firstly, the whole of the estate, or the greater part of it, should not have been invested in agricultural mortgages, thus putting all the eggs in one basket, and secondly, investments ought, perhaps, to have been chosen which the Public Trustee would have been certain of liquidating readily at the time when the minor had attained his majority. But, as I say, it is one thing to look at it from the standpoint of to-day and another thing to look at it from the standpoint of 1928.

There is one really important point and that is, I do think it is essential to maintain the credit and integrity of the Public Trustee; for he, above all trustees, must be above suspicion and beyond reproach. And that is the purpose of the resolution—to put at the disposal of the Public Trustee such sums of money as will enable him to arrive at an equitable settlement with those who have attained their majority.

The Public Trustee will retain the mortgages and they will be liquidated as and when conditions are favourable. It is probable that a certain amount of money may have to be written off but it is quite impossible to say how much. But the greater part of it is almost certain to be recovered.

MR. HARRAGIN seconded.

LORD FRANCIS SCOTT: Sir, this is a most difficult question, and the resolution is one which one can only support with considerable reluctance. It has been very clearly explained by the Hon. the

[Lord F. Scott]

Acting Treasurer and I do not mean to go into details. But there is one point I should like to emphasize very strongly. That is, this resolution must not be interpreted in such a way that if any moneys are invested here through the Public Trustee the Government of Kenya should be considered liable to repay them at 100 per cent.

Trust funds are invested in many things and they may be invested in gilt-edge securities which may stand, perhaps when invested, at a premium of 104 or something of that sort. But when the trust is liquidated they may stand at only 90, and there will be considerable loss equalled. This is the position which must be borne in mind. Therefore, with those who have their money invested like this it must not be considered that the Government is responsible at 100 per cent; to pay the whole thing off at par. For that reason I wish to emphasize that word "equivalent" in order to reach an honourable settlement with minors.

MR. BEMISTER: Your Excellency, Has this payment any relation to the shortage disclosed in the Statement of Assets and Liabilities of £35,379? Are we to take it that this £15,000 is merely an instalment? I am referring to Appendix A of the Estimates, page 117. There it states that the liabilities amount to £109,000 and the assets £83,000. What I would like to know is, is this a first instalment of that amount and then there will be £22,000 perhaps in the current year to be made up. Are we really backing a blind horse in the hope that something will come home during next year?

I contend that if any public funds or any private funds are handed to the Public Trustee they should be treated in exactly the same way as an ordinary lawyer of an ordinary trustee would treat them. I have some little experience of very large trusts in which the auditor of the Colony scrutinizes every investment made and if these do not, at the end of the year, come up to 100 per cent, I understand—I can not see it in the law—that the trustees appointed by Your Excellency would have to make up the

It does seem strange that with the greatest brains financially, especially at the disposal of the Government Trustee—because we know what financial brains there are in the Government—that advantage could not have been taken at a time when there might be some fluctuation in agricultural mortgages. We know that the banks have lost heavily but the banks are more speculative. (A MEMBER: Question!) (Laughter.) At the same time, if these funds have been lost and funds are not exposed which have come to the Public Trustee during the last year by intestate estates—I will give you the dates—is it contended then that whenever there is a deficit the country pays and whenever there is a surplus we do not hear much about it? I refer to the death of Mr. Samuel Cohen.

But first I would like to know if this is merely an instalment on a part of the deficit and when we are likely to get the balance?

MR. HARVEY: I wish to support the motion and associate myself with the remarks of the Noble Lord the Hon. Member for Rift Valley (Lord Francis Scott). But I should like an assurance from the hon. mover that steps will be taken on the lines of the steps that have been taken in other countries to provide a small advisory committee to the Public Trustee in order that his investments on behalf of his wards may be carefully examined and scrutinized, and that he may have the advice of other people. That, as you are aware, is the practice in a great many countries and I think it may very well be adopted in Kenya.

In all the circumstances of this particular case I can think of no reason why anything but complete support should not be given to this particular motion. And I would reply to the last speaker that these funds are not necessarily lost. I have made it my business to go into the details of the cases involved in this account and I think it is highly improbable that but a very small sum, if any amount at all, will have to be met by the Public Exchequer ultimately.

I support the motion.

MAJOR CAVENDISH-BENTINCK: Your Excellency, perhaps, owing to my

[Major Cavendish-Bentinck]

recent absence I find myself in disagreement with my colleagues and as it is at present worded I am going to oppose the motion because I think the preamble contains a very dangerous phrase indeed. The preamble suggests that whereas investments in respect of trust money can not be realized immediately without undue loss, the Government will make good. That I think is a very dangerous principle to subscribe to in the Legislative Assembly in the Colony.

The Public Trustee is in very much the same fiduciary capacity as any other trustee, and the points on which he has to satisfy us are: (a) Has he acted within the law? and (b) has he acted within the law with reasonable prudence? If he has, then it is a very dangerous thing to legalise any sort of idea that the Public Trustee or any other trustee can be held to be liable.

Cases have often occurred where trustees have invested in gilt-edge securities standing as high as £113 or £114, and they then have fallen to £80. Is it to be suggested that the trustee, public or otherwise, should be called upon to make good the loss? Government would never get anybody to act as Trustee if such a principle was agreed to.

It has been contended in this particular case that the Public Trustee may or may not have acted with meticulous prudence in that he invested large sums of money in agricultural mortgages and that these were unsuitable as trust investments. My reply to that is, it is permissible to do so under our particular law and therefore we can find no fault with him for that. Secondly, I believe it has been contended that the minute he saw that things were going wrong he ought to have realized that we were in for one of the worst slumps that the world has ever known and sold out. It is very easy to be wise after the event, but none of us realized that we were in for that bad depression; if we had realized that we should probably be much better off to-day. But when people began to realize it no one could sell agricultural property. Therefore I do not know that I can find fault with him there.

In dealing with a matter of this kind you have got to be perfectly precise, and the only excuse possible that can be found for the Government making good these losses is the fact that I believe there may have been certain questions raised over the manner in which the valuations were made. What I suggest is, if there is a loophole of that kind, we are anxious to do the best we can for these unfortunate people; we should be perfectly frank and seize that loophole and get perfectly solid ground to stand on in justification of making good temporarily these losses. But to come to Council merely with the suggestion that because the investments cannot be realized without loss at present Government has got to make good, is a very dangerous precedent indeed.

What I ask for is that Government record the preamble in such a way as to touch upon the fact that there may possibly have been some complication in regard to the valuation made in these investments, and give that as the reason. Then we are on sound ground and we can all support it.

HIS EXCELLENCY: Do you wish to make a definite amendment?

MAJOR CAVENDISH-BENTINCK: I have not had the opportunity of thinking one out, but I would like to at a later stage.

MAJOR GROGAN: I merely want to say a word in support of the hon. mover's defence of the late Public Trustee.

It has always been the recognized practice in business to refer to first mortgages on agricultural loans as first class securities and that is a tradition that goes back for a very, very long time. Therefore it is quite right and proper that that form of investment should have been chosen. Whether it should have been chosen exclusive of others I do not know; because I do not know the particulars. But it was clearly and utterly impossible for any citizen at that time to believe that the Imperial Government, in the first instance, would have failed to back sterling value against the action of America. He could not possibly have foreseen that; nor could he possibly have foreseen that the local government would fail so completely in its obligations as not to devalue

[Major Grogan] and protect local values against the deflationary effects of outside factors. Every other country in the world took the precaution to take some measures to protect their citizens. This country did not and therefore it was utterly impossible for that Trustee to imagine or foresee that these aberrations of value would take place.

DR. DE SOUSA: Your Excellency, I am in sympathy with the motion and quite appreciate the reasons for its being brought before the Council, but I have got something on my conscience in giving my approval.

For one thing, I do not know what is actually the amount of the estates of minors in this case, or what sum is involved, and I do not know to whom these amounts are to be paid. I think the Council ought to have been given detailed information, because I presume this is the first case of its kind to be brought up, and I am sure we all hope it is the last one. I do not think it is a fair way for Government to come and ask for a grant, merely saying it is £15,000. I should like more information, and I would suggest that the matter be referred back for Government to give us that information. In the interests of the country at large and for the sake of the reputation of Government, it is necessary that all details in connexion with the case should be given to this Council.

As I said, I have got a serious and conscientious objection to voting for the motion, although I sympathise with it. All we know is that the Public Trustee, a Government servant, provided for in a pension scheme, gratuity, compassionate or otherwise, seems to have, according to our laws, more protection than an ordinary trustee appointed by the courts would have. I know of a recent case in which a citizen of Nairobi, through no fault of his own, having no interest whatever, direct or indirect in the matter of trusteeship conferred on him by the local courts, was brought to the books, and I presume his liabilities, amounting to about £10,000 or more, had to be made good by him.

If it is a case in which a public servant has made a mistake, I quite appreciate

Government coming, and telling us: "Well, as this gentleman is a public servant, and well paid, he must take some sort of responsibility, and as the late Mr. So-and-So committed a blunder and brought the Colony into trouble, why not put the liabilities against his estate?" A public servant must take some sort of responsibility, and if it is a financial one it is all the more reason why the liabilities should be put against his estate.

COL. KIRKWOOD: Your Excellency, I very much regret that the Government has found it necessary to put this motion on the Order of the Day. It is only a forerunner of what is to come when we are taking the Budget, which has already been quoted by the Hon. Member for Mombasa (Mr. Bemister) in referring to the deficit of £35,379. And there is no guarantee that is going to be the finality. I presume this amount is included, I hope it is.

It is a question of principle. I am not criticising the late Public Trustee, who earned the very greatest respect, and who have been assured that he took the best available advice at the time. And it has already been pointed out that the trustee, public or otherwise, is not responsible for any loss; certainly he is responsible for any disinterestedness, but there is no disinterest in that. It is a question largely on the point as to whether this motion should become a definite policy of the Government in future, and I would suggest that ways and means be taken of investing trust funds, either in bank bonds, or in some of the recognized banks trading in the Colony, or that the Government should take the means of investing them in the Post Office Savings Bank in the Colony, but not invest them in any security that is in the nature of a gamble. It is much better and advisable to take a low rate of interest and be assured that the interest and principal will be repaid on the date due.

I hope the Government will not force this motion through this morning. I have a great deal of sympathy with the point put up by the Hon. Member for Nairobi North (Major Cavendish-Bentnick) and if he proposes it as a motion I will second it. But I suggest that the motion be left over for another day for consultation,

[Col. Kirkwood] and when the matter is finally put to the vote we shall know what assurance the Government will be in a position to give the Council as regards any future recurrences of such instances in connexion with the Public Trust Account. I think it is a reasonable suggestion and I do hope the Government will give it their further consideration.

It is as well, in one way, that this motion has come up because it shows a state of affairs that one did not realize existing in the Public Trustee Funds of the Colony. Again, I would reiterate that I do not agree that we are bound to pay 100 per cent. Ordinary trustees are not liable for losses on investments as far as I know, and if we were I am quite sure we would not get any trustees to act at all. I do hope the Government will leave this motion over for a later date until we can get assurance. I do not think the Government is in a position to give any assurance at the moment as to what its policy in the future will be, unless it can give an assurance here and now that in the future it will implement conditions whereby the Public Trustee Funds can be invested in the Post Office or through banks with the backing of the Government behind that investment. It is a very serious matter, and I hope something will be done so that we shall be on safer ground than we find ourselves this morning.

MR. HARRAGIN: There have been one or two legal points raised in this debate and perhaps I should intervene in order to explain the exact position. I think the Hon. Member for Nairobi North is labouring under a slight misapprehension with regard to this particular motion. This is not a motion whereby we are making up the losses. What we are in fact doing is that we are taking over certain securities which cannot be realized, or should not be realized, at the moment. There is a great deal of difference from making up and admitting actual losses. As the Hon. Member for Nyanza (Mr. Harvey) pointed out, it is extremely unlikely that there will be anything like £15,000 loss.

The Public Trustee is in rather a special position of trust; (a) because he is the

Public Trustee and therefore a higher degree of safety is expected in his investments than in the case of an ordinary trustee; secondly it is an understood thing, not in law, that when investing minors' funds you should be able to realize that amount within some reasonable time of the minor obtaining his majority. It is a fact that in the cases which the Government have had to consider and which have led to this motion before the Council to-day, the minors who have now reached their majority have been without their money for five, four and three years respectively. And so it is only just that the Government should step in and take over the securities and they will be able to realize them when the market becomes more favourable.

Referring to the legality of the investments as stated by several hon. members, investments were perfectly legal. Whether they were as wise as one would hope for is another question, but again, as pointed out quite clearly from the other side of the Council, no one could have foreseen that the slump was going to take place, and therefore, it is a little hard to blame the Public Trustee in this case. I should also like to point out, as there seems to be some misapprehension about it, this investment in agricultural land is not something peculiar to Kenya alone. There are innumerable examples all over the world where trustees are permitted to invest in first mortgages on agricultural land. Therefore I think that no good purpose could be served by deferring the matter. I really honestly believe that everyone in the Council knows the exact position and that the money should be realizable by these minors. As you all know we are unable to do so, at the moment, and in effect we are asking for leave to take over these securities and put up the money. As regards the exact money the Treasurer will deal with that and I am led to understand that there is no reason to expect that it will exceed £15,000, if ever it reaches that amount.

I do not think there is anything else that I can refer to. I think it is quite unnecessary to re-word the preamble which is really only the introduction.

[Mr. Harragin]
The meat of the motion is in the last part and not in the explanatory "Whereas" one sees at the beginning.

LORD FRANCIS SCOTT: Sir, might I make a suggestion that the debate stand adjourned so as to give an opportunity for consultation to see whether some wording could be arrived at which might meet the point raised from this side of the Council.

Council adjourned for the usual interval.

On resuming:

MR. MAXWELL: Your Excellency, I should like to move the following amendment to the motion:

It is hereby resolved that the Treasurer be authorized to advance from the public funds of the Colony such sum or sums as may from time to time be required, not exceeding £15,000 in the aggregate, in order to take over on an equitable basis certain mortgage investments made on behalf of minors who, on attaining their majority, seek repayment of capital sums administered during their minority by the Public Trustee and invested in agricultural property."

I think the Hon. Member for Nairobi North has explained what the objections are to the motion as drafted and I need not, therefore, go into them. But, since there is no doubt that the Public Trustee acted quite rightly in making these investments and cannot therefore be liable in any way for any shortfall, it seems to me it is only on compassionate grounds that the Government of the country can take over such investments on which the country may or may not make a loss.

I feel that we should know quite fully to what we are committed, and therefore I should like to ask for a definite statement that we shall not be committed to anything more than the £15,000 not only taking into account the two cases in question but any others that may arise.

SIR ROBERT SHAW seconded.

MAJOR CAVENDISH-BENTINCK: Your Excellency, speaking to the amendment, I do hope Government will see its

way to accept it. In all these cases it is dangerous to go into explanations or make excuses. Under the proposed amendment we cut out all verbosity and simply state what is in fact the case, that Government proposes on an equitable basis, for a reason given in debate, to take over certain mortgages. This will enable the minors concerned to receive a reasonable capital sum to which they are more or less entitled, and it sets up no undesirable precedent. I believe that by doing that, in the long run Government will lose little if any money.

MR. PILLING: I am authorized by Your Excellency to inform Council that Government is prepared to accept the amendment.

The question of the amendment was put and carried.

The debate on the motion as amended was resumed.

MR. STOOKE: Your Excellency, there is not very much left for me to reply to.

The Hon. Member for Mombasa (Mr. Bemister) did ask whether this had any connexion with the statement of the position in the balance sheet as affecting the Public Trustee. The reply is in the negative and, what is more, we have no deficit, for if the hon. member will look further down he will see on the assets side the item "Registrar General, Public Trustee, etc., funds, cash on fixed deposit £26,319", which, taken together with the investments of £83,734 make up the £119,000 shown as a liability.

In future, the investments on account of the Public Trustee will, for the present, by administrative arrangement, be made by a board consisting of the Hon. the Attorney General, the Public Trustee, and the Treasurer as chairman, and it is the intention of Government at a later session of the Council to put some sort of procedure as that into law.

The Hon. Member for Nairobi South (Mr. Maxwell) asked for an assurance that this £15,000 is the limit of the liability. The reply is definitely in the affirmative. All the cases have been reviewed and taken into account, and there are no further cases to be considered at all.

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

HONORARIUM: DR. H. L. GORDON

MR. STOOKE: Your Excellency, I beg to move:—

"In consideration of his valuable service to Government as visiting physician to the Mathari Mental Hospital, and particularly of his assistance and advice on measures for the improvement of the treatment and care of the mentally disordered, this Council is pleased to grant to Dr. Henry Laing Gordon an honorarium of £100."

The motion is largely self-explanatory and it is hardly necessary for me to embellish it in any way, except to say, perhaps, that, after several years' valuable service Dr. Gordon is not entitled to any pension or gratuity whatever, and it is felt that this honorarium of £100 would provide a fitting recognition of his work at the mental hospital.

MR. PILLING seconded.

The question was put and carried.

SCHEDULE OF ADDITIONAL PROVISION No. 3 of 1937

MR. PILLING: Your Excellency, I beg to move:

"That the Schedule of Additional Provision No. 3 of 1937 be referred to the Standing Finance Committee."

This Schedule covers the period from the 1st July to the end of September, 1937.

The total additional provision, as explained in the footnote of the title page, amounts to £89,197. Taking into account, however, set-offs in the form of specified savings and moneys anticipated to be recoverable in the form of reimbursements and increased revenue, the net additional expenditure amounts to £34,350.

It is customary for the Standing Finance Committee to examine each item of the Schedule in detail, and I do not feel that it serves any useful purpose by any further comment on these details at this stage.

MR. HARRAGIN seconded.

The question was put and carried.

BILLS

FIRST READINGS

On the motion of Mr. Harragin, seconded by Mr. Willan, the following Bills were read a first time:

The Game Bill.

The Post Office (Amendment) Bill.

The King's African Rifles Reserve of Officers (Amendment) Bill.

The Coffee Industry (Amendment) Bill.

The Transport Licensing Bill.

Notice was given to move the subsequent readings at a later stage of the session.

ADJOURNMENT

Council adjourned till 10 a.m. on Thursday, 4th November, 1937.

Thursday, 4th November, 1937

Council assembled in the Memorial Hall, Nairobi, at 10 a.m. on Thursday, 4th November, 1937, His Excellency the Governor (Sir Robert Brooke-Popham, G.C.V.O., K.C.B., C.M.G., D.S.O., A.F.C.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 3rd November, 1937, were confirmed.

PAPER LAID.

The following paper was laid on the table.

By Mr. Filling:

Report of the Standing Finance Committee on Schedule of Additional Provision No. 3 of 1937.

ORAL ANSWERS TO QUESTIONS

No. 57—INDIAN SECONDARY EDUCATION INQUIRY

MR. ISHER DASS asked:

1. Will the hon. the Director of Education be pleased to state if, in accordance with the undertaking given by him in the last Session, he has appointed an Inquiry Committee to go into education in Indian Secondary School and into the working of the Nairobi Indian Secondary School?

2. If the reply to the above is in the affirmative, would he be pleased to state the names of the members and the terms of reference?

3. Whether the members have been officially communicated with regard to their appointments?

4. Whether the report when ready would be laid on the table of this House?

MR. MORRIS: A sub-committee of the Advisory Council on Indian Education was appointed at the last meeting of the Council on the 16th September, 1937, to deal with this matter.

The members of the sub-committee are Mr. Raja, Dr. Sheth, Mr. D. D. Puri, Dr. Mary de Souza, with the Chief Inspector of Schools as Secretary and Convenor.

Mr. Maini, who is not a member of the Advisory Council, has also been invited to serve on this sub-committee. The terms of reference are:—

"To examine the present curriculum and proposed new Syllabus for Indian Schools with a view to making recommendations to give education in the Indian Schools a more vocational bias and so making it more suitable to the needs of the majority of Indian pupils."

3. The reply is in the affirmative.

4. The reply is in the negative, the sub-committee's report will be made to the Advisory Council on Indian Education.

No. 60—THIKA INDIAN SCHOOL

MR. ISHER DASS asked:

1. Will the hon. the Director of Education please state if he has received any representation from Thika Indian School Committee with regard to the provision of the School building to meet the growing demand for the admission of the boys?

2. If the answer to the above is in the affirmative, will he state what provision is being made with regard to the above?

MR. MORRIS: 1. The question of the provision of a more suitable school building has been the subject of interviews and correspondence between representatives of the Department and members of the School Committee for the last six months.

2. No concrete proposal has, however, yet been formulated for submission to Government.

VOTERS ROLL

MR. BEMISTER: Your Excellency, I beg to move:

"Be it resolved, that all eligible citizens of Kenya Colony and Protectorate who register or have registered their names with the local District Commissioner up to and including the 31st December, 1937, be allowed to vote at the 1938 General Election."

This motion was put forward by me in order to endeavour to clear up what must be admitted to be a most unsatisfactory situation. The object of the motion is to

[Mr. Bemister]

bring about a better understanding between yourself and the people of the country. It must be obvious to most people that the more representative your unofficial advisers are the better able you will be to judge the wishes of the people of the country; the more it will be in your favour.

I think it will be admitted, but I cannot believe, that when the Electoral Bill which passed and which closed down on the 25th of May, 1937, it was in the minds of anyone to close the register for an election which would take place approximately twelve months afterwards, because in the ordinary run of affairs every year the automatic closing of the voters list is usually in August. But this year, by some means or other at the present moment there are two rolls running, the one dated May 27th or May 25th which is about the most obsolete document one could ever read about, including as it does people who have been out of the Colony 10, 5 and 7 years. One of them died two years ago, one died 18 months ago and about 4 or 5—I am speaking entirely of Mombasa—4 or 5, I think, died during the past year.

I emphasize this to show you how absolutely out of date with the population is your Administration Department. And now I am told that the only reason why this motion cannot be accepted is because it is physically impossible for the Government to prepare or adjust the list in time for an election about next March or April.

I do not know the difficulties in Government as well as the Government knows them themselves, but if it is a matter of printing, I feel confident that if they were put out to contract with the local Press I should say it would take maybe a week. It might take longer for the District Commissioner to send them up so we will say two weeks, so that you could practically guarantee that the whole thing could be ready within a month at the latest from the closing date. And never have I known lists which closed in August to be ever later than December 31st for circulation and use.

Now, if you will remember when this question was asked, I personally cannot

remember when it was asked, but the hon. Member for Trans Nzoia (Col. Kirkwood) pointed out that when the hon. the Solicitor General and the Acting Attorney General mentioned that claims on account of names omitted and objections to names included would be received for 30 days after the publication of the list, the point was raised concerning an omitted man, or woman, who was eligible on May 25th and had by some means or other omitted to put their name on the standing register.

But the difficulty is this, it seems impossible to raise any interest in a voters roll in a moving population like at Mombasa and Nairobi, especially until there is an election of some use for being on the roll, the reason being that many men come to this country on a two, three or four years contract and it may be that they are out of the country at the time of an election or have just returned and they do not appear as permanent officials or permanent residents, and therefore I suggest that it is far better for the roll to be held open as long as it is physically possible in order that everybody who is eligible should be included in that roll.

Now, a most peculiar situation has arisen because of this and I have official letters. One is for a voter in Mombasa and reads:

"I have to inform you that your application of the 20th August has been noted in the old roll. Should you desire to enroll in the new register the attached Form 'A', duly completed together with Sh. 2/50 should be forwarded when the new roll is gazetted, within 28 days of the date of publication. This amount will be refunded to you after your name has appeared on the roll."

Now, the point is, it cannot be admitted to the roll if the law is to be kept, because it was not a name omitted from the original roll. This man became eligible on July 5th or 6th, having been in the country 12 months from that date, and he wishes to get on the proper roll so that he can go to the next election.

Here is another one sent to me by a coast voter, and it says on it "For your amusement and return":

"Your application of the 28th August has been noted for the old register

[Mr. Bemister]

(underlined) but it will be necessary for you to make immediate application should you desire to have it placed on the new roll. Your application should be accompanied by Sh. 2/50.

Then, again, there is the case of a lady who married a man here and was not eligible and therefore her name was not admitted to the new roll and in consequence she will lose her Sh. 2/50—~~and~~ that, for the satisfaction of being on the roll just in force for any by-election up to December 31st of this year. But she is shown on no roll at all after that date.

It does seem to me peculiar that such sad circumstances should arise, because if this roll was intended for a party government it would have been the duty of the various parties to see that their supporters were on the roll and that their opponents were off it. But this is a case where you are asking the people to elect suitable representatives to advise you and be a sort of liaison between you and the people. How is it at all possible for you to claim, for us to claim, that we represent the majority of the people or know much about their wishes if the Government by some reading I do not understand, disfranchise everybody who becomes eligible between May of one year and March or April of the next.

COL KIRKWOOD seconded.

MR. HARRAGIN: Your Excellency, this Council must not be led away by the sweet reasonableness in the manner in which this motion has been moved. It is true there may be isolated cases of hardship but, as we know, hard cases make bad laws. This Ordinance and these rules were no light-headed legislation, pushed through this Council at a moment's notice. In fact, the history of the Ordinance and rules is as follows.

Immediately after the last election a very representative committee was appointed to advise Government on any amendments that were necessary to the existing Ordinance and rules. It sat for a considerable time, heard innumerable witnesses, and as a result, except on one minor point, it put in a unanimous report incorporating the rules as you see them to-day.

These rules were brought into force on the 1st of January of this year. I am referring to the new rules under which next year the general election will take place. The Ordinance was brought into force by proclamation dated the 17th of December, 1936. On the first of February registering officers were appointed and their numbers were increased from those that had appeared under the last notice.

On the 2nd of March a notice was published in the Gazette calling upon all persons desirous of having their names inserted in the new register to forward their claims not later than the 17th of April, 1937. Some weeks after this notice had been published it was pointed out that as it was a new register, there was some misunderstanding about it, and that notice was cancelled and at the request of the unofficials the date was extended to the 15th of May. On the 6th of April it was found that people were not registering as it was hoped they would and it was possible that there might have been a small roll. And, again, on representations being made from the unofficials, we passed a rule whereby all voters on the old register automatically were transferred to the new register. And while on that point, I should like to mention that this is the reason why, perhaps, the hon. Member for Mombasa (Mr. Bemister) finds a few dead men appearing on the roll he was referring to, or people who should have been struck off.

When that committee to which I referred sat originally, we realized that that was the difficulty—the roll as it then stood—and that was the reason for our recommendation that a new roll should be compiled and that people should make application in order that we might have an up-to-date roll which did not include persons who had died and persons who had left the Colony. But in order to meet the exigencies of the situation this again went by the board. That accounts for one weakness in the new register which has been mentioned by the hon. member.

On the 28th of September, the Voters Roll was published and a notice was published to the effect that the Voters Roll was open for inspection in the various areas, and a notice was published in the papers that applications should be

[Mr. Harragin]

put up within four weeks where a name had been omitted. So hon. members will realize that a great deal of trouble has been taken by the Government to meet the unofficials in every possible way.

Now, what will be the effect of accepting the hon. member's motion. The only way that it can be done is, in effect, to cancel the notice which ended on the 25th of May and say that "In lieu of the words '25th of May' read the words '31st of December.'" What will be the result of that? The first thing that will happen will be that you will have to give 42 days notice for the new register to be made up. The new register will then have to be prepared, it will then have to be published, there will have to be a new notice drawing attention to this register, and it will be necessary to give a further 28 days within which to have your name inserted if it has been omitted. The registering officer will then have to hold inquiries into cases where a question has been raised as to the validity of a voter's name appearing; there will have to be a proclamation published at the end of this investigation, and after that there will have to be appeals—or, rather, time—allowed for appeals.

So, without asking you to swallow too much, I think I can safely say that it will be somewhere towards the end of June before you can hold an election. The position in law is that this Council will end in March and will not be able to be re-elected until June, unless, of course, you are going to alter the law by an immediate amendment. You can do that by giving 14 days notice, but I suggest myself, that it would be a most unwise procedure to take in view of the fact that we are only considering a very few people.

The hon. member admitted that all he was really complaining about was that the list was closed for the new register on the 25th of May, whereas he wished to have it open until August. Well, that is a matter of three months and the number of people who will be disfranchised by these three months will, I think, be extremely small.

I think everyone in the Council will agree that voting in an election such as this is a privilege and I do think that

voters should realize their responsibilities, particularly when they have been goaded on in the Gazette and in the local papers and in every way possible. And any prolongation of the life of this Council, as I pointed out, is merely because the hon. member is asking for a respite from the death sentence for another three months!

MR. SHAMSUD-DEEN: Your Excellency, all the arguments advanced by the last speaker sound very well, but I submit they are not applicable to a country like this, where you have universal franchise extended to Indians and Arabs, most of whom do not know how to read or write English and probably never read the Official Gazette. All those notices and proclamations mentioned by the last speaker are all right in a country which is far advanced.

He talked about responsible voters. This is not a country that can be counted in the same category as England or Australia or other parts of the world, and I think it is only reasonable that when we chop and change our constitution we ought to give reasonable opportunity to all the citizens to get themselves on the voters register.

The last speaker said that as a result of representations being made all the voters who had registered on the old register were transferred to the new register. That is not the case as far as the Indian voters are concerned. The hon. member was only thinking in terms of the European voters, and probably did not think of the Indian voters at all. But that is the case, and Indian voters have got to get themselves registered again.

Most of them who are illiterate cannot understand the necessity within two or three years of having to go to the district commissioner's office to be registered again. In most cases the would-be candidates for Legislative Council have to rush about all over the place and tell the people what to do and to fill up their forms because they cannot fill them up themselves. I do not know about the European voters, but I know that fully 50 per cent of the Indian voters have been left out because they registered themselves only three or four years ago. As the last hon. member said, there were objections and counter-objections, and the almost

[Mr. Shamsud-Deen] interminable procedure of all those formalities, and they are beginning to wonder whether it will take place every year or be a triennial affair.

Therefore, I think it is only reasonable that Government should, in the peculiar circumstances that this country is in, give the voters every possible chance to get themselves registered. If the same facility has been extended to the Europeans could be extended to the Indians, so that all those who were registered on the old register could automatically be transferred to the new one, I think that would be a good idea. But, in view of the fact that the constituencies have been changed I think it would not be difficult for registering officers to arrange to put on the register the various voters living in Mombasa and elsewhere. If Government are really desirous of having proper representatives of the community returned to this Council, I submit that they must do something. Otherwise the present registers will be absolutely incomplete, and any election held will not result in the real representatives of the people being returned to this Council.

MAJOR CAVENDISH-BENTINCK: Your Excellency, this is the third time in the last few months that I think this subject has come up in the Council, and each time it has been a question of clarifying the position. I am, however, still not clear from the answer of the hon. and learned Attorney General on one point.

As I understand it, all new names sent in before the end of May last plus all names appearing on the old list, that is the old roll, now comprise the new roll. The new roll has been published, and four additional weeks were given for people to make objections to it and alterations and additions. Any such objections or suggested additions entail a deposit of Sh. 2/50. If accepted, the money is returned, and the new roll amended in accordance with those additions, alterations, or taking out of names.

I therefore do not quite understand how it is that certain names which have been added during these four weeks have been added to the old roll and not to the new roll. I think there must be some mistake. That is the point I do not understand. If

there is a by-election, we shall hold it on the old roll, and the next general election will be held on the new roll which is the old roll plus all new names sent in in the early part of the year, and those alterations.

MR. HARRAGIN: On a point of explanation, if the hon. member will turn to the rules at the end of the Ordinance he will see there are two separate sets of rolls: one for the new rolls and one for the annual revision. The annual revision at the time of closing is quite rightly stated by the hon. Member for Nairobi North (Major Cavendish-Bentinck) as August, and for the new register or on this particular occasion the 25th May.

MR. ISHER DASS: Your Excellency, I support this motion, and I think it is very unfortunate that the hon. and learned Attorney General omitted to mention one thing. He said that if this motion is accepted, the earliest date at which an election could be held would be about the 20th June. But the Indian voters roll has not yet been published, and if it is published in December, the election would still be held in the month of June if all these formalities are to be observed and carried out. So where is the difficulty of accepting the motion?

MR. BEMISTER: Your Excellency, I have not much to reply to, but I was not only surprised to hear the information just given that the Indian roll is not yet published and will not be until December, or something of that sort, and that it will not be published until early December, but that in consequence there can be no election in March. That we are now informed publicly.

I am very sorry that the Administrative Department has shown that there is no possible chance of assisting you, Sir, to have a fully representative Council of unofficial advisers. I was thinking of withdrawing the motion, but I think it would be better to let it go to the vote of the Council. It is merely technical difficulties which have been put in the way, but I would like to know if it were possible to give a free vote, Sir, to let the Government members vote according to their logical views and not according to their orders, and to see whether the electors

[Mr. Bemister] of the country have the sympathy of members of the Government.

The question was put and lost.

EMPLOYMENT OF SERVANTS BILL

SELECT COMMITTEE REPORT

MR. WILLAN: Your Excellency, I beg to move that the report of the select committee on the Employment of Servants Bill be adopted.

Hon. members will see from this report that it differs very little from the report placed in their hands some days ago of a committee appointed by your Excellency in Council. Therefore, since there was very little discussion on the second reading of the Bill, it only remains for me to go very briefly through the amendments recommended by the select committee to the Bill as drafted.

Under paragraph 1 (c) of the report, dealing with clause 2 of the Bill, a new definition of piece work has been inserted in substitution for the definition of "task work", in order that there should be no confusion between the term task and the term piece work.

Paragraph 1 (g) of the report, again dealing with clause 2, alters the definition of task by deleting therefrom all reference to hours. Now that definition is as follows:—

"'task' means such amount of work as can in the opinion of a labour officer be performed by a servant in an ordinary working day."

The reason for the amendment is that it is very difficult to legislate for all industries by a reference to hours, and the committee consider this sufficiently wide to cover all these industries and the particular needs of any particular industry while at the same time, it will not place any difficulties or irksome restrictions on the employers.

The only other reference I need make to paragraph 1 of the report is to (d), under which the definition of recruited servant is amended to make it quite plain that it only applies to servants whose services are obtained by touting.

Paragraph 2 of the report deals with clause 4 of the Bill. Paragraph (a) of the

clause has been amended, because it might happen that it would be impossible for an employer to supply a 30 days task to a servant on account of the neglect or laziness of a servant, and it was felt the employer should be relieved of the liability of giving a servant a 30 days task.

By paragraph 3 of the report, clause 7 has been amended. At the request of the hon. the Chief Native Commissioner sub-clause (1) has been amended, and it is now necessary for the Colonial Secretary or any officer authorized by him in writing "to approve and attest" foreign contracts of service.

In paragraph 4, clause 9 has been amended to conform to a similar section in the Resident Labourers Ordinance. The position will be that no fees will be charged for the attestation of any contracts under this Bill.

Clause 11, in paragraph 5, has been amended to make it quite clear that it is an offence, unless a foreign contract of service has been executed, to engage an "Arab, Baluchi born in Africa, Comoro Islander, Malagasy, Somali or native with the intention that when so employed or engaged" they shall be taken outside the limits of the Colony, or inducing a servant to go outside without a foreign contract approved and attested.

Clause 12 of the Bill is amended by paragraph 6 by reducing the number of copies of contracts of service to four.

In paragraph 7, clause 17 of the Bill is re-drafted, for two reasons. First of all, on account of the new definition of piece work being substituted for the definition of task work, and secondly, because it is reasonable, if a servant has not completed the daily task during that day, that the employer should have the option of either paying the servant off at the end of the day in proportion to the amount of the task performed, or, if the employer so wishes, asking the servant to return next day to complete the task and then paying him for the completed task.

Paragraph 8 of the report deals with clause 18 of the Bill. This clause, as I foreshadowed in my speech on the second reading, has been amended to make it clear that it is only an offence to induce a servant to leave his employment under

[Mr. Willan] circumstances which amount to a breach of contract. A further sub-clause is added preventing persons entering an employer's premises with a view to crimping a servant's services.

The amendment in paragraph 9 to clause 24 of the Bill is consequential on the amendment to clause 7.

In paragraph 10 of the report, clause 29 of the Bill is dealt with. Sub-clause (1) has been amended by deleting paragraph (b) because unless an employer is an undesirable person it is not considered fair that he should be deprived of juveniles' services purely at the wish or whim of a parent or guardian.

There are two alterations to clause 31 by paragraph 11 of the report. The committee considers that the law should be clear that in all cases the employer should provide housing or pay rent for proper housing accommodation and, secondly, hon. members will notice that the word "to the satisfaction of the labour officer" have been deleted, so that in any prosecution under this clause it will be incumbent on the labour officer to prove that proper housing accommodation has not been provided.

Paragraph 12 deals with clause 32. To this a proviso has been added relieving the employer of providing food when a servant is absent from his employment without leave.

Paragraph 13 adds a new sub-clause to clause 34, making it necessary for an employer, if requested by the servant, to supply him with a blanket or, if he happens to be a porter, with a jersey and water bottle, and the employer can deduct the cost of the articles from the salary of the servant.

Clause 35 of the Bill, which is dealt with in paragraph 14 of the report, deals with medical attention and medicines to be supplied to a servant. A proviso has been added placing the onus on an employer to escape liability under the clause only if he proves that he did not know the servant was ill and that it was unreasonable in all the circumstances to know he was ill.

Under paragraph 15, sub-clause (3) of clause 36 has been redrafted, to do away

with the necessity of reporting minor injuries.

An important amendment is made in paragraph 16 to clause 37 of the Bill, that an employer shall provide payment in money in lieu of providing food.

Under paragraph 18, throughout the whole of clause 39 the Principal Labour Officer has been substituted for Provincial Commissioner, because the committee considered that he is the most suitable officer to approve applications for and to issue recruiting licences, with the proviso that before he can issue a recruiting licence which will apply in a particular province he must obtain the prior consent of the provincial commissioner for that province.

In paragraph 19, relating to clause 40, is probably the most important amendment contained in the report. As the clause is drafted at the present time, it means that a servant must be signed on before he goes for his medical examination. Having been signed on, he would draw wages from that time. The committee felt, and hon. members will agree, that it is undesirable for an employer to pay a servant who was signed on and when he subsequently went for his medical examination was found to be physically unfit. Therefore, this clause is redrafted to provide first of all that the servant should be medically examined and that between the time of recruitment and medical examination is entitled to food, cooking utensils, blankets, and so forth. Having been medically examined and passed as fit, he goes to the place of his employer and is signed on, and from then becomes entitled to wages.

Clause 41 of the Bill, in paragraph 20 of the report, has been amended to provide that a recruited servant shall be brought before a magistrate or justice of the peace as soon as possible after he is recruited, because there may be cases in which it is impossible to get him before a magistrate or justice of the peace before taking him to his place of employment.

Paragraph 21 of the report deals with clause 42. A new sub-clause is added providing that any prosecution for not having a servant medically examined can only be instituted in the case of private recruiters by the Principal Labour Officer.

[Mr. Willan]

Paragraphs 23 and 24 of the report deal with clauses 44 and 45 of the Bill. In all cases except one the committee consider that the employer shall only be responsible for providing transport back to the servant's place of recruitment or engagement and not back to the servant's home when his contract is terminated or for any other reason. The only exception to that is where a servant has been recruited by misrepresentation, but in all other cases it is obviously reasonable that a servant should only be provided with transport back to his place of recruitment or engagement, because if you keep in the term "to his home" what would happen? Supposing a servant, a Somali, was recruited in Kisumu, the employer would be bound to pay transport to return him back to Somaliland.

In paragraph 26, clause 47 is amended to provide for cash payment in lieu of providing necessaries for the journey. Paragraph 27 makes it clear in clause 48 (b) that different distances can be prescribed for different areas, and in paragraph 29 (c), dealing with clause 59 of the Bill, the committee consider the offence mentioned therein so serious that it should be transferred from clause 58 (e) to clause 59.

An important innovation is contained in paragraph 32 (c) relating to clause 64 of the Bill, because it states specifically when wages are to be paid under the various types of contract. I am quite certain this will be to the advantage both of employers and employees and the Labour Department.

Paragraph 36 adds a new sub-clause (3) to clause 79 of the Bill, by providing that all rules made under the Bill shall be laid before Legislative Council, thus following the procedure adopted with regard to the Resident Labourers Ordinance.

The final paragraph of the report is 37, dealing with clause 80 of the Bill. Sub-clause (1) is merely a re-statement of the existing law. (2) is designed to make it clear that although a resident labourer is not subject to the provisions of the Bill, his terms of service being governed by the Resident Labourers Ordinance, the recruitment of such labourer will be

governed by the part of this Bill relating to recruitment of servants, which is from clause 37 to clause 48.

The Convention which hon. members are aware of clearly contemplates the control of all workers, and I made it abundantly clear in the debate on the Resident Labourers Ordinance last session that the resident labourers are now servants and not tenants, and if they are servants they come within the four walls of this Convention. Therefore the recruiting provisions of this Bill must apply to resident labourers.

MR. HOSKING seconded.

MR. HARVEY: Your Excellency, as a member of the committee which went very carefully into this new Bill, I should like to express the very grateful thanks of the unofficial community of the Colony, and especially of employers of labour, for the sympathetic and helpful manner in which both the hon. member who was chairman of the committee, and the hon. the Acting Chief Native Commissioner considered and so far as was possible met representations from many farmers associations, employers of labour and many others.

In spite of the handicap imposed on our work by the interference in our domestic affairs by the International Convention, I suggest in all seriousness that this Bill represents a very great improvement on any legislation we have hitherto worked under governing the relations of employers and employees in the Colony. There were very few reasonable suggestions put up by any employer of labour which have not now been incorporated in this report, and I trust they will in the very near future become law.

There is, however, one minor omission in the report for which I must claim my share of responsibility, to which I should like to draw your attention, Sir, and of other hon. members, and I beg leave to move an amendment. If you will kindly look at page 5 of the report under discussion, line 19 of that page, paragraph 15, which refers to clause 36 (3) of the Bill, I propose that the words "over a period exceeding three days" be inserted between the word "work" and the word "during" in line 4 of that sub-clause (3).

[Mr. Harvey]

The reason for that, I think, must be fairly obvious. It states quite clearly that "in the event of a servant being killed or incapacitated by injury from work during the course of his employment." That is far too wide a definition and was never really contemplated by the committee which considered this Bill. I suggest that as it stands at present it might easily mean that a boy who suffers temporary discomfort from the activities of a militant jigger, a bellicose bee, or blistered hand due to the zeal with which he addressed himself to his task, might very well necessitate all the complicated procedure laid down in this clause in the shape of reporting to district officers and all and sundry.

I therefore suggest that the relative sub-clause be amended in the manner I have indicated, so that reports will only have to be made in the case of an employee suffering disability which extends over a period of three days. I may perhaps add that this is introduced with the approval and blessing of my hon. and learned friend the mover.

MR. HARRAGIN seconded.

ARCHDEACON BURNS: Your Excellency, I cannot follow the reasoning of the hon. Member Mr. Harvey. "In the event of a servant being killed or incapacitated by injury during the course of his employment"—he wants then to add "for a period exceeding three days." I presume that the servant would be medically treated by the employer during those three days. Of course, if he is killed, it will be like being down on the roll at Mombasa (Laughter). If he is incapacitated from work, the employer is given the opportunity of the labourer reporting within three days but if he does not do that, what happens then?

HIS EXCELLENCY: If I might explain, I think the hon. Member has got it the wrong way about. The object of the amendment is to save the employer from going through the somewhat complicated process in reporting a servant who is only incapacitated for a very short period by a minor injury. If it is serious, so that the incapacity exceeds three days, then the employer is bound to report.

ARCHDEACON BURNS: If it is only a blister on the hand and it is all right in three days, I can understand it, but if he is incapacitated from further service—

HIS EXCELLENCY: The employer will have to report if it exceeds three days.

ARCHDEACON BURNS: I do not see any objection to that.

The question of the amendment was put and carried.

The debate was resumed on the motion as amended.

MR. HARRAGIN: Your Excellency, at the request of the mover of the motion I beg to move a further amendment—

That paragraph (b) of clause 1 of the Report be amended by substituting a comma for the colon which appears after the word "employer" in the third line thereof and by adding thereafter the following—

and by adding at the end of the definition the following—

"For the purposes of this definition the word 'Government' and the words 'Government officer' shall be deemed to include the Kenya and Uganda Railways and Harbours Administration and an officer of the Kenya and Uganda Railways and Harbours Administration respectively."

While the select committee were considering this Bill, it was unfortunate that my hon. and gallant friend the General Manager of the Railways and Harbours was away on duty at the coast and was unable to put forward his point of view. It has been a time-honoured custom, as all know in this Council, for the Railway to be treated as a Government Department when it wants to be, and not to be treated as a Government department when it does not want to be. (Laughter.) On this particular occasion, on his return from the coast the hon. the General Manager has indicated that he would like the Railway to be treated as a Government department, and this amendment achieves that object. (Laughter.)

MR. HOSKING seconded.

The question of the amendment was put and carried.

SIR ROBERT SHAW: Your Excellency, I only want to ask a question. I think the hon. and learned mover is able to reply to it easily. I confess that I should have brought my point forward the other day on the discussion of the special committee's report and the select committee might have considered it and an explanation might have been forthcoming.

When we were sitting in that special committee we did make an attempt in regard to clause 64 of the Bill to include a proviso to the effect that in the case of an employer being prosecuted for withholding or not paying wages as he should, that that liability of the employer should take priority over all his other debts. Cases have arisen where natives have definitely forfeited their wages completely because the prosecuted person had no money to pay them with, all his resources having been exhausted in paying other debts.

It was hoped that natives' wages should, under such circumstances, take priority over other debts, but I presume it has not been possible for some reason to include that. I hope the hon. and learned mover can give some explanation in his reply to the debate.

MAJOR CAVENDISH-BENTINCK: Your Excellency, I would like to move a further amendment regarding paragraph 33 on page 10 of the report, to the effect that sub-clause (3) of clause 73 be deleted.

I did raise this point in the original debate, and I still think it is rather unfair by law that no employer shall be permitted to give to a servant during any month any advance of wages exceeding in the aggregate one month's wages. Some of us have old servants who have been with us for two or three years at a stretch. They may want to go to their homes perhaps to do some farming or look after their own interests and it is quite reasonable, I think, for them sometimes to ask for an advance of wages.

I do not see that it should be necessary legally to forbid the employer giving such advance, because he will certainly do it. Therefore the law is really of very little use.

This is my only amendment, but before sitting down I should like again to stress

the fact that I am extremely sorry to see that this committee did not, at the beginning of its report, include a phrase to the effect that it was a grave mistake to have three very complicated ordinances to deal with one very simple subject. We shall bitterly regret it in the future, but apparently I am a lone voice crying in the wilderness at the moment. The employment of servants and the relationship between him and his employer should be fairly easily controlled and regulated. I still do not know where a resident labourer begins and where one of these people ends, and therefore I think it a great pity that we have got three Bills instead of one as we should have.

LORD FRANCIS SCOTT seconded.

MR. HOSKING: Your Excellency, I regret that Government cannot accept this amendment which will entail the deletion of sub-clause (3) of clause 73. That sub-clause was inserted there of set purpose.

The custom of giving advances of money is one of the many causes which has obstructed the supply of labour to employers. There has been a tendency in certain parts of the Colony to give enormous advances of wages to labour as an inducement to enter their employ. I can speak of one case in the area which the hon. Member for Nyanza (Mr. Harvey) represents, where one employer used to give his boys an advance of £10 as soon as they entered his employment. He insisted that every boy should be married, and gave him that advance with which to obtain a wife. The boy took the £10 and the opportunity of going back to the reserve. It was then up to the district commissioner to try and find that boy! Much time was taken up in looking for errant suitors who had no intention of returning to their place of employment.

Labour recruiters are also apt to offer enormous advances of wages to secure a hold-over employee, as it was illegal for a boy to leave that employment until he had worked off the advance. By giving an enormous advance it gives an enormous hold over a boy.

After due deliberation we came to the conclusion that it was well to limit the amount of advance a boy could receive from his employer to one month's wages,

[Mr. Hosking] which would not really invalidate the provisions of the Ordinance in that you only had a hold over a boy serving on a verbal contract for one month. If you allow advances over that, you have a hold on him not envisaged by the law.

LORD FRANCIS SCOTT: Sir, speaking to the amendment, I am afraid the case quoted by the hon. the Chief Native Commissioner is not a very good one. I do not think the law should be framed so as to deal with natives employing native servants, but I do point out the practical view that it may entail real hardship. Sometimes one of one's employes gets into some trouble or into court, and has to pay a fine or something of that sort. He may be a boy earning Sh. 8 a month and is fined Sh. 20. It is quite a common practice to help him liquidate that fine or penalty by giving him an advance which he subsequently pays back. Personally, I am very much opposed to the system of very large advances to boys in a general way, but I cannot agree it should be made completely illegal to give an advance of more than one month's pay in advance when you consider the very small wages per month some of these boys earn.

Council adjourned for the usual interval.

On resuming:

COL. KIRKWOOD: Your Excellency, I beg to move a further amendment.

That paragraph 33 of the Report be amended by substituting a comma for the full stop at the end of sub-clause (3) and by adding the following words:—

"That clause 7 (3) be amended by the insertion of the words 'without the written permission of the District Commissioner' between the words 'shall' and 'give' in the first line thereof."

That would mean then, Sir, that if you want to give more than one month's advance you could do so if you got permission from the District Commissioner.

MR. MAXWELL seconded.

MR. HOEY: Your Excellency, I am not altogether in favour of the amendment because I think it means a certain

amount of interference with the present practice. I think if you want to give a boy Sh. 400 advance why should not you do so. I think it is only reasonable that the personal relations between an employer and employee should not be interfered with. The essence of this seems to be the question of any claim for recovery, and I agree very much with the remarks of the hon. the Chief Native Commissioner.

I think it is wrong that any employer should be allowed to advance a large sum of money to an employee and be able to hold that over his head with the threat of taking him to law for its recovery. I think that the most an employer should be allowed to claim from an employee is one month, and I am going to propose later on another amendment that any employer shall be able to recover not more than one month's wages from an employee. This will allow an employer to make any advance he likes but in the matter of recovery he will be limited to one month's wages.

MR. ISHER DASS: I rise to oppose the amendment.

My sole reason is that I take it as an act of discourtesy to the members of the select committee. They spent valuable time in considering this Bill, sitting in the hon. the Attorney General's office right up to 6 o'clock in the evening thoroughly discussing the matter. Not only that, but we had a committee appointed by the Governor in Council to go into the matter, and they sat, according to the report, on the 27th, 28th, and 29th September. After that, the select committee of this Council was appointed, and met on the 1st November.

There was ample time for everyone to make recommendations, and I have reason to believe that when we discussed the Bill on the 1st November we had in front of us the representations made by the different farmers' associations and employers of all descriptions. It is very strange that when the report comes before this Council some of the members who sat on the committee and spent that valuable time should now waste the time of the Council by moving all sorts of ridiculous amendments.

MR. HARVEY: Your Excellency, as a member of the select committee I am afraid I cannot follow the last hon. speaker in interpreting the act of the hon. and gallant member as an act of discourtesy. I am afraid as one member of the committee, I cannot claim to have a monopoly of all intelligence; not only did I and one or two others sit for two full days on that committee but on the special committee I also spent three full days.

Even so, there is no doubt whatever that in complicated subjects such as this, certain small items must inevitably have been overlooked, and I personally welcome any criticism of this report and any constructive suggestion from any member that did not serve on that committee, which may make for the improvement of this very important legislation.

I honestly believe that if there is no check on advances, there may be a tendency to increase wages in many districts to an uneconomic level. And as has already been pointed out, few things could be more demoralizing to a native, who gets a packet of money before he has done any work at all. He goes off looking for wives and enjoying himself and will be very, very hard to find. The natives will say "If money is so easily come by, why work?"

SIR ROBERT SHAW: Your Excellency, may I rise on a point of order? I am not clear as to what the position is now. One amendment appears, and another has been moved or has been suggested by the hon. Member for Usisu Gishu, and personally, I should like to second his proposal as I prefer it to the other. But I am not clear as to whether his proposal is an amendment to the amendment or whether it will be taken separately.

HIS EXCELLENCY: It would simplify matters perhaps, to move a further amendment at a later stage. It is not an amendment to the amendment that we are now considering. We are considering the amendment moved by the hon. Member for Trans Nzoia.

ARCHDEACON BURNS: In a case like this I think every consideration should be given to try and make it as

difficult as possible for natives to be—if I may use a vulgar word—fished of their wages. At the same time there should be a certain amount of elasticity between the European employer and his native servant. If I understand this aright, no employer shall give his servant more than a month's wages without the written permission of the district commissioner—I understand that is the proposal by the amendment of this clause 73 (3)—during any one month. That is, I can advance him Sh. 18 this month, next month Sh. 18 and the following month Sh. 18 and so on. I can go on advancing him over the actual wages I am paying him for any number of months.

I am against a native being "laid hold upon", if one may use those words, and made the tool of people who do not think very much of his welfare; of the native being given money and kept in the grip of that man year in and year out, month in and month out. There is one point I should like to be clear upon, and that is, if a boy comes to me, one of my servants, and says "I am in a difficulty and I want Sh. 50," (that has nothing to do with his wages) I presume I am perfectly justified and entitled to give it to that boy without a written letter or anything else of the kind, and that, if I wish to do so, I can come to a mutual agreement to let him have that Sh. 80 or Sh. 50 so long as it has nothing to do with the wages I am paying him. Otherwise I would support the amendment to the motion as it is now.

I must say I am rather sorry for the district commissioners who have to be called upon in all these instances to decide whether an employer should or should not give Sh. 18 to his servant. I am very sorry for him, but still, if it is to protect the servant from those who make use of such advances to bind him to them in bonds that almost amount to slavery, I certainly would be one to stand by the amendment that has already been made. But I should like some information with regard to the relations between a man and his servant apart from the wages he gives him. I am perfectly certain that I should be able to advance him money as long as I am not going to bring him to court to recover the amount.

SIR ROBERT SHAW: Your Excellency, I am definitely opposed to this amendment because I think it is the wrong way of going about the matter. I think the proposal—if I want to give a boy one month's advance—of going to the District Commissioner to get a written permission, is very cumbersome and impracticable. As has been pointed out, while it may be very well to be allowed to advance not more than a month's wage, I see no reason why I should not lend him £20 if I want to. The point is, what we want to achieve is that a very large debt cannot be made the subject of a claim against a native's wages. If you legislate to the effect that, in respect of any debt not more than one month's wages can be claimed, you make the thing very much stronger and very much simpler. I do not like this amendment at all.

FORD FRANCIS SCOTT: Sir, speaking to the amendment, if what my hon. and venerable friend says is correct, it shows that this sub-clause is completely useless and worthless. The hon. and venerable member may be a philanthropic lender, but most other employers when they make a loan expect to get it back somehow or other. If this means it can be done, under the wording of the sub-clause, then I consider this section to be quite useless and redundant.

MR. HARRAGIN: The situation has become somewhat complicated, especially in view of the various opinions that have been expressed on this particular point. I think it would be advisable if the debate were adjourned until tomorrow in order that we may all crystallize our views and the Government can make up its mind if the amendment may be accepted.

MR. PILLING seconded.

The question was put and carried.

NATIVE REGISTRATION (AMENDMENT) BILL

SELECT COMMITTEE REPORT

MR. WILLAN: Your Excellency, I beg to move that the report of the select committee on the Native Registration (Amendment) Bill be adopted.

The members of this Committee are identical with the members of the Select Committee that met to consider the Employment of Servants Bill, and there have been similar proceedings up to date with regard to this Bill. First of all, a committee was appointed by Your Excellency in Council and its report was circulated to all members of this Council about ten days ago. The Report of this Select Committee is practically identical with the report of the Committee appointed by Your Excellency in Council, and they make these recommendations:—

First of all, in paragraph 1 of the Report, which deals with clause 2 of the Bill, all reference to Somalis has been deleted as I foreshadowed when moving the second reading of the Bill, for no useful purpose can be served by retaining provision for their registration on the Statute Book.

In addition, with regard to that clause, the definition of employee has been altered to make it clear whether he has been engaged as an employed servant under the Employment of Servants Ordinance.

Paragraph 2 of the Report, which deals with clause 3 of the Bill which deals with the new section 6 of the Ordinance, has been entirely re-drafted and the reason for that is to get over the serious defect in the law at the present time. Under section 6 of the present law an employer can engage natives for a period not exceeding 24 hours without having to look at or examine their registration cards. Cases have been brought before the Select Committee and these cases are not isolated ones, there are cases constantly occurring of an employer in one district employing natives on a monthly contract and also supplying them with food. Now, every day, there are absent from that employer's work a certain number of servants, and a number of cases have been found of these absentees being on adjoining premises and working for another employer, and being paid daily wages on a 24-hour basis. And thus it is the first employer is deprived of the services of these absentees for a certain number of days each month. Of course, it is to the advantage of the second employer because he is not supplying them

[Mr. Willan]

with food, and secondly, it is to the advantage of the natives because they are increasing their wages by drawing a daily pay from the second employer. So it is hoped that the provisions of the new sub-clause 1 and the new clause 6 will put a stop to this because it provides that every employer, before employing a native must demand his registration certificate and if the native refuses or the certificate does not bear an endorsement or discharge, then it is an offence for that employer to engage that native.

Another amendment of this clause is contained in the new sub-clause 5 which provides for the Registration Officer to see the last employer before registering if it is not endorsed with a discharge.

Paragraph 4 of the Report deals with a new clause of the Bill, clause 5. This is an important amendment because it adds a new section, 8a, to the Ordinance, dealing with leave. Members are aware that the granting of indefinite leave to natives or employees with the object of obtaining a hold on their services for some future date has the effect of holding up the labour service of the Colony, thereby tending to cause a shortage of labour. The new clause counteracts that by providing that employers must give the employee a leave certificate if the permission does not exceed one month. In cases where leave granted exceeds one month then it must be with the written consent of the District Commissioner and in particular cases where such consent is given, it is the duty of the District Commissioner to notify the Chief Registrar of Natives and any native without a certificate of discharge after the period of leave has expired is then guilty of an offence. Thus, the labour force of the Colony is utilized to the best advantage and I trust that employers will be tolerant and will put up with the slight inconvenience that may be caused them in complying with this clause in the interests of the Colony. Sir, I beg to move.

MR. HOSKING seconded.

The question was put and carried.

THIRD READING

MR. WILLAN moved that the Bill be read a third time and passed.

MR. HARRAGIN seconded.

The question was put and carried.

GAME BILL

SECOND READING

MR. WILLAN: Your Excellency, I beg to move the second reading of the Game Bill. It is the intention of Government that this Bill should go to a select committee.

It repeals and replaces the Game Ordinance, Cap. 161 of the Revised Edition, which has already been amended on four occasions, and also the Game Birds Ordinance of 1926, which has been amended once. I propose to confine my remarks to those provisions in the Bill which either add to or alter the present law, and I do not think I shall weary this Council for a long time. All the new provisions have been included at the request or the suggestion of Captain Ritchie before he went to Malaya at the beginning of this year and, as all hon. members are aware, he has had fourteen years' experience in the Game Department of this Colony.

Turning to clause 2 of the Bill, the definition of "Association" is new, and also the definition of "recognized member of the Association". These two definitions are necessary on account of clause 6 of the Bill which empowers the Game Warden to "recognize, for the purpose of the Ordinance, any full member of the East African Professional Hunters Association". The Game Warden, Captain Ritchie, is definitely of the opinion that this Association has proved itself to be a responsible body, and its members are not only eager to take their part in assisting the Game Department in preserving the game but in preventing abuses and breaches of this Ordinance. It is also known that the Association has a very strong *esprit de corps* which it is desirable to foster and, in addition, he considers that the Association does exercise a beneficial influence on public opinion and will be increasingly of great use not only to the Colony in general but to the Game Department in particular.

Another new definition in clause 2 is the definition of "meat", which now includes fat and blood. A memorandum

[Mr. Willan]

left behind by Capt. Ritchie stated that the fat of the lion and ostrich have a large commercial value in this Colony, and that the blood of the rhino fetches a large price.

The definition of "trophy" in the same clause has been made more extensive.

Clause 4 and 5 (1) of the Bill deal with the delegation of powers by the Game Warden and the appointment of honorary game wardens, and their appointment will last for five years unless determined earlier in any particular case. This, of course, means that all honorary game wardens will have to be reappointed under this Bill when it becomes law.

Clause 7 (1) merely states that the animals and birds mentioned in the first to the fifth schedules in the Bill are game animals.

Here I take a big jump to clause 15 (7). This has been amended, first of all, restricting serving officers' licences to regular officers on the active list of the Navy, Army, or Air Force, while at the same time it extends the issue of these licences to officers of the Public Service in Africa as well as in India. I think the present law is illogical because with regard to officers' licences they are mainly, under the present law, applicable to officers serving in India, while those officers in the public service of Nyasaland or Rhodesia cannot take out such a licence. This sub-clause gets over that difficulty.

The proviso to clause 15 (8) is new, and is necessary because the definition of a resident has been altered in this Bill. Under the present definition, a person who is a resident has to satisfy the provincial commissioner or district commissioner that he is a bona fide resident in Kenya. That I am informed by Capt. Ritchie has led to difficulty and confusion. Licensing officers issue licences in their discretion, and it is considered that this proviso under which licensing officers can be guided as to whether a person is resident or not in Kenya will place the matter on a more satisfactory footing.

Clause 16 (A), clause 16 (6), clause 17 (1) (c), and the last six words of clause 17 (5), are new, and they conform to a

pledge given by the Imperial Government at the International Game Conference in 1933 regarding the animals mentioned here which can only be hunted, apart from a Governor's permit, on a special licence.

The proviso to clause 18 is new. It is not thought reasonable that animals killed in defence of property should count on a licence.

The provisions of clause 24 have been altered and have been relaxed so that now it is only necessary to keep a register of certain animals killed, and the Game Warden will call for a copy of the register if he requires it. At the present time it is compulsory for a licensee to submit a copy to the Game Warden whether the latter requires it or not.

Clause 25 (2) reads:

"The Governor may, with the approval of the Secretary of State, from time to time by proclamation declare any other portion of the Colony to be a game reserve and may in like manner and subject to the same approval extend or contract the limits of, or abolish, any game reserve established under this Ordinance and the provisions of this Ordinance relating to game reserves shall apply to any such game reserve."

There is an error there—it should be Governor in Council, and this will be dealt with in select committee.

Clause 25 has been extended in order to clarify the position when persons enter a game reserve and carry firearms. It will have to be amended in select committee to allow members of the public to have free and unrestricted right of entry to Nairobi Commonage. That the select committee consider the provisions of the Bill.

The proviso to clause 26 (1) is new, and it is necessary because the Governor can grant a permit during the close season. Sub-clause (2) of the same clause is also new, and merely alters the law in that a close season will be proclaimed instead of prescribed by rule as at present.

Clause 33 (2) is new, and is intended as an extra safeguard against causing animals and birds unnecessary suffering.

[Mr. Willan]

With reference to clause 35, curiously enough, in the law of this country the right to kill game in self defence has not been previously stated, and this clause deals with that subject. The provision to sub-clause (1) is necessary, otherwise offenders against the Game Ordinance would escape scot-free by pleading self-defence when by their own illegal self-defence became necessary.

Clause 39 (6) is new, and is designed to prevent the export, except with the permission of the Game Warden, of live wild birds from this Colony.

Clause 40 is new, and will allow the protection of useful animals when there is a necessity by declaring them to be game animals.

Clause 41 is also new, and gives the Governor extensive powers of applying any of the provisions of the Bill to non-game animals or birds.

The only other clause I might mention is 54 (1). This, in the opinion of Capt. Ritchie, is most important. It is new, and is designed to prevent traffic in rhino horn, which he states is the most lucrative of all contraband dealings in this Colony. This traffic, I am informed, is very common, and heavy fines have not stamped it out. The proceeds, I am also informed, are large and the risks are small, and unless some means are found to stop this traffic, in Capt. Ritchie's opinion the future of the rhino in East Africa is doomed. Accordingly, it is considered reasonable where such cases are prosecuted to a successful conclusion that the offender should be imprisoned without the option of a fine.

MR. HARRAGIN seconded.

MR. MAXWELL. Your Excellency, there is only one point I wish to refer to which needs further consideration, the question of granting certain powers to recognized members of the East African Professional Hunters Association, of which we have been told Capt. Ritchie is very much in favour.

Among these powers, I understand that recognized members of the Association will be able without warrant to enter in and search and arrest. Surely these are

very strong powers? While there is provision in this Bill for appointing honorary game wardens for five years and determining such appointment at an earlier date, there is no provision that once a member is recognized he can cease to be recognized.

I fully realize the high standing of this association and its members, and it would perhaps be a very good thing to grant such powers to its recognized members to-day. But it does seem possible that in the future this association may have to admit to full membership individuals whom it might not be advisable to recognize, and this might lead to certain troubles between the association and the Game Department so that generally it would not work well for the benefit of game preservation.

It does seem to me there should be another alternative, that members of the association can, if they wish and the Game Warden is willing, be appointed honorary game wardens and thus have the same powers and carry out the same amount of good work they are doing to-day. I do suggest that further consideration be given to this question, and I hope the select committee will have the benefit of conversations with the chairman or secretary of the Professional Hunters Association.

MR. HOEY. Your Excellency, I should like to support the remarks made by the Hon. Member for Nairobi South (Mr. Maxwell), who has raised the point concerning the East African Professional Hunters Association. In any remarks I am going to make, I wish it to be clearly understood that I am casting no reflection whatever on that body, because I think it is a most awfully good thing to have such an association. But I endorse the point of view put forward by the last hon. member.

I think it is entirely wrong, and I am in violent opposition to the principle, which is a very novel principle, envisaged in this Bill, by delegating powers to the extent that this Bill proposes to do. It proposes to give the members of the association the powers of police officers, justices of the peace, and game wardens, and I think it is really too early to make up one's mind as to what the status of this

[Mr. Hoey] association is going to be. Remember, this is a very new association, only two years old, and what status it will have in a few years' time no one quite knows. It could alter its constitution, it might become an entirely different body to what it is to-day, but the principle, I think, is entirely wrong, that Government should delegate such wide powers to members of an association.

After all, how are these members elected to the association? I do not know. I imagine they are big game hunters, professional hunters, all with a good deal of experience, and then eventually they are recognized, probably through good conduct in the field, as suitable members for that association. I must say I think it quite wrong that these gentlemen should take the powers this Bill proposes to give them. If you want more game wardens, appoint more, and that is the answer, but to go as far as to delegate the powers you do under this Bill, I would never agree to it.

Now, Sir, I want to touch on a really important part of the Bill, and that is clause 30. It says:—

"No person shall approach, in a motor vehicle or aeroplane, to within shooting range of any game animal for the purpose of hunting, killing, capturing, or unduly disturbing such game animal."

That is an extraordinarily vague sort of section. What is the meaning of "within shooting range"? What is the definition? I do not know, and I happen to have done a good deal of hunting. But the most important thing in this clause is the question of aeroplanes, and I raise this in as strong a manner as I possibly can because, in my opinion, a very definite abuse is going on by the employment of aeroplanes in big game hunting.

There have been cases of men coming out to this country, I will not call them sportsmen, in their own aeroplane. They fly over the country and, when they want a good elephant, use the aeroplane for spotting. Reports are sent back by the gentleman who has been doing the spotting, and the party leaves his camp, knows exactly where to go, knows

exactly how far the elephant is away, and probably goes there in a motor-car equipped with cocktail shaker and so on. The elephant is killed, and they return to camp within an hour or two.

That, to my mind, is a definite abuse of the use of an aeroplane, and I think Government has got to handle this position and stop the use of aeroplanes in connexion with big game hunting. I should like very much to see the word "aeroplane" taken out of clause 30 altogether and a new clause drafted to make it absolutely illegal for any aeroplane to be employed for the spotting of game. I do not know how it should be worded, and will leave that to my hon. and learned friend opposite, but it should read something like this:—

"The use of an aeroplane for the purpose of locating game for purposes of hunting shall be an offence except on private land."

That will want enlarging, because you would have to make it an offence for any pilot or observer in an aeroplane in the employ of the gentleman owning the aeroplane conveying any information to him. But I feel that the Legal Department can get over that.

I do urge that some step such as that has got to be taken to prohibit this practice which is carried on at the present moment. I am glad to say that it is not very prevalent, because there are not many people able to afford it, but the fact remains that it does take place in the Colony to-day.

There is one other point which I have been asked to make, by the Hon. Member for Kiambu (Major Riddell), who unfortunately, is laid up. He is very deeply interested in this Bill, but I rather gather from the remarks of the hon. and learned mover that his point is covered. The Hon. Member for Kiambu is most anxious when this Bill comes into force that all the existing appointments of honorary game wardens shall be cancelled and the list combed over, but I understood from the opening remarks of the hon. mover that this point is met.

There are several other points, but they are rather select committee points, various alterations which I shall propose in select committee, concerning some of

[Mr. Hoey] the schedules. I do not think it is necessary to take up the time of the Council and will reserve those points until we get in select committee on which I hope I shall serve.

SIR ROBERT SHAW: Your Excellency, there is only one clause of the Bill which I wish to refer to for a moment, clause 36, which deals with the killing of animals a menace to crops and property. It may be that I am unable to follow the legal terminology, but it does appear that this sort of situation might arise.

You may find a herd of zebra with young or kongoni in your crops, and under this Bill it would be illegal to shoot them or chase them out, because it says in sub-clause (1), which seems to give the necessary powers to kill animals damaging crops:—

"Provided however that nothing in this sub-section shall be deemed to apply to animals appearing as item 25 in the first schedule."

The animals enumerated in the first schedule are "when immature, or a mother accompanied by her young."

I would ask the select committee to examine that clause carefully, to see whether in fact the owner of the crops is not really prevented from protecting those crops in a reasonable manner. I know of a case up-country not long ago, when a well-known resident was run in for shooting birds which were damaging his crops. The case created a certain amount of annoyance and apprehension, and this clause should be carefully considered by the committee.

COL. KIRKWOOD: Your Excellency, I wish to support the Hon. Member for Usin Gishu (Mr. Hoey) in his objection to the use of an aeroplane in hunting game. I think it is absolutely scandalous that an aeroplane should be used for spotting purposes, and also for hunting. Having spotted the game, they land, go and shoot the animal, have a whisky and soda, and return to their camp. There are also instances that the machine used is detrimental to the game by unnecessary disturbance in flying low and chasing the game all round the country.

The hon. member also queried the phrase "shooting range". In the same clause, sub-clause (3), it is put down at 200 yards. But there is another point I should like to raise in connexion with that sub-clause. As it is worded it means that anybody can proceed to the game in a motor-car, and cases have occurred when lions have attacked and killed the occupant of a car, who would be debarred from defending themselves unless it was proved that they were 200 yards away before they shot at the animal. This will have to be dealt with by the select committee to allow of people protecting themselves by shooting without breaking the law.

MR. WILLAN: Your Excellency, there is very little for me to say in reply.

First, with regard to the question of the recognition of full members of the East African Professional Hunters Association. I would draw the attention of the Hon. Member for Nairobi South and the Hon. Member for Usin Gishu to the fact that in clause 6 the third word is "may"; "the Game Warden may by notice in the Gazette recognize for the purposes of this Ordinance, any full member of the association." The Bill as drafted does not mean members or all of the full members are recognized, but only such members as the Game Warden may by notice in the Gazette recognize.

With regard to clause 30, which deals with motor cars and aeroplanes, I note that the Hon. Member for Usin Gishu has great faith in the Attorney General's department but personally, for myself, I think it is going to be very difficult to draft a clause as he suggests. Further, you have a person in an aeroplane looking down at the ground. He might see elephant or rhino. Is he spotting game? Personally, I think it difficult to draw a clause to cover that, but I understand the hon. member will be a member of the select committee and no doubt he will thereto offer his valuable suggestions.

It is quite correct, the appointment of existing honorary game wardens will be terminated once this Bill becomes law, and it will be necessary to re-gazette these appointments, which will be for a period of five years unless determined earlier.

[Mr. Willan]

I agree with the Hon. Member for Trans Nzoia that clause 30 in any case does require amending with regard to the question of, say, a third charging a motor car. Actually, in my own copy, I have a note in the margin that this clause must be amended to provide an exception in the case of defence.

The question was put and carried.

MR. HARRAGIN moved that the Bill be referred to a Select Committee comprising:

Mr. Harragin (Chairman),
Mr. Hosking,
Mr. Willan,
Mr. Gardner,
Mr. Hoey,
Mr. Maxwell,
Dr. de Sousa.

MR. WILLAN seconded.

The question was put and carried.

POST OFFICE (AMENDMENT) BILL

SECOND READING

MR. WILLAN: Your Excellency, I beg to move the second reading of the Post Office (Amendment) Bill.

The only object of this Bill is to deal with the transmission by post of postal articles which are "seditious, scurrilous, threatening, obscene or grossly offensive in character". As hon. members are aware, during the last few months a number of persons in this Colony have been responsible for obscene and anonymous letters—the word "letter" is included in the definition of a postal article. The matter was raised by the Supreme Court of this Colony after the judges had deferred judgment for about three weeks that, as the matter stands at present it is only an offence under section 23 of the Ordinance, if obscene words, etc., appear on the outside of the envelope.

In order to protect the public from annoyance of this kind, it was essential to amend this Post Office Ordinance so that if obscenity either appears on the outside or inside of the envelope—that is, on the paper—then it is an offence to transmit that letter or any similar postal article by post. So it was agreed that this Bill should amend clause 23 of the

Ordinance by making it an offence to send by post a postal article which has either thereon or contains therein any obscene words, etc.

The only other amendment made in this clause is contained in the last three lines: "The Postmaster-General shall deal with such postal article as he may deem fit". Hon. members will see that the law as it stands at the present states: "which shall be dealt with as the Governor may direct". Well, it is thought unnecessary to worry His Excellency every time one of these articles is transmitted through the post and withdrawn from transmission by the Postmaster-General, and the Postmaster-General is perfectly capable of dealing with this as he may deem fit.

MR. HARRAGIN seconded.

The question was put and carried.

KING'S AFRICAN RIFLES (RESERVE OF OFFICERS) AMENDMENT BILL

SECOND READING

MR. WILLAN: Your Excellency, I beg to move the second reading of the King's African Rifles (Reserve of Officers) Amendment Bill.

This is a short Bill and is necessary because under the law as it stands at present there is a distinction between the rates of pay of officers. An officer who has had service with the Regular or Indian Army received a higher rate of pay than an officer without such experience. That distinction, although reasonable in the case of training is illogical in respect of active service, so this Bill, while still continuing this distinction with regard to training provides no such distinction with regard to the rates of pay of officers called out on active service. And "active service" as defined by clause 2 of the Bill includes "when he is engaged in operation against the enemy or in aiding the civil authority in the protection of life and property or in the prevention of suppression of internal disorder or in any emergency".

MR. HARRAGIN seconded.

The question was put and carried.

COFFEE INDUSTRY (AMENDMENT) BILL

SECOND READING

MR. HARRAGIN: Your Excellency, I beg to move the second reading of the Coffee Industry (Amendment) Bill.

This Bill is in the nature of a private bill, affecting as it does only those interested in coffee and in that most excellent Board, the Coffee Board, in particular.

It only does three things. The first settles a question; to my certain knowledge it has been a burning question for the last two or three years, and I refer to the fact that two trade members under the Ordinance have two seats on the Coffee Board. It has now been decided both by the planters and the trade themselves that it is undesirable that they should occupy a position on the Board. The first amendment, therefore, is to remove the trade members from the Coffee Board, and substitute thereon coffee planters. That necessitates several amendments and makes the Bill appear longer than it really deserves.

The second point is a mere point of procedure and refers to the transfer of licences. At present a licence is granted to an owner of a coffee estate with no power of transfer and, when he sells his estate, the vendor who takes over the estate from him is obliged to go through the procedure of getting a licence for himself. This now permits the transfer of a licence from the person from whom the estate is transferred.

The last amendment deals with the millers and provides that they shall be licensed, and as licensed millers can be called upon to give necessary statistics. I think everyone will agree that this is in the interests of the coffee industry and it will also have the effect of preventing illicit buying.

MR. WILLAN seconded.

The question was put and carried.

MR. HARVEY: As Acting Chairman of the Coffee Board, on behalf of the members of the Board I would like to say how grateful I am to the learned mover for his complimentary reference to the work of the Board. I would like to make it quite clear that the withdrawal

of the trade members is entirely of their own volition and the planter members of that Board very greatly appreciate the most valuable co-operation they have always received from them so long as they have acted as members with the planters. That cooperation between the planting and trading interests of the industry will not be lost, inasmuch as a Traders Association has been started and a Joint Standing Committee has been set up in which the planters through the Board and the traders through the Traders' Association closely collaborate in all matters of common interest as they have collaborated in the past.

The question was put and carried.

BILLS

IN COMMITTEE

MR. HARRAGIN moved that the Council do resolve itself into committee of the whole Council to consider the following Bills clause by clause:

1. Post Office (Amendment) Bill.
2. The King's African Rifles Reserve of Officers (Amendment) Bill.
3. The Coffee Industry (Amendment) Bill.

MR. STOOKE seconded.

The question was put and carried.

Council went into committee.

His Excellency moved into the chair.

The Bills were considered clause by clause.

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

The question was put and carried.

His Excellency vacated the chair.

Council resumed its sitting.

His Excellency reported the Bills without amendment.

THIRD READINGS

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

MR. WILLAN seconded.

The question was put and carried.

The Bills were each read a third time and passed.

ADJOURNMENT

Council adjourned till 10 a.m. on Friday, 5th November, 1937.

Friday, 5th November, 1937

Council assembled in the Memorial Hall, Nairobi, at 10 a.m. on Friday, 5th November, 1937. His Excellency the Governor (Sir Robert Brooke-Popham, G.C.V.O., K.C.B., C.M.G., D.S.O., A.F.C.), presiding.

His Excellency opened the Council with prayer.

MINUTES

The minutes of the meeting of the 4th November, 1937, were confirmed.

PAPERS LAID

The following papers were laid on the table:—

By THE GENERAL MANAGER, K.U.R. & H. (SIR GODFREY RIDDES):

First Supplementary Estimates, 1937, of the Kenya and Uganda Railways and Harbours.

Estimates of Revenue and Expenditure for 1938 of the Kenya and Uganda Railways and Harbours.

EMPLOYMENT OF SERVANTS BILL

SELECT COMMITTEE REPORT

The debate on the motion to adopt the select committee report on the Employment of Servants Bill was resumed.

COL. KIRKWOOD: Your Excellency, with your permission and the permission of Council, I wish to withdraw the amendment I moved yesterday, and I have the approval of my seconder to this course. The reason for withdrawing is an agreement which we came to yesterday.

The amendment was by leave of Council withdrawn.

MR. HOSKING: Your Excellency, I beg to move:

That paragraph 33 of the select committee report be deleted and the following paragraph be substituted therefor:

"33. That clause 73 be amended—
(a) by inserting the words, figures and comma sub-section (2) of section 34, by between the word 'by' and the word 'paragraph' which occur in the first line of sub-clause (1) thereof;

(b) by substituting the following sub-clause for sub-clause (3) thereof—

"(3) No employer shall give to a servant any advance of wages exceeding

one month's wages of such servant and no such advance or advances shall at any time during the period of the contract exceed in the aggregate one month's wages of such servant'; and

(c) by adding thereto as sub-clause (4) thereof, the following new sub-clause—

'Priority of wages.

(4) Notwithstanding the provisions of any law for the time being in force in the Colony, whenever any attachment has been issued against the property of an employer in execution of any decree against him the proceeds realized in pursuance of such execution shall not be paid by the court to any decree-holder until any decree obtained against such employer in respect of a servant's wages has been satisfied to the extent of a sum not exceeding four months' wages of such servant:

Provided that nothing in this subsection contained shall be deemed to prevent a servant from recovering any balance due on such last mentioned decree, after such satisfaction as aforesaid, by ordinary process of law."

The first part of this amendment simply repeats the recommendation of the select committee, and I do not think I need go further into the matter. 33 (c) re-words the previous recommendation of that committee.

Your Excellency will note that I am sticking to my guns, and I am glad to be able to report that the members of the select committee present at the meeting of the committee yesterday are behind me in the battery. Unfortunately the hon. Member Archdeacon Burns and the hon. Indian member Mr. Isher Dass were unable to be present at that meeting, but I have been able to discuss the amendment with them and I understand they are behind me also. It was in consequence of this meeting that the hon. Member for Trans'Nzoia agreed to withdraw his own amendment, to give way to this agreed amendment.

It will be noted that sub-clause (3) is reworded to make it quite clear that the total amount of arrears a native can ever be liable for is one month's wages. As

[Mr. Hosking] previously worded, it might have been possible to allow the native an advance of one month's wages for every month that he continued in the contract, whereas our intention, which was not fully expressed in the previous recommendation, was that he should never be more than one month's wages in arrears. We have viewed this proposition from all angles, and our final recommendation to this Council is that we shall adhere to the advance of only one month's wages.

The Noble Lord, the Member for Rift Valley (Lord Francis Scott), yesterday asked why he should not lend a servant of his say Sh. 100 or more to suit his purpose. There is no objection whatever to his doing that, that is a loan between friends and he is welcome to make the loan. It was equally legal—(Lord Francis Scott: It was illegal.)—I beg to differ, but the essential difference is that under the provisions of this sub-clause he can only deduct one month's wages from the servant's pay.

If, however, he were to lend him a sum in excess of that month's wages and the servant should default, he has the ordinary process of the law to refer to in order to obtain satisfaction of his loan. I would draw his attention to the fact that under the Civil Procedure Code you may not attach wages which are less than Sh. 40 a month, so that if the hon. member makes a loan to a servant in excess of one month's wages he has to trust to the goodwill of the servant to repay the loan. He cannot automatically deduct more than one month's wages.

I think this should meet any legitimate criticism of this recommendation. The Principal Labour Officer was most strong in his insistence that we should not allow an advance of a greater amount, and eventually we agreed with him. It is essential that a native should not be held indefinitely by being granted a sum of money which possibly is beyond his intelligence to compute.

Passing on to (c), this is to meet the recommendation of the hon. Member for Ukamba (Sir R. Shaw). In the committee that first sat on this Bill, we did go into this question, and I do not know how it

came about that we omitted to include it in the report of the select committee. This is bringing the provisions of this Bill into line with the provisions of the Bankruptcy Ordinance, and I wish to draw attention to the following points:—

The first essential is that a servant must obtain a decree for the payment of his wages. When any person has defaulted and an attachment has been issued against his property, and the decree obtained in that judgment has not yet been satisfied, if a case is brought by a servant under this Ordinance and a decree obtained before the first decree is satisfied, the decree obtained by the servant shall take priority to the decree previously obtained. I think this is just and reasonable. It will be noted that the amount for which the servant can obtain priority of satisfaction is limited to four months' wages.

I would also draw attention to the proviso, which does not debar him from obtaining through the ordinary process of the law satisfaction for the balance of his claim. We owe, I think, to the native employee this much protection and assistance. After all, a native's pay is a matter of practically life and death to him, whereas in the case of a tradesman it is not so essential, though it is entirely advisable that he should obtain satisfaction of his claims.

LORD FRANCIS SCOTT: Sir, with regard to the first part of the amendment, as my hon. friend has just said, it only proves the contention which I put up yesterday. I was not talking of a big loan of Sh. 100 or more, but a smaller loan of about Sh. 20 to a lower-paid employee. Now, an employer cannot lend money indiscriminately to his servants unless he has got some method of getting that money back. There is only one method of getting it back, and that is from the labourer's wages.

I feel very much for the Noble Lord's becomes law, it will be of great assistance to employers, because one is often asked for an advance and can then say "No, it is illegal to do so," but it will be to the detriment of many natives because one will not be able to take it from their wages, and if the labour inspector sees one's books and sees that one gets money

[Lord F. Scott]

back by deductions if one advances money he will point out that one is committing an illegal act. Therefore, I still do not agree with this amendment.

ARCHDEACON BURNS: Your Excellency, I suppose that the good employer who wants to deal honestly and fairly with their labour have all of them to suffer as against the man who tries to do his labour down. I do not see how any other means can be obtained by which natives can be protected against people who would, month after month, advance to them certain parts of their pay and so keep them under their control all the time.

I fel very much for the Noble Lord's point of view, it was my own, but I can see the real difficulty with people who do not consider the native's point of view. The new sub-clause (4) of clause 33 I understand refers to wages that for four months of the year, or may be for a longer time, have not been paid to the native. If has nothing to do with advances. It is wages that have not been paid to a native, and should an attachment be issued against the property of the employer the native would have the first claim of receiving his wages—and quite rightly so—to the extent of four months arrears.

I presume that the labour officer or some other person would instruct the native as to the procedure, as to what he was to do with regard to obtaining the decree against the property of his master. If not, natives will still be ignorant of the methods of obtaining a decree and so getting their wages. If a native is foolish enough to allow his wages to remain unpaid for more than four months, he can recover the balance by the ordinary process of law.

I agree with what has been done by the select committee. I think it is the very best thing we can do for the natives and the way in which we can help them best to protect them from some unprincipled people who would have no hesitation at all for their own purposes in keeping back from them their wages or advancing them more than they should advance them.

SIR ROBERT SHAW: Your Excellency, I have nothing to say about (a) and

(b) of the proposed amendment, but as regards (c) it is hardly necessary to say that I support it, and I would express my appreciation of the prompt manner in which our learned friends opposite have complied with my suggestion of yesterday. I think the amendment is properly worded to affect any of the issues involved. Furthermore, I should like to draw attention to the fact that it is merely putting into the form of law a standard which, I think, the vast majority of employers of labour in this country set themselves. There will always be black sheep here and there against whom we must legislate, and I think we have done it now in an effective and satisfactory manner.

MR. HOSKING: Your Excellency, I still join issue with the Noble Lord. I deny that there is only one method of getting repayment of a loan and that is by deduction from the servant's salary. That servant may have property in the reserve or possibly even on the farm, on which a distraint may be levied. I repeat that it is illegal only to give an advance of wages in excess of one month's wages but it is not illegal to give a loan.

I think that it is the only point which I have to deal with, except with what the ven. and hon. member has said, and he is correct in saying that the new sub-clause (4) does not deal with advances at all but merely with arrears of wages due. Action will most probably be taken by the labour officer on behalf of natives to whom wages are due.

The question of the amendment was put and carried.

MR. WILLAN: Your Excellency, there is no need for me to say anything further in this debate. All the points raised have been cleared up.

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

THIRD READING

MR. WILLAN moved that the Employment of Servants Bill be read a third time and passed.

MR. HARRAGIN seconded.

The question was put and carried.

The Bill was read a third time and passed.

SCHEDULE OF ADDITIONAL PROVISION No. 3 of 1937

MR. PILLING: Your Excellency, I beg to move:—

"That the Report of the Standing Finance Committee on the Schedule of Additional Provision No. 3 of 1937 be adopted."

The Standing Finance Committee have considered the items in this schedule and have recommended approval of such expenditure as had not already been sanctioned by this Council.

In moving that this schedule should be referred to the Committee, I invited attention to the footnote to the title page. This shows that, after making allowances for reimbursements and savings on other votes, the net additional expenditure to be authorized in the schedule is £34,350.

There are one or two items to which hon. members may wish me to refer.

The largest expenditure is under Item 61, under which a sum of £13,755 has been provided for expenditure in connexion with the Internment Camp at Isiolo. The expenditure in the circumstances was unavoidable, and it is hoped that the total sum will eventually be recovered from the Imperial Government. The date of reimbursement may, however, be somewhat delayed and, in consequence, for accounting purposes this item must be regarded as a net charge against the revenues of the current year.

Another large item of an unavoidable nature is Item 70, £4,857 on account of refunds of revenue. This mainly represents over-collection of duty on an estate on the Coast during the years 1930, 1931 and 1933. The financial circumstances of this estate have only recently been cleared up.

Finally, under Item 83, the sum of £6,079 was the cost of the purchase of land required for the use of the Royal Air Force at Mombasa. Hon. members are aware that it has been obvious for some time that the present Mombasa aerodrome is not wholly suitable for large machines, and it is necessary that there should be an aerodrome on the coast which can be used by the Royal Air Force in all weathers.

MR. STOOKE seconded.

MAJOR CAVENDISH-BENTINCK: Your Excellency, arising out of the last item, do I understand that the aerodrome will be only for the Royal Air Force; or will it also be used by civil machines? The present Mombasa Aerodrome is a disgrace to the country.

MR. PILLING: Your Excellency, that point is not quite decided, but the present intention is that it should be an Air Force Aerodrome. As hon. members are aware, the Shimanzi Aerodrome is not wholly satisfactory and it is held on quite a short lease—I think it expires in some five or six years—and economic pressure or the increasing of the value of the land may require that we should build an aerodrome on the mainland. As to whether it may be possible to use this particular site for civil aviation I am not prepared to say at the present time. This may have to be considered later.

The question was put and carried.

NORTHERN FRONTIER PROVINCE POLL TAX ORDINANCE, 1930

MR. HOSKING: Your Excellency, I beg to move:—

"Whereas it is provided in section 17 of the Northern Frontier Province Poll Tax Ordinance, 1930, that the said Ordinance shall be in force until the 31st day of December, 1933, and shall then expire, unless by resolution of the Legislative Council it is continued in force until a later date:

And whereas the Legislative Council on the 29th day of November, 1933, resolved that the said Ordinance should continue in force until the 31st day of December, 1936:

And whereas the Legislative Council on the 15th day of October, 1936, resolved that the said Ordinance should continue in force until the 31st day of December, 1937:

And whereas it is desirable that the said Ordinance should continue in force for a further period:

Now, therefore, it is hereby resolved that the Northern Frontier Province Poll Tax Ordinance, 1930, shall continue in force until the 31st day of December, 1938."

[Mr. Hosking]

This Ordinance was first enacted in 1930 for three years and in subsequent years it has been renewed for further periods of one year. I trust the hon. members of this Council will remember the arguments of preceding years to which I have nothing to add. The Ordinance serves a useful purpose and is working smoothly and I strongly recommend that it continue in force for another year.

MR. STOOKE seconded.

MR. HARVEY: Your Excellency, would the hon. member indicate to us what amount of revenue has been derived from this particular form of taxation in this particular area? Whether it is a steadily increasing or diminishing quantity and what prospects there are of the Northern Frontier Provinces continuing to supply its quota to the revenue of the Colony, more especially in view of the fact that the cost of administering the area must impose a somewhat severe burden on public expenditure.

MR. HOSKING: Your Excellency, I am glad to assure the hon. Member for Nyanza that the amount collected is increasing. If he will look at page 25 of the Financial Report and Statement for the year, 1936, item 11—the last item—the estimated revenue from this was £5,200. Actually the revenue collected amounted to £10,687-7-50, almost double the estimated revenue. I think that will answer his question and show that the position is eminently satisfactory.

The question was put and carried.

DRAFT ESTIMATES, 1938

MR. PILLING: Your Excellency, I beg to move:

"That the Draft Estimates of Revenue and Expenditure for the year 1938 be referred to the Standing Finance Committee."

These Estimates show a gross revenue of £3,576,344 and a gross expenditure of £3,542,591, and thus provide for a surplus of revenue over expenditure amounting to £33,753. This surplus shows a material advance on the surplus of £9,750 shown in the Estimates for 1936 and £5,013 in the Estimates for 1937. I hope that the de-

sirability of providing this increased surplus will be apparent later on in my speech.

As honourable members are aware, the Kenya Estimates are unduly swollen by the inclusion of provision on the expenditure side for various joint services, such as Customs, Defence, Interest on Loans, etc., in respect of which there are substantial reimbursements and cross-entries on the revenue side. If hon. members will refer to page 10 of the Draft Estimates they will see that these reimbursements and cross-entries are estimated to amount in 1938 to £1,212,247. The net revenue, therefore, amounts to £2,364,097 and the net expenditure to £2,330,344; thus the net figures are approximately only two-thirds of the gross figures. I wish to emphasize this fact, since the size of the gross figures has in the past led to some misapprehension of the actual amount of money spent annually on the services of the Colony. The increase in estimated net revenue over the sanctioned estimate for 1937 amounts to £154,545, whilst the increase in net expenditure amounts to £125,805.

The Estimates now before hon. members have already been submitted for consideration on broad lines of principle to the Executive Council. The memorandum, which has been in the hands of hon. members for over a week, explains in detail the reasons for almost all increases and decreases appearing in the Draft Estimates and I feel, therefore, that no useful purpose can be served by my repeating at length what is set out in the memorandum and that my chief duty in formally introducing the Budget, is to explain the circumstances in which the Estimates have been drafted and the policy which they reflect. I propose, however, later on in my speech to invite attention to certain items of expenditure which are either new to the Estimates or reflect some expansion of services or new departure in policy.

MAJOR GROGAN: On a point of order, Sir, is the hon. member in order in reading his speech? If so, could we not have it circulated?

MR. PILLING: The Council usually allows the indulgence to the Colonial Secretary of reading his speech.

LORD FRANCIS SCOTT: It has always been the custom.

HIS EXCELLENCY: In view of the complication of a number of figures it would, perhaps, be rather unwise for the Colonial Secretary to rely purely on his memory. The reading of the speech appears to be sanctioned by custom.

MR. HARRAGIN: It is, also, the custom in the House of Commons, Your Excellency. I think the only Chancellor of the Exchequer who did not read his speech was Winston Churchill.

MAJOR GROGAN: The point is, I have heard several debates in the House of Commons and have heard a Chancellor of the Exchequer making a speech lasting for two hours. It is usually a matter of pride with them that they only refer to notes occasionally to refresh their memory. I do not want to hear a speech read like a sermon. However, I will not press the point.

HIS EXCELLENCY: I think that perhaps on this occasion it is a desirable method.

MR. PILLING: I think the hon. and gallant Member for the Coast (Major Grogan) has overlooked the difference in mental capacity between a Chancellor of the Exchequer and an Acting Colonial Secretary. (Laughter.)

Your Excellency, after emerging from a prolonged period of financial stringency, it has been possible in successive years to add substantial amounts to the cash balances of the Colony. It is hoped during the current year further to increase these balances by a sum of between £50,000 and £100,000; the immediate position, therefore, is satisfactory. As regards the future, past experience indicates the advisability of a cautious expenditure policy until a reserve has been built up which can be regarded as reasonably adequate to carry the Colony on without curtailment of services and retrenchment of officers through any period of trade depression which may once again occur. I have said "may occur"—unfortunately experience shows that a period of depression follows a period of prosperity as inevitably as night follows day, and it is imperative, therefore, that Kenya, in common with

other countries of the world, should make all such provisions as may be possible against its coming.

Two means to this end are open. The first obviously is the accumulation of adequate reserves, the second is the development of potential resources with a view to greater and more varied output of exports. Both these objectives have been kept in view as far as possible in framing these Estimates. As regards the former, if this agricultural Colony is to be in a reasonably safe position to meet a period of depression in the markets on which it depends, it is considered that surplus funds must be accumulated up to a total of in the neighbourhood of £1,000,000.

Members will recollect that we have set before ourselves the aim of increasing our excess of assets over liabilities by £100,000 per annum. From Appendix B, page 119 of the Draft Estimates, it will be observed that the actual excess of assets over liabilities at the close of the current year should amount to some £500,000. Before, therefore, we can regard ourselves as in a secure position, therefore, some four or five more years must elapse.

The short history of Kenya has shown that the angle of ascent from the opening of a fresh period of prosperity tends to be steep during the first few years, as has been shown by the material improvement, during this and the preceding two years, in actual receipts of revenue over the sanctioned estimate. This period of rapid improvement is then normally followed by a period of comparatively steady returns, during which it is easier to approximate estimates to actual collections. The actual surplus on the working of the year 1936 amounted to £146,008. I have already said that the surplus for 1937 is not anticipated to amount to more than between £50,000 and £100,000. The assumption is, therefore, that the second stage is being reached when revenue estimating ceases to follow more than necessarily conservative lines and approximates to actuality. On this assumption, if we are to hope for a reasonable surplus on the year's working in 1938, we cannot prudently expect it to accrue from fortuitous increases in revenue, but we must make specific provision for it by showing a larger surplus

[Mr. Pilling] on our estimates and by continuing to exercise close supervision over expenditure, thereby providing marginal reserves of savings.

I said a minute or so ago that the accumulation of reserves forms only one of the means of insurance against a financial blizzard and that the development of potential resources is also another means to the same end. If, therefore, the capital available for normal development is not to be unduly impaired, the accumulation of reserves must be a gradual process and go hand in hand with expenditure on productive development. It should not, however, be beyond the capacity of the Colony in normal times to accumulate reserves at the rate of the desired figure of £100,000 yearly and at the same time to provide for a reasonable measure of development. It must not be overlooked that the accumulation of adequate reserves is complementary to a policy of development and its importance in this respect should hardly need emphasis, since not only do reserves make it possible to maintain services during periods of depression, but they also afford the means of obtaining loans on favourable terms to meet capital expenditure.

Your Excellency has already referred to the many capital projects which are not only desirable but necessary; the importance of improving roads, hospitals, prisons and other buildings has been stressed frequently in the past. The plain fact is, that we cannot meet this necessary expenditure from recurrent revenues and that we cannot raise loans on favourable, or indeed on any conditions, unless we have sufficient reserves to make them attractive in the market. Hon. members will, I feel sure, admit in the light of what I have already said, that the arguments in support of providing for a considerable surplus of revenue over expenditure in the Estimates for this purpose are unanswerable and I hope, therefore, that the temptation to whittle away this surplus in the Standing Finance Committee will be sternly resisted.

Nothing could have given me greater pleasure in introducing the one and only Budget which I shall have the privilege

of introducing in Kenya, than to have invited attention to the large sums provided for improvement of services and amenities, and constructive development. I am sure, Sir, that hon. members were extremely gratified to learn from your address from the Chair that you are actively engaged on the formulation of a long range policy of development and they will, accordingly, appreciate that the paramount purpose in framing the present Budget has been to consolidate the Colony's finances by overtaking as far as possible, arrears in maintenance and equipment votes and by making provision for the preservation of the vast assets of the Colony, such as roads and buildings.

From the outset, in framing the Estimates in pursuance of this policy, it was clear that no provision could be made for any general expansion of services. After allowance had been made for increased expenditure on defence, normal increments on salaries of officers and the rise in cost of material and labour, it was realized that to provide even for a small expansion in every Department would have eaten up the hoped for surplus. However, in the case of one or more Departments to which I shall refer individually in due course, it was considered that it would be false economy to withhold some small increase of provision, either because, as in the case of the Education Department, the services already being given had grown beyond the capacity of the funds provided during the period of financial stringency, or because, as in the case of the Veterinary Department, the additional expenditure would we hoped be productive in the near future.

Nevertheless, the Budget now presented can truthfully be called a consolidation Budget. It has been framed in the light of a definite policy and its purpose is briefly to build up the financial resources of the Colony. So far as the details of the Estimates are concerned, I shall have little to say, and would refer hon. members to the very full explanations of the increases or decreases given in the Memorandum.

The Revenue Estimates have been framed on the assumption that conditions generally will be no worse in 1938 than in 1937. There are adverse factors to be

[Mr. Pilling] considered such as the Sino-Japanese conflict, which will probably affect our trade with Japan, and the re-armament programme in Great Britain, which has not only resulted in a considerable rise in prices of certain of our imports, but has also made it very difficult to obtain supplies. Then again the Uganda cotton crop directly affects trading conditions in Kenya, and lastly, there has been a tendency to accumulate stocks in excess of current requirements in anticipation of a further rise in prices.

On the other hand, there are favourable factors: Domestic exports for the first eight months of 1937 total £24 million; an increase of £300,000 over the corresponding period of 1936. The value of exports is expected to be still greater in 1938, and the prosperity of 1937 should be reflected, to a certain extent, in the 1938 revenue.

On balance, therefore, it is considered that the Revenue Estimates are reasonable, and, as I have previously indicated, it will probably be found eventually that the estimate is much nearer to the actual than it has been during the last two years.

The most marked increase is in the estimate in respect of Customs and Excise, which it will be seen provides for receipts of £25,000 in excess of the revised Estimates for the current year. The increase of £28,225 under Licences, Duties and Taxes is an over-all increase reflecting the greater prosperity of the community and spread over a number of items, the largest of which is £14,000 on account of Native Hut and Poll Tax.

In this latter connexion, I would remind hon. members of a factor which is touched upon in the Memorandum. As hon. members are aware a committee was appointed during the current year to investigate and report upon the circumstances attending the payment of tax on account of plural huts and by independent women. There is a possibility that as an outcome of their deliberations, there may be a reduction in receipts from this source. Their report will not, however, be available until towards the end of 1938, and, in consequence, the financial effect of any of their recommendations which

may be accepted, cannot be reflected in these Estimates.

Income Tax assessments are not yet complete and, consequently, it is not possible to estimate the yield at all closely. The provisional estimate of £43,500 has, therefore, been repeated.

Before leaving the Revenue side of the Estimates I should just like to refer to the provision under Head XIII Colonial Development Fund. Recent utterances by some public speakers would seem to indicate that the great assistance which this Colony receives from Imperial Funds is not fully appreciated. In point of fact, the free grants received by Kenya from the Colonial Development Fund alone for the period ten months prior to the 1st October last, amounted to the sum of no less than £65,680 solely for development purposes—a no mean sum for which this Government is extremely grateful.

To turn to the expenditure side, hon. members, from the figures in front of them, will already have appreciated that there is a considerable increase in expenditure. The gross increase amounts to £105,293, whilst the net increase, as I have already said, amounts to £125,805. The main reason for the disparity between these two figures is the smaller amount of the receipts and of the resultant expenditure under the self-balancing votes of the Colonial Development Fund and the Parliamentary Grant. Since this has been described not as an expansion but as a conservation Budget, an increase of this size may appear to demand some explanation other than is afforded by the actual figures themselves.

The explanation is a simple one. In the first place, the world economic revival, whilst affording Kenya a better market for her products, has inevitably resulted in an all-round increase in prices on articles which have to be bought. This increase is reflected in almost every head of expenditure, particularly so in Prisons, Printing and Stationery, and Medical. Costs of labour are also rising and allowance for this has had to be made accordingly.

Secondly, the gross increase in expenditure under Head Military exceeds £40,000 and, although this is a subject of some reimbursement by the territories of Uganda.

[Mr. Pilling]

and Zanzibar, the net increase to Kenya is in fact £20,761. In the light of Your Excellency's communication from the Chair, I am confident that hon. members will agree that the expenditure is unavoidable and that it represents the minimum provision which this Colony should make in the interests of security. At the same time, I cannot but give expression to what I feel must be the view of the whole Council, that it is most unfortunate that at this stage of the Colony's history and development, it is necessary to devote so large a proportion of our revenue on unproductive expenditure due to causes wholly beyond our control.

The third reason for increased expenditure in 1938 is the need to consolidate the position of what, for lack of a better word, have been called in the Memorandum our social services.

If, I think, Your Excellency generally appreciated that every sacrifice should be made to maintain the educational opportunities in Kenya at their present level. The increase of £12,017 in this respect represents no expansion. I wish to make that point absolutely clear. The number of children attending the local schools is increasing annually and in many cases the staff, which was sufficient to meet demands only a few years ago, is now unable to do so. This unsatisfactory position will be to some extent rectified if the provision inserted in the Draft Estimates is approved.

The net increases in Agriculture and the Veterinary Services amount to £4,990 and £4,392 respectively. These are comparatively young departments and on that account the annual increase in respect of normal increments is heavy. In connexion with the Agricultural Department, hon. members will see that a new section has been established—the Soil Conservation Section. The one line provision under Item 99 of £2,500 is to some extent a token vote since it is hoped that the greater part of the cost of the campaign for soil conservation will next year at least be met by assistance from the Colonial Development Fund. The provision is, however, an earnest of Government's intention to deal with the problem in a thorough and comprehensive manner

so soon as the necessary data and funds have been obtained. Since the Agricultural Estimates were framed, conversations have taken place with representatives of the Coffee Board and a provisional agreement has been reached on a five year coffee programme, which is acceptable both to Government and the Board. The additional annual cost to Government which the acceptance of this proposal would entail, amounts to approximately £2,000, which consists mainly of the transfer to the Board of the Coffee Licences to the extent of approximately £1,400 per annum. I propose in the Standing Finance Committee stages of the Estimates, to move that this extra sum should be included under the Agricultural Head.

In the Veterinary Department there is some increase in staff which may be regarded as unavoidable in view of the recent developments in the cattle industry and the rapid progress in turning to mixed farming which is now taking place.

Hon. members will observe that expenditure in connexion with civil aviation is now shown under a new Head, V. The total of this new Head is £21,209 but it should be explained that the relative items of expenditure were in previous years shown under Head XX, Miscellaneous Services. With the introduction of the Empire Mail Scheme, however, and the gradual growth of civil aviation activities in the Colony, it seemed that a stage had been reached when it was desirable that all expenditure incurred on civil aviation should be grouped under a single head.

Under Head Miscellaneous I wish to invite attention to the increase of £300 in Item 9. The title of this Item is not strictly accurate, since the grant will not be made to the Natural History Society but is dependent on the adoption of the recommendations of the Committee whose report was published recently. The grant will, in fact, be paid to the Trustees of the Museum to be appointed if that Report is adopted. I regret to say that one at least of the other sources of revenue to the Museum envisaged by the Committee has not materialized, and the question how far it may be necessary to increase the Government contribution in consequence may be one of the matters to be discussed by the Standing Finance Committee.

[Mr. Pilling]

Under this Head also, hon. members will be gratified to observe that their efforts during the past few years have at last been successful and that the provision for Branch Line Guarantees has been omitted.

Under Head Local Government, Lands and Settlement there is increased provision of £3,420, of which £2,161 is accounted for by the introduction of a new Sub-head "Settlement Division". This is, however, not all new expenditure since £1,350 has been transferred from Head XXXIV, Trade and Information Office. Hon. members will, I feel sure, welcome this indication of Government's keen interest in the furtherance of settlement.

In connexion also with this Head, hon. members will recall that Sir Alan Pitt recommended the abolition of the post of Commissioner for Local Government, Lands and Settlement on the reorganization of the Secretariat. The Standing Finance Committee on the Draft Estimates for 1937 recommended that the office of Commissioner for Lands and Settlement should be combined with that of the Commissioner of Mines. In anticipation of the adoption of this recommendation and the reorganization of the Secretariat, provision for the salary of the Deputy Colonial Secretary has only been made for two months and no provision has been included for the salary of the Commissioner of Mines.

There is, too, a large increase in gross expenditure on account of the Posts and Telegraphs Department, amounting under the Recurrent Head to £9,646 and under the Extraordinary Head to £22,845. This is a joint service Department and the recurrent expenditure is subject to reimbursement; the net increase amounts to £3,168 only so far as Kenya is concerned. The whole of the extraordinary expenditure, however, is a net charge against Kenya and, in consequence, the total increase under the two Heads is in excess of £26,000. This sum is a fifth of the full net increase on the Estimates, but when they have studied the details, hon. members will, I think, agree with me that it is not capable of reduction. The Posts and Telegraphs is a revenue earning de-

partment; if receipts are to be maintained and increased, the public must be afforded satisfactory services. Owing to the financial stringency these services, through no fault of the Department itself but largely owing to lack of up-to-date equipment, have fallen short in recent years of a fair standard. The prosperity of the country is very largely dependent on sound communications and it is desirable that they should be maintained. A sum of £9,900 has been inserted to meet half the cost of a new Exchange for Mombasa. It is unfortunate that full provision could not be made, but it is felt that the addition of a further £9,900 to expenditure under this Head would have reduced the budget surplus to an unsatisfactory low level.

Under Head XXXV, Treasury and Inland Revenue Office, there is an increase of £6,079. This is mainly owing to the expansion of the Inland Revenue Office, necessitated by the introduction of Income Tax. During the last three years this office has taken over certain revenue collection work from the Administration, and the Education and Medical Departments. The increase now shown includes a transfer of £3,000 from the Miscellaneous Services Head, of £896 from the Administration and Local Government Heads and of £773 from the Treasury sub-head. The net increase on the Inland Revenue Office sub-head amounts, therefore, to £2,307, including provision for normal increments.

There is a general belief that Government, through the late Treasurer, gave an assurance that the cost of collection of Income Tax would not exceed £3,000. It is true that that was the tentative estimate given by him, but at the time he envisaged the introduction of a "simple" tax on the lines of the Bill published in October, 1936. As hon. members are aware, amendments were subsequently made in the Bill as passed, providing for example for the averaging of losses over 5 years and for the abolition of a personal allowance for non-residents, and this has necessitated additional staff over and above that contemplated by Mr. Walsh, who made it quite clear to the Select Committee that in view of the amendments adopted he could not adhere to this estimate of £3,000.

KENYA LEGISLATIVE COUNCIL

Estimates, 1938 120

119 Estimates, 1938

[Mr. Pilling]

I have now dealt with the main Heads of what may be termed normal recurrent expenditure, with one exception. I have not yet referred to the increases under the Public Works Heads—in that term I include Public Works Recurrent, Public Works Extraordinary and the Local Government Contributions to Local Authorities votes. To some extent these are elastic votes, since it is easier to adjust expenditure to revenue in matters such as maintenance of roads and the maintenance of buildings than it is in cases where there is a permanently employed personnel, and a large proportion of the expenditure is on account of personal emoluments. Even in expenditure of this nature, however, there is a limit to the reductions which can be made in the interests of economy, and a time comes when expenditure must be increased, otherwise the assets will depreciate beyond recovery and further capital expenditure will be necessary to replace them.

An attempt has been made to augment the funds available for the maintenance of the public buildings of the Colony, many of which are now falling into a state of disrepair. The Colony possesses approximately £2,000,000 worth of buildings, which on a normal computation of depreciation demand an expenditure of approximately £35,000 per annum; the amount provided on this account is £20,500 only. Many of the public buildings at present in use are unsatisfactory, but their early replacement is beyond the means of the Colony. The provision now made is admittedly inadequate but with limited funds it is impossible to carry out two policies at one and the same time. Either any attempt to accumulate a surplus must be abandoned or money must be rationed between services, however necessary and desirable expenditure on them may be. One cannot have it both ways.

The roads of the Colony demand annually increased maintenance expenditure in order to meet increased use and increased wear and tear owing to heavier traffic and greater speeds. Partly owing to the fact that it appeared that any substantial expenditure of public moneys on

roads would be uneconomic until a full road policy had been evolved, but mainly because funds were not available, the total provision in respect of road maintenance amounts to a modest sum compared with actual needs. However, it has been possible to restore to the Basic Road Grant 50 per cent of the reduction made during the depression years and a proportionately similar increase has been made in the provision allotted to the Public Works Department for expenditure on roads. As hon. members are aware, a sub-committee of the Central Roads and Traffic Board is at present preparing a report on which it is hoped that a comprehensive and long range policy may be framed. When a definite programme has been adopted, it will then be possible to ensure that the money available for expenditure on roads will be expended to the best advantage of the Colony as a whole and not in the somewhat haphazard method followed at present, which has been necessitated by the financial stringency of the last few years.

In conclusion, Sir, I hope that hon. members will regard the details of this Budget and the intimation which it reflects as following the middle course between extremes of optimism and pessimism, and I trust that the provision of what may appear a somewhat generous surplus will not lead to demands, either in the course of this debate or during the deliberations of the Standing Finance Committee, unduly to swell the total of expenditure.

MR. STOOKE seconded.

MR. HARRAGIN moved that the debate be adjourned.

MR. WILLAN seconded.

The question was put and carried.

The debate was adjourned.

Council adjourned for the usual interval.

On resuming:

TRANSPORT LICENSING BILL

SECOND READING

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

I suppose there are few subjects that have been more carefully examined in the

[Mr. Harragin] last few years than the subject this Council is asked to consider now. During the past 10 years it has been investigated in England there have been two separate committees sitting on it at different times, the last being the Saller Committee, the result of which was the Transport Act, 1933, of which this Bill to-day is to a great extent a copy.

We then come to our own investigations locally, and hon. members are aware that some time last year the three East African Colonies of Kenya, Uganda and Tanganyika, all simultaneously appointed committees to go into the report on this subject. This was done, and actually in the Kenya report a Bill very similar to the Bill now before us was included. After these different committees had reported, we had an opportunity of obtaining the valuable assistance of Sir Osborne Mance, who came out here and went through these territories and investigated matters himself and reported.

All of these reports have in due course been laid before members, and I have no intention of wearying the Council by repeating all the arguments contained in those reports, except just to state shortly the main objects of this Bill which, as hon. members know, seeks to co-ordinate and control transport.

The first object is to avoid wasteful competition, and when one refers to that one's mind must go automatically to the root of the real question. As you are aware, in Kenya at the moment there is an Ordinance which prohibits certain roads competition by lorries with the railway. Naturally, when this Bill becomes law, that particular Ordinance will not be revived, and it is on order firstly to avoid the necessity of continuing this complete prohibition, that this Bill is recommended to hon. members to-day.

It will also seek to avoid cut-throat competition among transport owners themselves. It will also endeavour to secure for the people of this Colony a little more security on the roads by insisting on the fitness of vehicles. Lastly, it will endeavour to control the hours during which lorry drivers or conductors, as the case may be, may be employed. This, of

course, has been found in other countries to be most important, as a great many accidents have been attributed in the past to the fact that drivers have been over-worked and tired, and so went to sleep, thereby causing accidents, and even death.

These are the main objects, and I do not think I can put it in better words than the words of a committee of independent experts of the International Chamber of Commerce. In their report they stated:—

"That the principal aim of transport co-ordination is to co-ordinate all means of transport in such a way as to secure for each of them the traffic for which it was best suited and to avoid overlapping the financial consequences of which the community would ultimately have to bear."

That is the real *raison d'être* in a nutshell of the Bill you are asked now to consider.

There are two main principles which run through this Bill. One is the fact that the committee or board which will have to administer the Bill is to be guided almost entirely by what is called "public interest." The second is that this is an endeavour to control lorries or buses or ships, which ply for hire. It is not the intention of the Bill to interfere with individual rights of owners except when they are plying for hire and reward. I know perfectly well you will find, principally for statistical purposes, in various clauses of the Bill people not exactly plying for hire who will have to send in returns and take out a certain small licence, but there is no intention of restricting the number of private owners.

With regard to the action taken elsewhere on the various reports I have mentioned, I may say that Tanganyika has already passed a Bill on similar lines to this, and that Bill will be available for the inspection of the select committee when it is appointed, and Uganda have started on a similar type of legislation.

Dealing with the Bill itself, the first item of interest is the fact that this Bill will only come into operation on a date to be fixed by proclamation, which will be only when the machinery is ready to work. Another important point is that it will be brought in only for those parts of the Colony which the machinery thinks

[Mr. Harrigan] at the time it will be able to control. That does not necessarily mean that we do not hope in due course to bring the whole Colony within the ambit of the Ordinance but, at the same time, it does allow us to begin slowly, and gradually develop.

If you have an Ordinance of this description, you have got to have someone to administer it. I do not make reference to clause 2, because that contains the ordinary definitions, but in clause 3 you have the establishment of a board. Since the committee, of which I had the honour to be chairman, reported on this subject, I notice that there has been an insertion, the Attorney General for some reason has been made chairman of the board. I merely state that in case anyone imagines that I signed a report recommending such a thing! He also has power to delegate his right as chairman to someone else, some other public officer. The object is that when he is unable to sit he will be able to delegate his task to the Solicitor General. That is the intention. If neither can sit, it may be necessary under certain circumstances to nominate someone else.

Besides the Attorney General, there will be four members. It has not been decided who these members are going to be, but I can say generally that they will be people who, in the opinion of Your Excellency and Executive Council, are the most suited to serve on a board of this description. The Governor in Council will also have to appoint the servants of the board (there will have to be certain servants, in order to carry out various duties imposed under the Ordinance), and also to settle their remuneration.

Another important point is that the board is given power in sub-clause (6) to delegate their duties, not only to individual members of the board, but also to any other person, such as a district commissioner or provincial commissioner. That is a matter of some small importance, because naturally you do not want to have a board of five careering all over the country, and by this power of delegation, which I have no doubt will be subjected to conditions, a great deal of the work in different districts will be able to be done by the officers mentioned for and on behalf of the board.

Clause 4 is really the principal clause of the Bill. It definitely lays down that all goods vehicles which "ply for hire or reward, or for or in connexion with any trade or business" shall be licensed. That is in sub-clause (4) (a). It also provides in the next sub-clause that buses plying for hire, namely, motor vehicles which are capable of carrying more than six people—that is to all intents and purposes the definition of a bus in this Bill—will also have to be licensed. In addition, ships that ply for hire in inland waters will have to be licensed in the same way.

I might make reference here to the fact that no provision has been made for licensing aeroplanes. The reason for that is that they are already controlled by regulations which are made at home and which can be applied here by Government if necessary.

The next point of interest is the fact that, having laid down these hard and fast rules that practically all lorries and buses must be licensed, we proceed in clause 4 (4) to exclude various vehicles which clearly should not have to be licensed. If you scan the list you will see such vehicles as delivery vans, or vehicles used for bringing in goods for treatment such as coffee to be hulled (this is for agriculture particularly, such as a planter on an estate who wishes to bring in the product of his neighbour, and has been in the habit of so doing, and will be permitted to continue to do so).

We then make reference in sub-clause (5) to local and public authorities who are also brought in in order that they may obtain the exemptions mentioned in the previous sub-clause. This also exempts such things as trailers to a car, vehicles used for funerals, and so forth. There is general power of exemption at the end given the Governor in Council to exempt any class of vehicle should it become necessary to exempt them in special circumstances.

In clause 5 is the type of licence to be given, and all through this debate we shall be able to refer to them as A, B, and C licences.

An A licence, which is a public carrier's licence, deals with what we know generally as a haulier's licence, whose business it is to convey goods all over the country. B

[Mr. Harrigan] licence is a limited carrier's licence, and refers to a man, for instance, who has an estate in the country somewhere and who is in the habit of coming into Nairobi in order to obtain goods for that estate: under a B licence he will be able to bring in goods for hire and reward from the district in which he lives. A C licence is what is called "a private carrier's licence," which means in effect that everyone who has a lorry will have to have some small licence for the purpose of record and, to a certain extent, a very limited extent, control.

An important thing to note in that connexion, particularly with regard to the A and B licences, is that the Board will be able to impose any conditions that it thinks fit. That is not quite as wide as those words imply, because later on in the Bill, and I will refer to it in due course, you will see that the board is restricted as to the type of conditions it is able to impose.

At the end of clause 4 is a small sub-clause which gives the board power to act in case of emergency. It is a very necessary sub-clause, in my opinion, because it may be quite impossible to call the board together at a moment's notice and go through the necessary advertisements and so on, and the board is permitted to act in case of emergency. For instance, to permit a man holding a C licence to have the advantage of using it as if it were an A or a B licence.

There are then set out the details as to which vehicles should be included in the licence granted, and it is perfectly obvious that you must give details of the vehicles you wish licensed in order that the board will be able to control the number of vehicles necessary in a particular district. For instance, there will be granted a licence for a 5-ton lorry, and that will not mean that a 10-ton lorry can be used, but provision is made for replacements so that if one lorry goes out of commission it will be very easy to get that replaced.

Licences will be in effect for one year from the date of being taken out, but we have made a provision to meet local conditions. There are temporary licences for a period not exceeding three months. The reason is that there are in this

Colony certain rush periods, and many of those who work during those rush periods are not general hauliers and only want to work for hire or reward during that period when it is necessary for producers to get their stuff away in a hurry; we are thus permitted to give three months licences to meet that demand.

Licences are not, of course, transferable, and no licence confers a vested interest, although it is difficult to believe that if a man had a licence granted for some years and had not abused it he would not have it renewed. But there is no guarantee that if he chooses to sell out that the next person who comes in will also be granted a licence, and that is what clause 8 means.

We come to clause 9, which appears to be misunderstood generally. There has been a suggestion (I have seen it in the local Press), not by the editor of the paper who, I am sure, know better, but by some correspondent or speaker, who was reported to have said that exclusive licences are not going to be subjected to all the restrictions, etc., attached to the A and B licences. If you read clause 9 you will see that, in the case of an exclusive licence, it will be advertised in exactly the same way as all other licences, objections will be heard in exactly the same manner, and there is this condition: that before the board can grant it it has to be approved by the Governor in Council.

Clause 10 merely sets out the form of application, and clause 11 gives a wide discretion in the case of A and B licences to the licensing board, and a very limited discretion as you see in (b) with regard to C licences. It also lays down a guide which must be followed by the board in considering these licences. Namely, if you read sub-clause (2) you will see that the licensing authority in exercising its discretion should have regard primarily to the public interest, including, the interest or interests of persons requiring, as well as those of persons providing, facilities for transport." That will be one of the guiding principles of the board all through its deliberations.

You will also see at the end of sub-clause (2) some further guidance to the licensing authority of which they must take judicial notice. These sub-clauses are

[Mr. Harragin]

put in of malice aforethought, in order to bind the board so that when it comes to appeal as a provision of the law that judicial notice will be able to be taken of the fact that it has regarded (a), (b), (c) and (d) which appear at the end of clause 11.

Clause 12 is a saving clause and protects the interests of existing interests. Lorries with existing licences which have been plying for hire twelve months before they make application to the board will (subject to an inquiry as to whether the applicant is a desirable person) will have no difficulty in getting their licences. It provides in effect that unless there is some big and sufficient reason for not granting them, all licences that have been in force at the date of application for twelve months will automatically receive licences under this Ordinance.

There then follows a form of application in the case of passenger-carrying vehicles, and in clause 14 you will see again that the discretion of the board is limited. For instance, the board in granting these licences will be able to make reference—we are now referring to buses—to the suitability of the roads on which the service may be provided under the licence, namely, that a man when he applies may be restricted to travelling over main roads; the extent, if any, to which the needs of the proposed routes are already adequately served—if for instance, the board had already granted a licence to some bus company to ply between A and B and that more than adequately served those two places the board would have the right to refuse to grant another licence.

You will see at the end of clause 14 the manner in which objections will be heard. I want to make it perfectly clear that when applications are made for these licences they are advertised, and either those already licensed and ply in the district or the local authority may appear and be heard.

Clause 15 deals with inland water transport licences and forms of construction, and I am going to say very little about them though they follow *pari passu* with the road licences which will be mentioned

from time to time, although of course there is only one type of inland water transport licence. Clause 16 gives the very necessary power to the board to obtain particulars whenever required for their investigation, and if the particulars are not given the board will have the right to refuse the licence until they are.

Part 4 deals again with road service licences—that is, bus services, and it will be seen that there are certain conditions attached to every licence by law. I refer to clause 17 (1) and this applies to goods vehicles as well as buses. It is interesting to note that it is a condition that all vehicles should be maintained in a fit condition, the point about that being this: It is all very well to go on the 1st of January and apply to the board for a licence; the lorry is examined and it is bound to be in good condition, and the licence is granted. But there is no guarantee that it will be kept in good condition, and therefore by law it is a condition of the licence that the lorry shall be kept in a serviceable condition if it is to be used on the road. Also, it is natural that it will comply with any law for the time being in force in such things as speed limits, weights and so on, laid down in any other Ordinance or rules.

There is power given to the licensing authority to attach conditions to these licences with regard to certain things. I have already mentioned one, namely—the route. It may be a condition in the licence only to ply along a route A to B; it may be a condition of the licence to take a certain class of goods; it may be a condition to forbid you to run about the town of Nairobi doing an ordinary haulier's work; also a condition may specify the maximum and minimum charge which may be made and the condition as to the employment of servants on these vehicles. In addition it will fix the maximum weight and of course this is important when considering the roads. I do not think I have mentioned it before but we hope as a result of this Bill becoming law to be able to prevent to some small extent a certain amount of the damage to roads which is done at present by lorries running in an unrestricted manner. Also in the licence is laid down the type of vehicle which may be used.

[Mr. Harragin]

With regard to buses you may fix the fares and arrange the time table and when so fixed that will be a condition, and when application is made you can attach to the condition of the licence something of this description "that there will not be a charge of more than 50 cents a mile" or whatever the amount may be. You can also make conditions as to stopping places and the times the buses run and so forth.

All that I have said, or rather, a great deal of what I have said with regard to buses you will find applying to A and B licences which refer to lorries in clause 17 (4). There again you can fix the minimum price, limit the carrying of certain goods and specify the district within which it shall apply.

Now clause 18 is a restrictive clause, really on the board itself, but permits the board to make reasonable variations in a licence already granted. When a licence is once granted, merely because a man wishes to change his vehicle from 3 tons to 4 tons or from 4 tons to 3 tons, it will not be unreasonable for the board to refuse him that transfer. You then come, under clause 19, to certain powers which are given to the board, e.g. where conditions specified in the licence have not been complied with when the board are authorized to revoke it. Naturally there will be the usual appeal if it is found that it has acted unjustly.

Clause 20 merely deals with the offences and the penalties, and clause 21 gives the manner in which applications may be made and heard and it lays down what I mentioned earlier—where an application is made to the board they shall publish details of that application giving opportunity to those in opposition to be heard. Sub-clause 4 is put in in order to make provision for any trifling or urgent matter being dealt with on the spot. That I think everyone will agree is a very necessary clause for reasons that I have given earlier on. Clause 22 makes the same provision for water transport and clause 23—probably the most important clause of all from the licensee's point of view of course—gives him the right to appeal to the Judge of the Supreme Court.

Part 5 deals exclusively with the offences and makes it an offence to forge a licence or commit perjury in making an

application. The penalty is restricted to £20 for the first prosecution and conviction and £50 for the second. Clause 27 gives the Governor power to impose fees and clause 28 provides for regulations. Clause 29 merely sets out that records must be kept of the work and journeys made in order that the Licensing Board may be able to check up on you.

These, shortly, are the provisions of the new Bill. I want to make it clear at this juncture (that this Bill is not introduced with the object of raising money. It is the intention of the Government to keep the fees as low as possible. And when I say as low as possible it is limited to go no further than that the fees should cover the expenses incurred by the board whatever they may be, and I do not envisage for a moment that they will be high. I think I can truly say that the fees imposed will not be such as to inflict any hardship whatever on the licensees. I won't put it too definitely but it will only be a very small fee and in the case of C licences very small, indeed, something perhaps about Sh. 5. These figures I will make it clear have not been gone into for until the Bill becomes an Ordinance the board will not be appointed and servants will not be appointed and so I cannot say anything definitely at this juncture. I will be very surprised if at any time the A licence, which will be the largest licence over a year will be more than Sh. 30.

A great deal has been said on this subject by those anxious to criticize it. I admit frankly that years ago it would have been called strong meat, because you are giving the board very considerable powers over the individual, but recent history has proved that every civilized nation has had to come to this in order to protect itself—but I do think it is a very wise thing to introduce it now. As you have heard from me it means in effect that practically every single lorry or bus which is licensed to-day, provided it is in proper running order, will be licensed as soon as the board comes into control and therefore, in practice there will be no immediate hardship. The only possible hardship which may be suffered will be, say, in some four or five years time, or in some time in the future when the increase in lorries or buses is out of all proportion to the needs of the Colony.

MR. WILLAN seconded.

MR. HARRAGIN: Your Excellency, I might mention that with your leave and with the leave of Council of course, this Bill will be sent to a select committee.

MR. PANDYA: Your Excellency, the hon. and learned member, in moving the second reading of this Bill, mentioned that the object of this Bill is to prevent wasteful and cut-throat competition, and also to regulate hours of employment, etc. In my opinion, he appears to have forgotten the main and principle object of this Bill, which is to safeguard the revenue of the railway.

I should like to make it clear, and it has not been made clear, that the committee appointed to investigate and consider the desirability of co-ordinating and regulating all forms of transport in the Colony, as in paragraph 18 of their report, said—

"We are aware that the Secretary of State and the Government of Kenya do not consider that legislation of the completely prohibiting type, such as the Carriage of Goods by Motor (Prohibition) Ordinance, 1932, which is designed to protect the railway against competition between the coast and certain up-country stations, can be maintained indefinitely, and that such protection as is justified in the public interest should be provided by a more flexible and modern type of legislation." That makes quite clear the intention and main object of this Bill.

The hon. mover also said that it would inflict no immediate hardship or other hardships. In regard to this, the prohibition ordinance was very much opposed by the hon. Indian members. It might be assumed that the present Bill is an improvement on that Ordinance. In my opinion, if I may compare the two, the one is the fever and the other is death, and we would prefer to have the fever (if we had the option) in preference to the death which, in my opinion, will be the result of this Bill.

The Bill, instead of reducing the hardships, will increase them. It will not only control the motor lorries or the motor buses, but will at the same time control

the dhows which were never intended to be brought under control by this legislation. It will also not only regulate the transport between roads parallel to the railway, but will at the same time regulate or control the transport on roads which are not affecting the railway. On the whole, therefore, it would not be correct to say that this Bill is an improvement on the other measure.

In this connexion, we have in this country fortunately a philanthropic and obliging gentleman whose official designation is the Hon. the General Manager, Kenya and Uganda Railways and Harbours. He not only spared his valuable time—I am quite sure his time is very valuable indeed—to prepare a very lengthy memorandum on the subject of control which he submitted to the committee of which he was a member, but he appears to have toiled very hard and burned a good deal of midnight oil in preparing the draft Bill which we see before us to-day.

I was under the impression that the legislation which we pass in this Council is generally prepared by the hon. and learned Attorney General, but it appears that, this time at least, he has been spared a great deal of the bother and trouble in the preparation of this piece of legislation. I was surprised that, for the first time, the hon. mover never made any remarks appreciating or giving the hon. the General Manager thanks for his trouble! This Bill is very largely, word for word, taken from the Bill which the hon. the General Manager drafted for the consideration of the committee and which is published on page 61 of the report. It is not disputed that he had not a very great share in that drafting. It appears as Appendix H in the report.

In a letter to the General Manager of the Tanganyika Railways dated the 16th July 1935, which appears on page 39 of the report, the hon. the General Manager, K.U.R.H., says:

"I am drafting model legislation for consideration" of the committee.

I should like to touch on the question of water-borne transport, or dhows, as affected by this Bill.

[Mr. Pandya]

This committee, in their report, on page 11, paragraph 30, say:—

"With regard to inland water-borne services, we are satisfied that there is no reason to restrict native canoes, boats or dhows on the inland waters so long as they provide services in the public interest."

According to this quotation, it was not contemplated that dhows should form part of the control scheme because, in the next paragraph, it is made quite clear that it should be reserved for other craft of a more serious type which would be in competition with the existing interests, namely, the Railway.

This question was very lengthily discussed by a subsequent report, that of Sir Osborne Mance, and even the hon. the General Manager, in submitting a memorandum to this local committee, appears to have defined the water-borne transport system, in Appendix G on page 44, as follows:

"Water-borne transport, apart from railway steamer and tug and lighter services, has existed for many years on the coast and also on Lake Victoria, where its chief form at the moment is dhows, providing a very cheap if somewhat slow and precarious transport in small quantities."

Yet this "precarious transport" is considered to be worthy of special attention by this committee and is included in this Bill.

Sir Osborne Mance was invited to look into this question of the co-ordination of transport, and after going very lengthily into the whole question of this water-borne transport he has, in his summary of his more important conclusions which he reached has said that in face of "present conditions there is no need to restrict the operation of dhows on Lake Victoria." In spite of all this, this Government has included the water-borne transport system, dhows, for control in this Bill.

There is another point in regard to these dhows. The main objection of the railway interests in transport against the road transport like motors, modern lorries, is really based on the issue that they pick

and choose the freight and that they carry the higher paid transport article, while the railway has to carry over its transport system the lower paid or export freights at very low rates. That particular thing does not apply to the dhow transport, because the dhows to-day are carrying the export articles at a very low rate, and this point was brought out in discussions by Sir Osborne Mance in his report. He said on page 38, paragraph 103:—

"At present dhows convey chiefly local produce between lake ports, including points to which a ship or tug cannot go."

In addition, the dhows do carry import cargo like corrugated iron, soap and sugar, which are very low-rated, and they thus fulfil a very important function. They are not in competition with the present system of transport, and I therefore cannot understand why they have been brought under this Bill. If, as the hon. the General Manager observes in his memorandum, and I suppose he believes, that this slow and very primitive form of transport, namely dhows, is hardly worth consideration, I do not think that there is any reasonable argument advanced by Government for the inclusion of these dhows under this Bill. If this slow-moving transport is considered to be also worthy of control, if we take a parallel case we may have in this country a request for controlling a similar type of transport on roads, namely donkeys and mule carts! They are also very cheap, very primitive, and a very old form of transport.

In this connexion, if we go a little further, we find that these primitive craft like dhows are also being allowed to carry commodities from different countries. We have to-day this system of dhow transport from India to East Africa and other places, and I have never heard of any steamship organization complaining against them or trying to control them, yet they are carrying articles at very low rates. It is exactly the same in the inland water-borne service between the various ports on Lake Nyanza.

The hon. mover has said that under clause 12 existing interests are to be safeguarded, and that people who have been running ships, dhows, and lorries for twelve months will get their licences auto-

(Mr. Pandya) matically, I appreciate that that is a very good safeguard but, at the same time, it does not necessarily mean that these people will continue to have these licences every year, and once they are brought under the control of the Bill, the tests have to be applied that are mentioned in this Bill, which are rather difficult when the time comes to apply them.

There is another point in regard to the dhows, and about the issue of licences. In clause 15, the licences are supposed to be issued after reference to the other territories of Tanganyika and Uganda if the route to be used includes a portion of the inland waters of either territory. This procedure is not only very complicated, but at the same time very unfair on the people holding licences in Kenya. To-day they are not licensed, but they can go to any port and do business. Under this Bill, not only will the Government of Kenya restrict them for ports in Kenya but it can also try and restrict them for ports in the other territories. Although at first glance it might appear that that provision would facilitate the application of a Kenya man for a licence, and at the same time obtain through the same machinery a licence from Uganda and Tanganyika, I submit that that is hardly the case.

What will actually happen is that, if I understand the hon. mover correctly, he mentioned that similar legislation is likely to be enacted or is being enacted in the adjoining territories, and therefore we must assume that there also the issue of licences will be subject to similar restrictions as in Kenya. The procedure, as far as a Kenya man is concerned, would be that he applies for a licence for Kenya ports, and also expresses his intention that he would like to have a licence for Uganda and Tanganyika ports. But the licensing authority or the board here under the Bill does not take any responsibility of pleading his cause and replying to objections raised by the Governments or licensing authorities of the adjoining territories. Therefore he will be at a great disadvantage.

In this connexion, it would be more advisable if, after all, it has been decided to have such a control system particularly

over the lake, to have an inter-territorial licensing authority or, in the alternative, it would be far better to allow an owner to apply for a licence in the various territories and be in a position to deal with objections raised in those territories to the grant of a licence to him.

Coming to clause 9 about exclusive licences, the hon. mover made it clear that the issue of these licences would be subject to the usual advertisement and hearing of objections. No doubt the actual procedure to be followed in regard to the issue of these licences would be subject to rules made under this Bill. But the important issue, and the main principle on which such licences would be issued, should be made clear. I submit that this clause does not make it clear. It simply gives authority to the Governor in Council for the issue of an exclusive licence, but does not make it clear under what circumstances the authority or Governor in Council would agree to the issue of an exclusive licence. That safeguard, if such a clause is necessary, should be provided.

Coming to the question of the composition of the board under this Bill, according to clause 3 it is suggested that the board should be formed with the Attorney General as chairman and four other members appointed by the Governor in Council. This provision is exactly the same as is suggested in the draft Bill of the hon. the General Manager. The hon. mover emphasized, and made it quite clear, that the people appointed on this board would be selected from the general point of view, but I should like to emphasize here that from every point of view it is very important that when such powers are delegated to the licensing authority all the interests concerned should be represented by independent people on that board.

In this connexion, Sir Osborne Mance in his report, after he had looked at it from all points of view and had travelled throughout all these territories and had satisfied himself about various interests involved, gave entirely different advice. On page 47, in paragraph 128 he said:

"I envisage appointments on the following lines: One member with legal qualifications, two members commanding the confidence of the European and

(Mr. Pandya)

official member to watch the interests Indian communities respectively, one of the native population, and one member with a general economic outlook, such as a banker."

This appears to me, coming from a man from the outside, as a very important recommendation, and no reasons have been given by Government or the hon. mover as to why and what are the circumstances under which it has been found necessary to go beyond this recommendation of Sir Osborne Mance. If we are going to follow the recommendation of the General Manager, who no doubt wishes to keep this board in the form he has suggested, what are the sound arguments and reasons advanced for making a board of such representation?

The hon. Indian members take clear objection to the general principles and composition of these boards on general lines, and we are speaking from experience. We have to-day in this Colony provision for such general appointments on the Railway Advisory Council and the Harbour Advisory Board, and the result has been that the Indians have not been able to find a place in those boards. The Indians are considered to be unfit or to be of any use in such important bodies, and is there any guarantee that they would fare better in such a general provision of this nature under this Bill in a very important board which controls their destiny?

I think, Sir, it would be quite correct to say that the interests involved by this legislation are mainly, if not entirely, Indian. To-day we have on the road motor lorries, motor buses, which are very largely under the control of and run by Indians. To-day we have on Lake Victoria a water-borne service in the form of dhows, mainly controlled by Indians. I submit, is there any fairness or justice implied in this recommendation, that such interests should not be safeguarded by providing for this representation on this board?

It was this point, I submit, that Sir Osborne Mance very forcibly put into his arguments and recommendation as to the composition of such a board, which I submit is a very representative one, and

one which should have been accepted by Government in this Bill.

I do not believe for a moment that if we bring these points forward to the notice of Government at the proper stage that it would be denied to us to have any representation on such a board, but I raise in these circumstances a legal and more substantial claim than the general clause to allow the Governor in Council to nominate an Indian on this Board. I submit that this is a very important issue from our point of view. If we cannot escape this modern legislation, which happens in very many cases to arise out of the necessities of the modern transport systems, I think the least which we can expect is to have these interests represented in a board which is going to deal with these things.

I hope, Sir, that this point will receive the favourable consideration of Government. I should also like to hear from the hon. the Attorney General when he replies to this debate that Government is prepared to give representation to these very important interests.

Now, Sir, this Bill and the restrictions which it imposes are subject to a test which they call "public interest". That is defined in this Bill as meaning "the interests and convenience of the inhabitants of the Colony as a whole." Further on, it defines it as meaning the interests of the people of various localities. This definition of public interest is very wide, and I submit it affords no protection to the interests concerned. When you can interpret a clause which is of so wide a nature it is very difficult to believe that anyone is going to get any benefit out of it. If local people are affected, the interests of the country as a whole must be taken into consideration, and when the interests of the country as a whole are taken into consideration the interests of the local people go by the board. So that I do not think it forms any guarantee of safeguarding interests under this clause.

I should like to draw attention to certain differences between the original draft recommended by the hon. the General Manager and the present Bill. Clause 3 (6) reads:—

"The licensing authority may delegate to any individual member of the

[Mr. Pandya] licensing authority, or to any Provincial Commissioner, District Commissioner or any other person, any of its functions under this Ordinance."

In the original Bill the authority was to be delegated to "any Provincial Commissioner, District Commissioner, or other person," but in the present Bill we have given further authority to an individual member of the board who can exercise the functions of the board.

In the original Bill we was also stated that any act done by these people should be subject to the approval of the licensing authority, whereas in this Bill it says, "shall be subject to the prior approval of the chairman."

Here are two important principles involved, namely that you delegate the power of the board to a member and you need not have the approval of the whole of the licensing board but the prior approval of the chairman shall be quite sufficient. Where, in this Bill, is any safeguard for the poor transporter? For it appears that under this Bill it would be perfectly right for any one member of the board to exercise the powers of the board so that he will be able to control the system of transport in any particular district. These powers are very wide, and I think the select committee would be very justified in looking into this question and trying to do what they can to improve this clause.

Clause 16 introduces a very new principle, if I may say so, as regards legislation of this type. It lays down that the applicant for a licence shall give particulars of his business as a carrier of passengers or goods carried on by the applicant "at any time before the making of the application and of the wages and conditions and hours of employment of persons employed in connexion with the vehicles or ships proposed to be used under the licence."

This particular portion does not appear to be in the original draft of the hon. the General Manager, and there are no reasons given except that the hon. mover said it is very necessary to control such employment from the point of view of preventing accidents with motor lorries or such transport. In regard to those, where

is the chance of having an accident by the men working on them?

I am not against such legislation; it is practically social legislation. I am not against the principle of hours of working being imposed on people who are working in different spheres of life. But I very strongly object to such principles being brought under this Bill. This Bill has nothing whatever to do with hours of employment or the way in which people work. The main object of it is to control transport, not wages and conditions and hours of employment.

Before I conclude, I should like to bring to the notice of this Council a very important provision which is supposed to be the main structure for the objects and reasons of such a Bill. Sir Osborne Mance in his report, page 59, has mentioned in his summary of conclusions that

"Steps should be taken to reduce the highest railway rate to 50 cents per ton-mile, the necessary compensation being found either by raising the lower class rates, other than those export rates which are based on world prices."

I should like to ask the hon. the General Manager what attitude he and his Railway Advisory Council are going to take on issues like this? If you force on the country this legislation, which is restrictive, it is implied that simultaneously you also have to carry into effect the recommendations of an authority like Sir Osborne Mance. I believe that that is the main ground on which such legislation will be brought in. Will the railway be prepared to fulfil their part of the obligation before they ask other people to shoulder their burden for them? There is another reason at the present moment for the railway to make adjustments as suggested by Sir Osborne Mance, because I think they are in the very happy position, perhaps exceptional, that they have very large funds at their disposal, and we are all very much concerned to see that the higher rates should be brought down.

I oppose the motion.

The debate was adjourned.

ADJOURNMENT

Council adjourned till 10 a.m. on Tuesday, 9th November, 1937.

Tuesday, 9th November, 1937

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Tuesday, 9th November, 1937. His Excellency the Governor (Sir Robert Brooke-Popham, G.C.V.O., K.C.B., C.M.G., D.S.O., A.F.C.) presiding.

His Excellency opened the Council with prayer.

MINUTES

The minutes of the meeting of 5th November, 1937, were confirmed.

PAPER LAID

The following paper was laid on the table:

BY THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT:

Return of Land Grants, 1st July to 30th September, 1937, under the Crown Lands Ordinance.

ORAL ANSWERS TO QUESTIONS

NO. 59—LADIES' COMPARTMENTS,

K.U.R. & H.

MR. ISHER DASS asked:

Will the hon. General Manager of the Kenya and Uganda Railways and Harbours Administration be pleased to state whether arrangements for the reservation of the third class compartments for ladies have been made?

THE GENERAL MANAGER, K.U.R. & H. (SIR GODFREY RHODES): The Railway Administration has accepted the principle of providing a reserved compartment for women in third class bogie coaching stock, and the work of converting existing stock to provide such a compartment is proceeding as expeditiously as possible. To date, six coaches have been converted, and the remainder will be altered as opportunity offers. Twenty-nine new coaches on order are designed to provide a separate compartment for women passengers.

TRANSPORT LICENSING BILL

SECOND READING

The debate was resumed.

MR. MANGAT: Your Excellency, the assurance given by the hon. and learned mover that this Bill is being submitted to a select committee is no consolation at all to me, because the committee might as

well try to make a silken purse out of a sow's ear.

This Bill contemplates the congestion of traffic as it exists in Great Britain. It contemplates the competition between airways and roads as it existed or does exist in that same country. It also hopes that the inhabitants of this country have the same standard of civilization as the people living in that country.

The hon. mover, in introducing the Bill, made several apologies while he was doing so, because I cannot describe them as anything else: he was conscious of the fact that he was trying to impose something on this country which did not suit the country. He said that every civilized country has adopted a similar sort of Bill. That is a very extravagant claim to make that this country is also so much civilized as to warrant the imposition of such a measure. The country had in 1936 only about 700 convictions for traffic offences, while in England they probably had 150,000 in one year. To claim that this country is so civilized when not so many offences in driving have occurred is really extravagant.

Further, he said that this was trying to control and co-ordinate traffic. There is very little of co-ordination in this measure, but plenty of control.

The English Act from which this Bill has been compiled, the Road and Rail Traffic Act, 1933, provides not only for road transport representation, but to a certain extent provides for control on the railway, and the board appointed under that Act has certain powers to deal with the railways also. That Act does not include in its control of public service vehicles, and it has nothing to do with shipping, except probably with the small shipping which operates in the canals of Great Britain. So I cannot possibly accept that this Bill is anything like the English Act.

As a matter of fact, certain parts of that Act have been taken up, while many good points which were essential to safeguard the rights and liberties of the people who are to be governed by this Bill. The Act of Great Britain is based mainly on public interest, and this Bill many times enunciates that it is based on public interest. The phrase "public interest" has been de-

[Mr. Mangat]

lined, to my great surprise, because it is something which has not been defined in the Road and Rail Traffic Act of 1933, and it is I think as difficult to define as the hon. and learned Solicitor General once said to define a "reasonable man". But an attempt has been made to define "public interest" in this Bill.

Public interest in this country is not on the same level as public interest in England. Here we have at least three communities, of whom one numbers about 16,000, the next about 40,000, and then the predominant community, the indigenous natives, numbering about three million people. When you put into effect the provisions of a Bill in which you are to be guided by the public interest, I wonder which interest will be meant? Is it according to the rules of trusteeship that the native interest must prevail, or the interest of those who, as the hon. and learned Attorney-General said, had reached the standard of civilization in this country?

I can see that if the native interest is to prevail, certainly this Bill will not give so much protection as the natives deserve. It certainly protects existing interests but it does not protect future interests. At the present moment natives have practically no share in the transport of this country, except probably as working as drivers of vehicles owned by other people. Shortly, however, the natives may be coming into possession of their own vehicles, and this control will be so much tightened that not a single native will be able to put a vehicle on the road, for the needs of the community will then probably be sufficiently filled by the transport vehicles then on the roads, so I fail to understand how the predominant interests can be satisfied.

If you mean the interests only of those people who are civilized enough to be counted as having a share in the government of the country, the interest is small compared as to the main interest.

The hon. member Mr. Pandya had a great deal to say about the constitution of the licensing authority. He seemed to be content if Your Excellency gave representation to the Indian community on that licensing authority. I do not agree with him at all, because the licensing authority—when you read all the qualifications contained in clause 3—is really

nothing but the chairman and one member of the board, or a district commissioner or provincial commissioner.

The licensing authority may meet, and then simply delegate its powers either to its members or all the district commissioners and provincial commissioners, and after that it need not meet. Another meeting would not be called, and there is no provision, as far as I can see, that once it has delegated its powers that it can revoke them. So what it comes to is that whether there is an Indian representative on that licensing authority or not, its powers can be delegated, because that is the only practical thing to do, to provincial commissioners and district commissioners, except that the chairman may from time to time give approval to the actions of the delegated authorities.

A great deal has been said in the Press about the "Indian attitude" towards this Bill. I wish to say that we shall have no objection to the Bill if it is put on a basis which gives a share in its government not only to us but to all the interests affected, a proper share as is given in the English Act.

This Act of 1933 has a constitution of its own. This, shortly, is that the licensing authority comes first, this being the chairman of the Traffic Commissioners for any particular traffic area. To hear appeals from his decisions there is the Appeals Tribunal, which is more or less our licensing authority here. Then comes the Minister of Transport, and with him there are various Advisory Councils. One may say that under this Bill we have first the licensing authority as constituted under clause 3, after which we have the Supreme Court which may hear appeals from that licensing authority, and then we have the Governor in Council, who are in the same position as the Minister of Transport; then we have the advisory boards of the railway and roads.

But the fundamental difference in this constitution is that while our advisory boards do not take anybody they do not consider clever or intelligent enough in these matters, in Great Britain the boards are properly constituted of representatives of the people affected. The advisory boards under the English Act consist of: users of mechanically propelled vehicles; 5; trading interests (including agriculture),

[Mr. Mangat]

5; local authorities, 6; railways, 3; labour, 3; coastwise shipping, 2; users of horses and horse-drawn vehicles, pedestrians, pedal cyclists, canals, and harbours and docks, 1 each, making altogether 29 members. Here, the Railway Advisory Council so far has not even found a place for one Indian out of the 40,000 stationary population of the country who is able enough, in Government's opinion, to serve with other members.

If you give us that constitution which is provided in the English Act, if you wish to impose a measure on more or less the same lines as that, give us this constitution also, and we are prepared to come in, thus giving proper representation to all interests. If you give us that constitution I assure you, Sir, that you will have our whole-hearted support. But if Government cannot give us the assurance that Indians will be represented at all how can you expect us to support a Bill which is meant to govern these interests but yet is not meant to invest them with any responsibility in that government?

As I said before, clause 3 (6) gives full authority to the licensing authority to delegate its powers to any official. Once that power is delegated, it really comes to this, that the chairman of the board and that official are the sole masters of the conduct of this Bill. The other members of the licensing authority will have no voice in saying what should be done or what should not be done.

The licences provided for in this Bill are on the same basis as in England. It is most unfortunate, in my opinion, that Sir Osborne Mance when drafting his report was considerably influenced by the legislation in England. He constantly refers to the A, B and C licences in his report. But he took the line of least resistance. He simply looked up the English Act and said, it might do for this Colony. I wish he had produced something which could be applied to this country, something different from the Act which applies in England, because I say with confidence that conditions in England are far different from conditions in this country.

He might have thought that that Act could be applied to certain portions of East Africa. It might possibly be applied to Uganda, which is more advanced and

is much more civilized, as far as the native population is concerned, than Kenya, while the roads are in better condition, thus offering a great temptation to speed. This Bill might usefully have been imposed in Uganda, but in Kenya Sir Osborne Mance himself admits that the transport problem is in the hands of more responsible people, not in the hands of people as it is in Uganda, that the transport problem was being controlled by people who are responsible. In making his recommendations, if he referred to A, B and C licences, he should have produced something which would have applied to conditions in this country. He did not, and more unfortunately still, after his report came out our Government also took the same line and conveniently brought out a Bill on the lines of the English Act.

In England, the licensing authority is the licensing officers whom Your Excellency is empowered to appoint here under the Traffic Ordinance. And that is the most practical thing to do. You have now licensing officers for nearly every district. They examine the vehicles, issue licences, control the traffic, and in fact have a separate office called the Traffic Office under the control of the Commissioner of Police. If these licensing officers have been coping with this traffic so far, and I should say, satisfactorily, why have a special board consisting of these members? It is most unusual, and what necessity is there for it while the police officers have been doing it, and can do it? The fact is that the licensing authority as constituted in this Bill of three or four members, instead of becoming a sort of appeal court, has become as it were licensing officers, while appeals lie to the Supreme Court with the inevitable waste of time and of money in following the procedure of civil suits.

The licensing authority will be the district commissioner or provincial commissioner with the chairman, who will ratify or approve their actions. Even if representation on this board is given to the Indians or any other interest, it would merely be a matter of form.

The next clause I wish to deal with in the Bill is clause 6. Under this is fixed the duration of all licences, unless previously revoked, for one year. These

[Mr. Mangat] licences differ, they are for different purposes, and I think in England you get, for instance, an A licence issued for two years at a time, a B licence for one year, and a C licence for three years. I consider that is a most excellent way of dealing with the problem. Licence C, as it does not harm anybody at all, it is a private licence for an individual or firm carrying on their own business, why make it that every year they have to ask for a fresh licence? It should be for three years unless they wish to change it for another type of licence. But here we fix the period for one year in every case.

If this Bill is going to pass at all, these periods should vary according to the merits of each licence.

Under clause 7, you make a licence non-transferable. That is a very good thing to do because, after all, licences are valuable assets which should not be transferred so lightly. But, all the same, I wonder what will happen to the man who wishes to sell a lorry which is licensed and he is not allowed to transfer his licence, or if he wishes to leave the country and after disposing of his transport vehicles he is unable to transfer the licence unless he has the leave of the licensing authority? Even then there can be objections to that transfer, for if a man puts in an application for a licence it may not, because of his bad conduct, be approved. Again, if he wishes to have a lorry he has bought from some other person licensed, there may be objections. But how can a man who closes his business and wishes to leave the country dispose of his lorries unless the licence is transferable?

Clause 9 of this Bill gives exclusive licences. This is a very dangerous principle. If you really wish to safeguard the interests of natives you must not, in my opinion, allow anything of this sort. An exclusive licence may have its advantages in populous towns where a certain sort of control is really desirable, but in this country where we have vast tracks of land with sparse populations, where the traffic is not confined to the roads at all but to side roads and tracks where the population lives in villages, I think the granting of exclusive licences will be a very dangerous proposition.

If once granted in one traffic area it may spread to other traffic areas, and deprive the natives absolutely from owning any vehicles of their own. I know that when an exclusive licence is granted Government may be able to impose certain conditions as to charges and other things which they desire in the public interest. All the same, once this principle is introduced the whole transport problem will become a sort of monopoly, and I strongly oppose this provision. I may mention that this is not contained in the English Act. It could not be in such a sensible country. So why have it here? Even if you wish to attract capital from the outside for investments in transport because you have exclusive licences, even at the sacrifice of that you should not allow this clause to go in the Bill.

It becomes all the more dangerous when you apply it not only to passenger traffic but also to goods. There is a partial exclusive licence for the Railway carrying goods, but if it comes to be applied to motor transport in a few months you will find that the Railway will have its own transport vehicles and private vehicles will go off the road.

I wish now to deal with the discretion of the licensing authority which is conferred under clause 11 of the Bill.

It says: "On an application for an A licence or for a B licence, shall have full power in its discretion either to grant or to refuse the application, or to grant a licence subject to such conditions as it may impose." That phrase, "to grant a licence subject to such conditions as it may impose," is very wide. Your Excellency in Council will have power to formulate conditions, but the licensing authority is trying to usurp the functions even of the Legislative Council. It can impose any sort of conditions on these licences. I would strongly oppose that, for the licensing authority, which under this Bill is the lowest authority, should not have that vast power in its hands.

This clause does not only give the licensing authority power to put special conditions on A and B licences, but under sub-clause (b), "on an application for a C licence, shall grant the application, subject to such conditions as may be necessary in the public interest." Again these words "public interest" have been put

[Mr. Mangat] forward as a shield. In the previous Bill published for criticism, it was compulsory for the licensing authority to issue a C licence, and it is so in England; you cannot stop the issue of a C licence unless the applicant is the holder of a licence which has been suspended or revoked. In the English Act it does not say "subject to such conditions as may be necessary in the public interest." There are no conditions to the issue of a C licence. If you impose conditions, a man will be deprived of making use of his own lorry for his own business. A C licence should not be exposed to such danger from the licensing authority. I do not know why, after the first Bill was published, this condition was found to be essential: this condition of public interest, so that a C licence could not be issued without being subject to conditions.

In the same clause, the licensing authority "shall have regard" to certain circumstances, primarily, of course, public interest, whatever that may mean in this country, in proceeding to issue A, B or C licences. There is an additional clause in the English Act which I think could have been applied very usefully to this country. It says, "To the extent to which the vehicles to be authorized will be in substitution for horse-drawn vehicles previously used by the applicant for the purpose of his business as a carrier." I will go further and say that even a man who is carrying on a transport business with bullock carts should be allowed to substitute them for lorries. That is the way to induce him to take some progressive action, not that a man now carrying on with horses should be deprived of being able to have motor transport and be treated as a new applicant under this Bill.

There is another additional section, a very important one, in the English Act, which is missing from this Bill. That section is: "In any case in which the licensing authority refuses to grant a licence, or grants a licence which differs from the licence applied for, or imposes conditions to which the applicant does not agree, the licensing authority shall, if requested by the applicant, state in writing the reasons for its decision." This is missing, and I think it most essential it should be in the Bill, because when a case goes to appeal,

there must be some record as to why the licensing authority have refused that licence. There is provision that if a licence is suspended the licensing authority shall state its reason, but, prior to this, it is also essential that the authority must state its reason why it will not give a licence.

Coming to clause 12, this is "Protection of existing interests" according to the marginal note. We were given to understand by the hon. and learned Attorney General that existing interests will not be prejudiced at all, that there would be a more or less automatic process of renewing licences. But I would ask Your Excellency to read with special care the words that occur in line 8 of this clause 12: "having regard to the previous character of the applicant as a carrier of goods, he is not a fit person to receive a licence."

When existing interests put in their application for the issue of licences, why should the licensing authority go beyond what is the present? Why should they go back to the conduct of an applicant before the application is submitted, and why give the right to the licensing authority to refuse licences? If we protect existing interests without any qualifications, we should accept all the applications and issue the licences. But here again a very strong reservation has been made, and the licensing authority can refuse to give a licence to a transport contractor, saying that his conduct is not up to the standard that they want.

The next portion of the Bill is "B—Passenger-carrying Vehicles." The Road and Rail Transport Act of England does not include these provisions, and in this Bill they are redundant, because we have a Traffic Ordinance which was passed in 1928, a very comprehensive Ordinance, in which there are fully thirteen sections devoted to passenger-carrying traffic. Nearly everything contemplated in Part B of this Bill is contained in that Traffic Ordinance. The difference is, of course, that the licensing officer under the Traffic Ordinance is appointed by Your Excellency, while under this Bill it is the licensing authority.

In the Traffic Ordinance there is nearly everything provided to control this traffic. For instance, the examination of vehicles, the issue of licences, compulsory insurance of vehicles and third party risks, and

[Mr. Mangat]

the appointment of certain places where the vehicles shall stand or start from or stop. Under this Ordinance all these things are dealt with in a very practical manner. If the licensing officer does not pass a vehicle or issue a licence, all the applicant has to do is to write to the Governor and submit a petition, and the Governor will say that if such and such defect is attended to, the licence will be issued. Under this Bill, an applicant has to go to the Supreme Court and file an appeal as in a civil case and incur all the costs. I do not know what the provision is, but in the end he may have to suffer the costs of the hon. Attorney General as representing the licensing authority.

Then we come to the conditions under clause 14. They are nearly all directed towards one matter, the suitability of the roads on which the service may be provided under the licence. That in itself would show that the Railway even can object to the issue of licences for vehicles. The passenger vehicles should be exempted from the operation of this Bill, for the reason that the passenger traffic of the Railway is probably 8 per cent of the whole amount, and it is not so vitally affected as in the case of the carriage of passengers. Then we have the difficulty in this country of the railway stations being at distances of several miles from the towns proper. Take the case of Thika or Nyeri. At Nyeri the station is nine miles away, and at Thika about three miles, and transport is not available in those out-of-the-way places.

This traffic is amply regulated by the Traffic Ordinance, 1928.

There are further restrictions, which will be a great hardship on the people who use this motor transport. Now we have passenger vehicles from one point to another; they even collect people from their houses and leave them at their houses, and even go out of the way up side tracks. I would urge on Government, even if this Bill comes into force, that passenger vehicles should be excluded and remain controlled as they are under the present Ordinance, or a separate Bill be brought in for the purpose.

Then we come to "Part C—Inland Water Transport Licences." My colleague the hon. member Mr. Pandya dealt with

this on the ground that it was not desirable, and Sir Osborne Manice repeatedly says himself that there is no need for interference with the dhows on Lake Victoria. This is his recommendation, and I do not see any reason why, in spite of that, Government should bring in a Bill to govern these dhows and the small waterways traffic.

Under clause 16—"D—General"—is "power to call for further particulars". It is quite right if the licensing authority should do so, but the last three lines of the clause require the applicant to give particulars of "the wages and conditions and hours of employment of persons employed in connexion with the vehicles or ships proposed to be used under the licence". Again, I am sorry to repeat it, the conditions prevailing in this country do not warrant such a mass of conditions. How can you imagine a native driver to be capable of keeping a register and records of work asked from him in other clauses, and charges and conditions and hours of employment? The hours of employment are very uncertain. If he goes with his lorry to Moshi he may stick on the road and may be there for three days. For that time he may not be idle, but hard at work trying to get his lorry out of the mud.

I think it absurd that these conditions should be made for the people in charge of the transport in this country.

Under clause 17 certain conditions are imposed; the vehicles to be licensed must comply with certain provisions before they are put on the road. I submit that these matters are already provided for under the Traffic Ordinance.

It may be that the provisions of the Traffic Ordinance are not enforced as strongly as they should be. At the same time, there is no guarantee that the provisions of this Bill will be enforced strongly, but there they are. Certainly the Traffic Ordinance does not allow a motor vehicle to be put on the road unless it is in a fit condition with two efficient brakes, a good horn, an efficient silencer, and all those things. And perhaps the conditions are more comprehensive than in this Bill, but we are repeating them here to make them a condition precedent to the issue of a licence.

[Mr. Mangat]

It may be that if any of these conditions are violated by anybody his licence may be liable to suspension or revocation. That is very hard. Under the present law, if a man contravenes any section of the Traffic Ordinance he is summoned to the court and has a full opportunity of producing evidence; if he is found guilty he may be fined. It is only in very serious cases that a licence is revoked or cancelled. Under this Bill, the licensing authority, simply because a man contravenes any of the conditions, suspends his licence; the poor man can appeal to the Supreme Court, which quite possibly may say that the decision is on facts and that they cannot possibly upset it, with the result that there is a black mark against that man.

Under clause 17 (2) (e) we have "such other conditions as may be prescribed in the public interest or with a view to preventing uneconomic competition." Such other conditions—which means such conditions as the licensing authority may impose. That authority should not be given such wide powers without the approval of the Executive Council or the Legislative Council. In this Bill we have the licensing authority laying down such conditions as are impossible to be complied with about rates and charges. Pages 14 and 15 are full of conditions applying to the several licences. Most of them are left in the hands of the licensing authority. We have not reached a stage where we should have Belisha Beacons and Harragin Halts constructed on our roads!

Clause 17 (3), on page 15, imposes still more conditions, that "the fares shall not be unreasonable," that "where desirable in the public interest the fares shall be so fixed as to prevent wasteful competition with alternative forms of transport," that "copies of the time-table and fare-table shall be carried and be available for inspection in vehicles," and so on. It may be most desirable, but at the same time we have in the present Traffic Ordinance power so that the Commissioner of Police can fix the fares and compel every driver to put a list of them in his omnibus; so this is redundant. The Traffic Ordinance provides for all these things, and still we are making them more stringent.

Then we have that "Passengers shall

not be taken up or shall not be set down except at specified points." Again, are conditions in this country such that you can comply with this condition? You cannot if you wish to. No matter how conscientious a driver may be, he cannot possibly be told by the licensing authority to start at a certain point and stop and set down passengers at certain points. You find passengers starting from Nairobi on foot for some place, and they are picked up and set down at any point which is convenient to their village.

Coming to clause 19, it gives power to the licensing authority to revoke or suspend a licence. This again is a very wide power. A licence in any class, including C licences, which is a very simple one, may be revoked or suspended on the ground that some of the conditions have not been complied with. It will be very difficult for people to retain their licences because they have to comply with so many conditions, and it is absurd to expect native drivers to comply with them.

Again, it is regrettable that a most important section of the English Act has been left out. Here, full power is given to the licensing authority to suspend or revoke a licence. In the English Act there is a proviso which reads, "Provided that the licensing authority shall not revoke or suspend a licence unless he is satisfied, after holding a public inquiry, that the person concerned has been wilfully and consistently contravening the provisions of the law." That is a very essential provision, for you must give a chance to people affected by it. He can demand an inquiry, and only if it is found that a condition has been wilfully broken is his licence suspended.

On page 18 of this Bill we have clause 18 (3) (a) which reads, "an application which the licensing authority is bound to grant." It may be a matter of amendment, but it bears on the principle of the Bill: for in this Bill there is not a single application which the licensing authority is bound to grant. They have always got something in hand, something up their sleeve! I would have expected that at least applications for C licences would necessarily be granted; but that is also reserved, and I cannot see a single thing in this Bill where an application is bound to be granted by the licensing authority.

[Mr. Manga]

Coming to clause 18 (5), it says, "The licensing authority may hold such inquiries as it thinks necessary or the proper exercise of its functions under this Ordinance"—I have no objection to that—but "including inquiries into the applicant's reliability, financial stability, and the facilities at his disposal for carrying out mechanical repairs." Is not that most unnecessary? Why should the licensing authority go into the financial status of a man applying for a licence? What right has it?

Supposing a man obtained assistance from a moneylender and he does not disclose it in the particulars, he might be convicted under the Ordinance for not giving particulars. I do not think such a provision occurs in the English Act, for I do not believe the English people are so foolish as to expose their people to a public inquiry. If you begin to make such inquiries you will have people asked to render their balance sheets, and in the case of individuals it will be impossible to do so. Again, under the Traffic Ordinance, if a vehicle is not fit to go on the road it is not fit and is stopped. Here, you want an applicant to give security that if his vehicle breaks down he will repair it. Under the existing Ordinance, if the vehicle is out of order the whole licence is lost. There is no sound reason to subject a man to such security under this Bill.

Coming to clause 23. This is the appeals section. Under this is given the right of appeal to three parties: the applicant when his licence is not granted or a variation is made; any person who, having made an objection, is aggrieved by the decision of the licensing authority; and the holder of a licence who is aggrieved by the revocation or suspension of his licence. Under sub-clause (2), "the case shall be heard by a judge of the Supreme Court to be assigned by the Chief Justice for the purpose." I think the words "to be assigned by the Chief Justice" are unnecessary, because the Chief Justice may assign himself, or, instead of one judge for all occasions, may assign different judges at different times.

The point is that if you go to the Supreme Court and appeal you have first to pay the fees. Under this Bill, no indication is given that in cases of hardship

there will be remission of those fees, but in England there is such provision. Here, the man pays the fees, the appeal will be taken in the Supreme Court before a judge, who "may permit any party to appear before him either personally or by advocate." Why "may"? What is the meaning of appeal? Even in civil appeals the party has the right to be heard, and even in the criminal court the man convicted is heard. Here it is said that he "may" be heard personally or through his advocate.

First, I should like to give these appeals to a sort of tribunal, as in England, where matters can be discussed freely and without the formalities of the court, and in the absence of an atmosphere which is strange, and where the costs are less, because you cannot get out of court without spending something! There are no rules apparently to govern appeals under this Bill, but I take it that the Civil Procedure Rules will apply.

If the appeal is by an applicant for a licence, who is responsible for his costs for going to that appeal? Is Government going to pay if it loses, or is he going to be mulcted in these costs? There is no provision for that, but no matter whether he loses or wins there is a great amount of money involved, and costs would be awarded and taxed by the Registrar. It will be found that it costs about £25 or so for one appeal. I make it that the board would be represented by the Attorney General, and the applicant may be a poor native.

Coming to the "Miscellaneous Provisions" on page 21, here "the Governor in Council may make regulations for any purpose for which regulations may be made under this Ordinance." In every Bill which comes before this Council we give that power to the Governor in Council, but I say that the regulations are as much the law of the country as the provisions of a Bill are, and the regulations are simply made and published and begin to be the law of the land without the approval of this Legislative Council. For instance, under the Road and Rail Transport Act, the Minister of Transport has power to make regulations. Our Governor in Council is more or less in the same position as the Minister of Transport in England as regards these matters. The

[Mr. Manga] Minister is empowered to make regulations, but under what conditions?

The first condition is that when making them he may or should consult representative bodies who are going to be affected by them. He usually does consult them. Secondly, the most important thing, when he has framed them he must submit them to both Houses of Parliament for approval, and when that approval is given they become law. That is the most important condition attached to those regulations in England. Here, the Governor in Council receives regulations framed by one head of a department, and they become law. It should not be so, and when the whole population of the country is going to be affected by them they must be submitted to the Legislative Council for approval.

Among the "Objects and Reasons" we have this clause: "Such expenditure of public funds as will be necessary if this Bill becomes law will be covered by additional revenue." The very words "additional revenue" are clearly annoying to anybody in this country. We have had enough of additional revenue, and the transport people who have to make it up will pass it on to the consumer or the public or those people in whose interests you say you are imposing the Bill on the country, even if it is another Sh. 5 or Sh. 30.

But there are no schedules attached to the Bill as there are in the Traffic Ordinance to show what the charges will be. It may be nothing, and the present estimate may not be enough to cope with the staff and establishment, and you may have to increase the expenditure. There will be some; it may be small, but that is not the point.

I wonder whether it will be worth while to have another commission of inquiry to investigate and report as to whether the Railway itself is necessary for the country? Sir Osborne Mance said it was, but he said so without calling on anybody to say otherwise or give evidence. I maintain it would be better for the country if we had metalled roads and transport by vehicles instead of transport by one train for 700 miles.

I do not think this Bill can possibly be amended through a select committee, and

it should be absolutely scrapped. If you want anything like this, bring in something applicable to the conditions in this country. The traffic is small, and I do not see that it is so congested as to warrant the adoption of a Bill from England, where conditions are absolutely different. At the present moment it will be very hard if this Bill is brought into force.

Many people, including the natives, the predominant interests of the country, will be deprived of the benefits they now get from free transport. If the Bill comes into force, I cannot possibly see that the estimate for next year from Customs' duties on these motor vehicles will be justified or substantiated. You will lose £20,000 on import duties alone, and I think that in the long run it will be against the public interest of the country if this Bill is brought into force.

Council adjourned for the usual interval.

On resuming:

SIR R. BERT SHAW: Your Excellency, in regard to this Bill, to which I give my strongest support, there are a few points to which I should like to draw the particular attention of the select committee which Your Excellency contemplates appointing. Before doing so, I would like to refer very briefly to one or two remarks made by previous speakers.

In regard to the remarks of the hon. member Mr. Pandya yesterday, I think he has made a great mistake, if he will permit me to say so, in laying so much stress upon the part that the hon. the General Manager of the Railway has played in the formulation of this Bill. He had, I think, intended to suggest that this Bill was in a great measure brought in for the benefit of the Railway. To take such a view quite distorts the objects and reasons of the measure. It is perfectly true that this Bill will, and I think we are all very glad that it will, take the place of the prohibitive legislation which has been in force for the last few years, which was artificial and irksome and at the same time provided a very unsubstantial safeguard for the Railway, in that it was continually subject to renewal by this Council.

I am perfectly confident in saying that it is not the intention, at least by means of this measure, to destroy or put out of

[Sir R. Shaw] business any other transport on the lakes. It might be worth realizing that in this Bill the word "may" is always used with regard to the functions of the licensing authority, and not the word "shall".

With regard to Mr. Mangat's remarks early in his speech, I question very much whether it is possible to consider this Bill as being contrary to native interests. I think we have got to go no further than our neighbour Uganda to realize how much it is in the native interests. There, a Bill was recently passed—what may almost be described as emergency legislation in order to protect the natives, and the natives alone, from this racing for traffic on the roads which was becoming a public danger and a public nuisance. It is true in general that the conditions of this country are somewhat different from those in Uganda, but surely the only wise and sensible way is for us to provide ourselves now with the means of dealing with this sort of thing instead of waiting until the emergency arises.

It was further suggested that we were passing legislation here which would enable the licensing authority to usurp the functions of this Council, and yet in clause 17, to which he referred in some length, it is most particularly and precisely laid down what are the conditions the licensing authority either "shall" or "may" impose. More particularly in regard to that clause, he drew attention to clause 17 (2) (e). I think the exact words "as may be prescribed" does not provide the licensing authority with the power to prescribe conditions of its own bat. These conditions have to be prescribed by Your Excellency in Council. On his further point, I rather agree with him, that they should be subject to the approval of this Council, as we have suggested in other Bills recently.

In regard to this Bill there are a few points I do think the select committee might view in some detail, and among them are the following to which I would refer. I wish to refer to those clauses where it lays down what the licensing authority shall have regard to when considering the issue of licences.

Look at clause 14, at the bottom of the page. It lays down among other things particularly that they should take into

consideration such representations as may be made by the local authority in whose area the route is situated. I think this is entirely proper and correct. Look at clause 11, the clause dealing with A. licences for goods traffic. These words are not included, and in regard to the underlying principle of the public interest in this Bill, I do think that the local authority is one of the most valuable bodies which such a board as the licensing board could consult. And the same remark applies to clause 21, towards the end of which I would point out once more that they could probably take it into consideration.

There again it makes no reference to representation by the local authority, and I suggest that this should be carefully examined and in all these cases reference to the local authority should be included. I may say that it is no more than carrying on what is the existing practice to-day in regard to almost all these matters, such as alienation of land, plots in townships and the granting of licences of various other kinds. It is almost always the custom in this country in these cases for the board in question to refer to the local authority before they give their decision, and I hope that will be made obligatory in this Bill.

As regards clause 17 of the Bill, I think it is a very important, a supremely important, clause, for it lays down what the conditions are which must be or may be imposed by the board in order that the licensees shall carry out their services in a proper manner; and 17 (1) (b), referring to the previous and existing Traffic Ordinance, is of course equally important. We must realize that at the present time as regards the transport on the roads of this Colony the provisions of the Traffic Ordinance are to all intents and purposes ignored. I do not think any motorist in this country will dispute that fact. I have had a great deal of experience of many of these vehicles, very heavy ones, travelling over our roads at amazing speeds, 50 miles an hour and over.

They are a very great danger to life and limb, apart from the appalling damage they do to the roads, and quite frankly the whole of the conditions laid down in that clause 17 become a completely dead letter unless we are satisfied

[Sir R. Shaw] that our Commissioner of Police is provided with adequate staff and sufficient equipment to see that these rules and regulations are enforced. It may mean rather more expenditure of money, but in the long run, more particularly with regard to the maintenance of the roads, I think it will be wise. In my opinion it would be a very great pity to pass this legislation and leave it at that, for I know very well that under the present conditions it will not be enforced.

With regard to clause 23, on the question of appeals, I wish to record my entire opposition to the suggestion that the appeals be made to the Supreme Court. I would like to remind you that the Central Roads and Traffic Board, where these matters were discussed at great length, in the minutes of their meeting said and recommended that such appeals should be made to the Governor in Council, as was suggested by Sir Osborne Mance, and not to the Supreme Court as was proposed by the Kenya Committee. I am aware that it does not follow that Your Excellency shall always accept such advice when offered, but at the same time the matter was carefully thought out and carefully argued, and I still hold the view which I then expressed.

The points at issue will not be judicial but administrative points. We are appointing the Attorney General as chairman of the board, and so may expect from the start that in all decisions given the law will have been correctly interpreted. The hon. member Mr. Mangat himself referred to the very cumbersome and expensive nature of such appeals, and I entirely agree with him. I think it is proper to avoid all that difficulty, and if there is to be an appeal it should be made to His Excellency the Governor in Council. I can see no purpose which can be served by referring it to the Supreme Court other than giving the members of the legal profession further opportunities of displaying the mysteries of their art, and, incidentally, augmenting their income! I think the work of the board would be severely hampered by a system of appeal to the Supreme Court.

These are the points I wish to draw attention to, and in conclusion I would say that we have here a Bill which it

should be possible for the Select Committee to return to us in very good shape indeed.

COL. KIRKWOOD: I am in support of the general principles outlined in the Bill before the House.

With reference to clause 3, which lays down the appointment of the Attorney General as chairman, I quite agree, and also agree to four as a reasonable number to compose the board to be appointed by the Governor in Council. But I would suggest the addition of (c) to this clause to provide that the hon. the General Manager or his nominee should be an *ex officio* member.

A Bill is long overdue to regulate and co-ordinate transport in the Colony, both with regard to vehicles and on our inland waters. There is a great deal of uneconomic competition going on at the moment by them, both inadvisable and not in the interests of the owners of transport in many cases and not in the interests of the native as a whole. That is, the methods and manners in which it is carried out. Terrific damage was done during the rains with top-heavy overloaded vehicles. Also I have met, myself, while travelling between here and Kitale, and I refer to the vehicles operating between Nairobi and Kisumu—and I have followed these vehicles and on more than one occasion I found that they had done a tremendous amount of damage to the roads even in one trip.

With regard to clause 17, it gives a great deal of power to the board, such as laying down wages and the hour of service. One might argue that it is interfering with the liberty of the subject. But I think that is rather a narrow-minded point of view to take because, after all, this Ordinance will improve the conditions of transport both on the inland waters and on our roads and give us much better service. One is not going to quibble at the Board having this power, which I am quite sure they will use in a reasonable manner. Also they will have the right to seek the advice of the local authority, who will be very helpful to them, I am quite sure, when the occasion arises to ask for their advice with regard to local conditions.

The Bill itself is wholly on the right lines and as I have already said, it is long overdue, and I hope it will very

[Col. Kirkwood] shortly be on the statute book of this Colony. I hope consideration will be given in select committee to the suggestion that the Commissioner of Police should be invited to attend and asked to state his views as regards the effect of this measure when it becomes law, on the personnel of the police, as it is bound to have some effect.

I also hope assurance will be given that this measure will be in no way used as a financial measure to raise revenue; that the licence fee will be purely a nominal one to cover the operations of the board.

As regards the composition of the board, this is left to the Governor in Council, and I think very wisely. I hope no arguments will be put up, as there have been as a matter of fact, which I regret, on racial lines. I see no racialism in this Bill whatever, and I see no reason why any restriction should be placed on the recommendations of the Governor in Council of a racial, colour or religious bias. To my mind, Sir, if you can find there are four Asians, for instance, in this Colony who would serve the purpose of this Bill better than four others, I trust they will be appointed. If you think otherwise, no doubt you will take the advice of the Council and appoint four members irrespective of colour, race or creed.

The Bill as a whole has my blessing.

MAJOR GROGAN: Your Excellency, I should have felt much happier about this Bill if I had not noticed the anxious look on the face of my hon. and gallant friend (the General Manager of the Railway) We have already conveyed to him the power to extract from these two territories practically speaking all the surplus cash, for investment in the City of London, with consequential deflationary effect on the monetary status of these two territories, and I regard this Bill as an attempt to extend that authority for the purpose of absorbing a few hitherto unconsidered profits which are still outside the control of his exactions.

Although there is a considerable amount quite rightly and properly to be said on behalf of the control and regulation of the road transport systems of the country, there is nothing to be said of similar control in the inland waters of the territories. The formula, which I be-

lieve has prevailed up to date, and I believe still prevails, is that the State Railway, or so-called State Railway, has to charge for transport over the waters of Lake Victoria the same per ton mile rate that is charged over the rail systems of these territories. In other words, the surface of the lake is deemed to require the same interest, sinking fund and maintenance charges for the purpose of operating the services on Lake Victoria as prevail over the railway itself!

That certainly was the system and, subject to correction, it still is the system, and I suggest that if it still is, as it certainly was, it is probably the most ludicrous system ever evolved in the human mind, because it is a generally recognized principle that it is a perfectly easy thing to transport goods by water all round the world at a lower rate than to transport them over 300 miles of railway. The lake, if it were left entirely at the mercy of an excessive rate of that sort, would be rapidly paralysed.

The ordinary arguments adduced here in respect of controlling road transport, such as the danger to the life of citizens from road hogs, cannot possibly be carried on as an argument in respect of lake traffic, and nobody would suggest, for instance, that a water-hog in the form of a dhow is liable to ram one of the elaborate passenger steamers of the Kenya Railways! Therefore none of the ordinary arguments that apply to the control of the traffic on the roads apply to the lake.

I was at one time the unfortunate owner of dhows on the lake, and it must be remembered that a very large amount of inter-port traffic and minor traffic totally unprovided for by the railway has got to be carried by private enterprise. I think it has already been pointed out by some of my hon. Indian colleagues that the dhows on the lake system preceded what transport facilities were subsequently provided by Government. It is now forty years since I first moved on the inland waters of Africa. At that time one moved on a dhow because it was the only known method of moving on the water at all.

I believe that this is part and parcel, certainly the part that applies to inland waterways, of an attempt to get complete

[Major Grogan]

control, a complete, exclusive monopoly, of every specific form of movement in this country for the benefit of the Railway. I think that that is entirely wrong in principle, and I object very strongly to any application of these principles to the inland waters. I am not sure even that it is a right and proper procedure or even within the powers of this body. Because there is such a thing as the conventional Basin of the Congo Treaties, which still persist in all sorts of directions, and they provide for absolutely free access on the part of all people to the inland waters of this country. I am rather in doubt as to whether the powers we are now trying to take can actually be taken by us.

There are other attempts on the lake to secure this vicious form of monopoly. Take the case of the piers constructed years ago on the lake by private enterprise to carry on the traffic and work of the lake. All of a sudden, the owners of the piers, a little while ago, were informed that they were going to be charged some fantastic rate for unloading their own produce carried there by their own dhows on to their own property in order to prevent any effective competition with some pier put up not very far away by the railway system.

I do seriously trust that the select committee, when they have this matter under consideration, will pay special attention to the question of these inland waters, and come to the conclusion that no case whatever has been made out or could be made out for imposing this monopoly, because that is what it really amounts to, on legitimate transport work carried out by small and helpless citizens on Lake Victoria, particularly as it is rapidly some day going to become a place next in importance to the Mediterranean.

MR. SHAMSUD-DEEN: Your Excellency, it was a great pleasure to hear the last speaker agreeing on certain points with the Indian members who have previously spoken, for the opposite has invariably been the case, and both European and Indian members have been guilty of this, thereby creating an attitude that whatever may be supported by the unofficial European members the Indians must oppose it and vice versa.

As regards this Bill, the hon. Member for Trans Nzoia (Col. Kirkwood) brought in some question of racial consideration in the composition of the board. The whole difficulty in this Council with this Bill is that the trouble that there is to be no one on the board who will voice the opinions of the Indians, natives and other people who are engaged in the motor industry.

To the best of my recollection, the Associated Chambers of Commerce also, opposed this Bill on the matter of the dhows, but with the exception of the last speaker I do not think any other member has given voice to that, opposition to-day, as otherwise they would not have spoken to the Bill so wholeheartedly as they have.

The title of the Bill is the most hypothetical I have ever seen given to any measure in this Council in the last thirteen or fourteen years. I have watched the proceedings and had the honour of participating in them. Co-ordination of transport, to the mind of an ordinary person who has read English, conveys the idea that it is the intention to bring all methods of transport on an equal basis, to make them equal in every degree, and to see that one form of transport does not get the best of any other form of transport. But is it not a fact that the whole object of the Bill, as suggested by the last speaker, is to bring into the net certain trifling forms of transport and give the Railway a complete monopoly? I think the honest way of dealing with the Bill would have been to have given it the title of "Extension of Prohibition of Motor Transport."

It has been found, I think, and it is common knowledge by now, that motor transport, owing to its flexibility, conveys goods by such circuitous routes as Mombasa to Lamu and then to Nairobi, and yet makes money. The Railway has, as a matter of fact, been brought to its senses by this very motor transport we are now trying to eliminate completely, and has seen the reasonableness of reducing its rates. I have very often said that the Railway is run on such uneconomical lines that if somebody had the enterprise to go in for the system which prevailed before the advent of the Railway, the carrying of loads on the heads of porters, I am quite certain that commodities could still

[Mr. Shamsud-Deen] be brought from Mombasa to Nairobi on the heads of porters and people would save money, because the Railway charges are so prohibitive.

My hon. Indian colleagues, I think have put their case in detail before Council, but I think it my duty just to state a few points on behalf of a section of my community which represents the commercial interests of this Colony to a very large extent. This is the Federation of Indian Chambers of Commerce and Industry of Eastern Africa, who say of this Bill—

"While this Federation is not opposed to the road transport being regulated for matters such as the safety and convenience of public dimensions, weight, upkeep, speed and loading of vehicles, conditions of labour and qualifications of drivers etc., it is opposed to undue and unnecessary restrictions calculated to bring about a complete prohibition and making it practically impossible for the road transport to compete with the Railway under reasonable conditions."

I think the hon. Member for Ukamba (Sir R. Shaw) laid some stress on the roads being used in a very bad manner by the lorries and certain rules of safety being ignored. Nobody will oppose any measure that might be brought in for the regulation of driving, but this is complete prohibition, and what is really intended is that all these motor lorries used on roads running parallel with the Railway shall be completely eliminated, as well as the dhows. Nobody has been able to explain to this Council the real reason why the Railway should suddenly emerge out of a condition of bankruptcy into almost unparalleled prosperity. What is the cause of it? The cause of it has been that most of the money the Railway earns to-day represents the wages of hundreds of Indians and natives who were hitherto employed in the motor industry. Now it is proposed to extend the prohibition to all those members who are still employed.

I can see from this Bill that there will be nothing to prevent the board applying the same rules of prohibition which exist to-day between Mombasa and Nairobi to the roads between here and Kisumu. I think that in this connexion perhaps I

will just quote another paragraph of the views of the Federation of Indian Chambers:—

"The Bill if passed into law will greatly discourage the motor transport industry and thus minimize the possibilities of the extension and full development of a flexible transport the absence of which constitutes, during peace time, compulsion for the general public to use only one means of transport over which they have neither any control or any influence and may be very inconvenient from the point of view of the defence of the country during any war."

That is one point that ought to be considered. We had some experience of this Railway during the last war. I do not anticipate or feel any alarm if we have a war in the future, but I do suggest the possibility is always there, and in the case of such an eventuality we ought to have our motor transport and road transport ready in such a way that we should not be left entirely at the mercy of one railway service.

A lot has been said by my hon. friends regarding the passenger traffic. Again, with Your Excellency's permission, I should like to quote a further paragraph which sets out the views of the Indian Merchants Federation:—

"As regards the passenger traffic, it is against the public interests and policy to protect and give monopoly to a Railway which no longer conforms to the modern ideas of speed, comfort and economical fares expected by the general public. It is hopelessly slow, being incapable of accelerating the speed by reason of its narrow track and other engineering difficulties, it is exceedingly uncomfortable by reason of irregular and intermittent service mostly by night especially between Nairobi and Mombasa and Nakuru and Kampala, and is definitely a tyrannical and objectionable conveyance for third class passengers who are compelled to sit up all night without having the choice of travelling by road during day time at a much lesser cost than the Railway fares and who reach the terminus totally exhausted and in a collapsing condition resulting in prolonged illness in many cases."

[Mr. Shamsud-Deen]

In modern times, it is nothing short of tyranny to compel people to use only one form of transport. Surely people ought to have a choice, but to say they must use the Railway means compulsion. Well, take the case of a trip from here to Nakuru. The railway proceeds at the speed of a tortoise, and takes about eight hours to reach Nakuru, whereas the ordinary motor lorry does it in about four hours quite comfortably, and the native passengers who generally use this means pay much less than they would in railway fares.

I do not recollect figures being placed before this Council as regards the amount it cost the Colony for bringing out Sir Osborne Mance to this place to investigate and make a report on motor transport, but I think it must have been quite large. But what is the good of getting out a Commissioner when you will not listen to what he says? He makes two suggestions, very reasonable ones. One is about the dhows, and that is entirely ignored in this Bill. The second is about the formation of the board and the representation of the various interests on it. There was nothing unusual in that suggestion, that the formation of the board should be on the lines suggested, and there was nothing wrong about it. There was already a precedent in the Farmers Assistance Ordinance.

I and my colleagues went to great length in insisting that the formation of that board should be on the basis of representation of certain interests. That still exists, although I think certain suggestions of the hon. members were not adopted. But the principle is there, that representation of certain interests should be made and the board constituted accordingly.

A great deal has been said about this Bill going to select committee. My experience of the past of select committees is that as a rule one Indian member is selected, and is there more or less on sufferance. In this case I must say that I almost modified my views after hearing the hon. Member for the Coast (Major Grogan), but the way it is supported by the other unofficial European members I submit that unless an equal number of European and Indian unofficial members

are appointed on the committee no useful purpose will be served by appointing one, or two, Indian members to serve, because they can be quite easily out-voted, while if there is only one Indian member he seldom has a seconder, much less the opportunity for consultation.

As regards the committee whose report is embodied in the Bill, the formation of that committee itself was a very novel one. It had on it a member who was an interested party. When I say interested, I do not mean personally, but he was the head of the administration of the railway system to which it is sought to give a complete monopoly. If that was the case, it was only fair that representatives of the motor and transport industries should also have been on the committee.

This member of that committee who seeks to obtain a complete monopoly not only sits on the committee, but sends in a memorandum from himself as a member of the committee, and then pronounces judgment on it! So that he was there in the capacity of litigant as well as judge. The constitution of that committee I think was very wrong, and I do not think my hon. friend Mr. Pandya can be blamed for having presumed that this Bill had been drafted by the member to whom I refer.

Of course, the amount of revenue which Government is deprived of by giving this monopoly to the Railway is not a secret, and the real explanation of the prosperity of the Railway is that it gets a very large sum of money that ought to go into the revenues of Government and to natives and Indians employed in motor transport, and also to European importers of motor vehicles. That is how the Railway safeguards its revenues.

In that connexion, I beg Your Excellency's permission to quote one more extract from this memorandum of the Indian Federation:—

"A perusal of the Report of the Transport Co-ordination Committee appointed in 1935 to investigate and consider the desirability of co-ordinating and regulating all forms of transport in the Colony, upon whose recommendation the proposed Bill is being introduced, shows clearly that they have completely deviated from their

[Mr. Shamsud-Deen]

terms of reference and the object of the Bill recommended by them is neither co-ordination nor the regulation of the transport in the Colony but its whole object is to bring about a complete prohibition of the road transport not only running parallel to the Railway as is the case already, but also to prohibit and prevent all possibilities of the same conveying goods by long and circuitous ways thus eliminating the remotest chances of the road transport competing with the Railway; and thus giving a complete monopoly to a Railway which not only performs the legitimate work of the public carrier but is utilized as a dual taxing machine for extracting from the commercial community and ultimately the consumer, a double form of Customs duty on what is termed high class goods."

This is what it comes to, and that is the real explanation of the prosperity of the Railway, while the whole country was in a terrific financial crisis.

I think a lot has been said during the time I was absent from the debate on this Bill, and for fear of repeating some of the arguments I will resume my seat, having placed before Council these views of the Indian Federation.

MAJOR CAVENDISH-BENTINEK:
Your Excellency, I am in support of this Bill.

I think it is quite obvious that our experience does not differ from that of other countries, and that some such Ordinances based on these principles is long overdue. Furthermore, I do not think that we should only take into consideration road transport, but I am afraid I disagree with my friend the hon. Member for the Coast (Major Grogan) in that I do feel that we ought to have some say in controlling the show traffic. The development of all these new territories rests very largely and basically on the provision of adequate transportation facilities, and these cannot be provided unless they are co-ordinated and regulated and unless Government expenditure on transportation is protected from grossly uneconomic competition.

One thing I do regret is that we should be passing our individual Bill, that

Uganda should pass its Bill, and Tanganyika pass, or be about to pass, its own particular Ordinance. This is not a subject which should be dealt with by a group of watertight compartments. It is all very well in a way; we can have our little Lusakas and Entebbes and so forth, but when dealing with transport and more we stray beyond the bounds of official utopias in that we are dealing with stern realities inter-territorial in character, and it is a great pity that we cannot get together and face these problems in a spirit of co-operation rather than in a spirit of small parochialism.

It has been suggested by certain people outside this Council that this Ordinance might, with some wisdom, be passed for one year only, with powers to renew it again from year to year for a period of trial. I do not say that this is necessary, but I do hope that we shall be given assurance that this Ordinance will come up for review next year in the light of the experience which will have been gained on its working during the trial period, because, in every single country where they have had an Ordinance of this nature over a period of a year or so they have had to bring in very drastic amendments, based very often on local conditions, which differ in different parts of the world.

With regard to the board which it is proposed to create, I would like to make one or two suggestions. In the first place, I think there should be a time limit to membership of the Central Board, which I do not think has been provided in this Ordinance. It is a pity to create posts which are to continue interminably. After a time it is very difficult to get rid of any of the members who may have become obsolescent personnel. I think three years at the outside would be a reasonable limit for the appointment of members of this committee.

I venture to disagree with my friend the hon. Member for Trans Nzoia (Col. Kirkwood) in that I do not think the Railway or its representative should in any shape or form be a member, *ex officio* or otherwise, on this board. I think that probably the simplest thing would simply be to suggest that the board should consist of one chairman, to be the Attorney General, and four members; that their

[Major Cavendish-Bentinek]
period of office should be for three years; and that none of them should be officers, apart from the Attorney General, or servants of the Administration. And, of course, I agree that they should disclose any financial interest they may have in any transport company or in transportation generally. I am not sure whether we ought not to make provision for local boards, but possibly that can be taken up by the select committee, and possibly, as has been suggested, local authorities could act as local boards, as they do in other parts of the world; except that, of course, we have not yet got local authorities in all parts of this country.

As regards the exceptions which are outlined at the end of clause 4, I have one or two points to raise.

The first is, I am not quite sure whether it is necessary to have this C form of licence. I gather from clause 5 (4) that every single vehicle capable of carrying goods in the Colony will have to have one or other form of licence. In other countries, what they do with vehicles that are merely carrying private goods, is simply to give exemption from the obligation to make out a carrier's licence. Whether it would not be easier to do this and do away with the C form of licence is a matter which may, perhaps, be gone into and considered by the select committee.

As regards the exemptions, there are one or two that have been left out, though they seem to have been provided for in other acts of a similar kind. Taxis have not been dealt with, and in most Bills there is provision for taxis, other than taxis plying for hire in places in competition with the railway. It may be that here taxis are covered by "vehicles carrying less than six people". Ambulances do not receive any consideration, nor do hotel buses carrying passengers from the railway station. Vehicles carrying school-children have not been considered either, and should be included in this clause.

Clause 12 lays down, as I read it, that if on the introduction of this Ordinance a particular body or person during the twelve months immediately preceding the date of application for a renewal or for a licence has been operating, unless he can show that he is not a fit person to receive a licence, the licensing authority

must give him a licence. That is how I read it. I think it a great mistake that there should be any clause in the Bill compelling the licensing authority to grant a licence—for that is how it strikes me in this clause. I think it is utterly wrong that they should not be given complete control of all transport; that is, you must have complete powers of control, otherwise this clause will enable people to drive a horse and cart through its provisions. Here I would draw attention to clause 15, which lays down the conditions and instructions that have got to be given with all applications.

Clause 17 (3) gives powers, as is given in most of these Ordinances, to fix the fares to prevent wasteful competition. I am a little bit nervous of that at the present stage, as I think there should be some general lines fixed if possible, on which fares can be based, because I think the powers in this clause are rather too arbitrary.

If possible, I would like to stress what has been stressed by the hon. Member for Ukamba (Sir Robert Shaw). We are always talking about what can be done under these various Ordinances in connexion with the present state of affairs as regards control of a great deal of the transport going over our roads and ploughing them to pieces. The present position is a perfect scandal. Every day you see vehicles, overloaded with baggage and laden with people, ploughing up the roads as if they were really preparing them for the purpose of planting something. I think this ought to be dealt with, and, if it is necessary to find more money for the police in order to deal with it, I think we ought to do it this year and face up to the position and not allow this state of affairs to carry on indefinitely.

In clause 23, the question arises as to whether it would be possible under that clause for an applicant who is "aggrieved" by a decision of the licensing authority to bring an action for damages against that authority. I do not think it would be possible, but it ought to be made perfectly clear that this is not the case.

Secondly, there is the question of appeal. Normally, one likes to see appeals go to the High Court. But I am not sure

[Major Cavendish-Bentinck]

on this occasion that it is very wise to let appeals under this Ordinance go to the High Court.

This is quite openly rather a far-reaching Ordinance and it gives very considerable powers to the licensing authority. This is done in the best interests of the country and done not on a basis of legal rights or of Common law. For this reason I am not at all sure that it would not be wiser to provide an appeal to the Governor in Council. Indeed, I believe I am right in saying that in some Ordinances there is no appeal from the decision of the Central Committee whatever, and the only appeals from the Central Committee are from the local committee. It is not a matter I feel very strongly about one way or another, but I do think we ought seriously to consider whether that is the best way and the best authority to which to make a final appeal. I am rather inclined to feel that it should be to the Governor in Council.

These are the only remarks I wish to make on this Bill.

MR. HARVEY: Your Excellency, I must apologize for my unavoidable absence during the earlier part of the debate this morning.

As a member of the Committee of Inquiry on whose report this legislation is largely based, I would like to say how very strongly I support the principles of this Bill, though of course it may quite easily be on the cards that certain slight modifications may be necessary when the details are under consideration in select committee.

I regard this as one of the most valuable and constructive pieces of legislation which has been introduced into this Council in recent years, and I would like to challenge one or two of the rather wild statements made by the hon. gentleman who spoke first. The hon. Mr. Mangat stated firstly, or gave the Council the impression, that the hon. General Manager dominated the committee of which he was a member. I should like to say in the plainest possible terms that the hon. General Manager did not bestride that Committee like a colossus, although I, and several other members of the Committee, placed very considerable reliance

on the advice given by the hon. gentleman, he having such wide experience of transport problems.

There is no doubt whatever in the minds of all reasonable people familiar with the transport problems of Kenya that the main object of this Bill is not for a moment to protect the Railways but to protect the public, who foot the bill, from uneconomic and unfair transport competition, and, what is perhaps more important, to encourage cheap and reliable transport on the roads of the Colony. A good deal has been said about the dhows. As most of them exist in the area I represent I would like to point out that this Bill merely provides for their registration. There is no suggestion in any shape or form that there should be any restriction whatever on the activities of the dhows, which—and I know the General Manager will agree with me—form a most valuable service as a feeder service to the Railways and Harbours Administration, and that being so it is highly improbable that that Administration is likely to do anything to impair their welfare. Actually this is a point of some importance; if they wished to do so, the Railways and Harbours Administration could strangle them out of existence in five minutes by most prohibitive levies and harbour fees. This is quite within their rights under the powers with which they have been endowed.

I agree entirely with the previous speaker on the subject of the personnel of the licensing authority. I consider that more reliance should be placed on the recommendations of the committee of which I was a member than on the recommendations of Sir Osborne Mance in this connexion. I suggest that a local committee was in a better position with their knowledge of local affairs generally to indicate what would be a suitable personnel than an eminent transport authority like Sir Osborne Mance, who must inevitably have not been very familiar with local conditions.

I do deprecate any suggestion that an important judicial body of this nature, charged with a very great responsibility, should include for any one moment in its personnel any representation of sectional interests, either racial or otherwise, in any shape or form, for this Bill is not a racial measure and cannot honestly be described

[Mr. Harvey]

as such. It is a perfectly honest and genuine attempt to put the transport service on a rational footing and is merely following the lead set by most civilized countries that have had to wrestle with the same problem.

I think the hon. Mr. Pandya asked a question as to whether there was any safeguard for the poor transporter. I suggest that this Bill is as much in the interests of the hauliers as it is in the interests of the general public, and every reputable individual transporter and every decent transport service will be in a better position when this Bill is passed than it is to-day.

The Committee had considered at very great length the advisability or otherwise of rendering it incumbent on everybody to licence vehicles with special reference to what had been described as C licences. I think the main reason for the renewal registration is to check the use to which road vehicles are put as if improper use is made of them the licence may not be renewed the following year.

I agree very strongly with what the last hon. member said about clause 23, on the subject of appeals. Although as a member of the Special Committee—and I am going to anticipate the learned mover in his reply to what I am going to say—I did with some reluctance agree to the Supreme Court being referred to in this connexion, but on further consideration and after a close discussion in the Central Road Traffic Board I have completely changed my mind—and I reserve the right to change my mind whenever I wish to do so. (Laughter.) In the words of Emerson: "With consistency the great soul has simply nothing to do; he might as well concern himself with his shadow on the wall. A foolish consistency is the hobgoblin of little minds—adored by philosophers, little statesmen and divines."

Sir, I support the motion.

MR. MAXWELL: Your Excellency, I support the Bill in principle.

With regard to the board which is to be appointed, the hon. Member for Nairobi North (Major Cavendish-Bentinck) touched on most of the points which I wished to raise, but I have been asked to bring to the notice of Council

the resolution passed at the last meeting of the Associated Chambers of Commerce of Eastern Africa, which reads:—

"That in the opinion of this Association it is essential that the commercial community shall be adequately represented on the proposed Transport Licensing Board."

I have no doubt that when it comes to appointing the board, Government will appreciate the advantage of having an individual on that board who has a knowledge of commercial practice throughout these territories.

Referring to the Bill, I should like to refer to clause 5 (2), which defines the A licence.

In this clause it is laid down as a condition that public carriers who take out these A licences shall not be allowed to use such authorized vehicles in connexion with any other business in which they may be interested. In this country, owing to seasonal variations of traffic, public carriers have found it necessary to keep larger fleets of vehicles than they can use in their business as public carriers throughout the year. They have therefore entered into other forms of business either for themselves or in partnership, whereby they can use the surplus vehicles throughout the year, which reduces their expenses of transport and their charges to the public.

I presume the difficulty which arises in this clause can be got over by a procedure whereby a public carrier and a few various businesses, whether carried out by themselves or in partnership, can take out the necessary A, B and C licences and that all the vehicles of the fleet of a public carrier will then have to be authorized under each of these licences. It will, however, be almost impossible to tell under this procedure under what licence a vehicle is operating at any one time. It seems rather cumbersome, and it may be altered in select committee to some more simple method.

With regard to C licences, I do not find myself fully convinced of the necessity for these, since nearly everything they wish to enforce is covered under the Traffic Ordinance and other Ordinances; that is, for the protection of roads, safeguards, records, and so on. But if the

[Mr. Maxwell] select committee still feel these licences are necessary I suggest that certain clauses in the Bill might be reconsidered from the point of view as to whether they should apply to these licences. As an instance, clause 21 lays down that before granting a licence the board must advertise the application. That is a provision that seems to me to be unnecessary when C. licences are being dealt with.

I should like to support the hon. Member for Ukamba and the hon. Member for Nairobi North when they ask for more police facilities to enforce the various regulations under this Bill. As a member of a local authority, I constantly have brought to my notice the fact that it is almost impossible to make satisfactory regulations controlling traffic, to prevent road damage, and to provide for safety, since in nearly every case those regulations cannot be administered and carried out satisfactorily by the police force. I do hope this matter will be dealt with this year.

MR. ISHER DASS: Your Excellency, the hon. Member for Nyanza (Mr. Harvey) in the course of his remarks said that he is entitled to change his mind at any time he likes, and he sincerely believes that consistency is a virtue of an ass. Of course, he should in those circumstances have opposed this Bill, then supported it. Coming from him, that really surprises me.

The other point he raised was with regard to clause 3 (1) (b), as to the composition of the board, and he said that this somewhat judicial body should have been kept free from any kind of suggestion of inclusion of members on a racial basis. I think the hon. Member for Trans-Nzolia also said something to that effect. For their information, I might mention that time and again, whenever there has been legislation in connexion with the coffee industry or farming or other measures introduced into this Council, those very gentlemen from the floor of the Council have put forward the suggestion that the people concerned in those trades and industries should have proper representation. When the same suggestion comes from the Indian members, that because the motor transport is chiefly

controlled and owned by Indians there should be Indian representation on this board, these very gentlemen come here and object. I suggest that, of course, they are entitled to change their minds as many times as they like!

Before I deal with this Bill, I wish to say that I will not take up the time of Council in dealing with it clause-by-clause, as my hon. colleague Mr. Mangat has done justice to it, and has been to a great deal of trouble and pains to explain the Bill clause by clause, and our case could not have been in better hands. Of course, I do not agree in part with him, where he used very happy phrases and very happy language he should have come out a little more frankly!

The hon. and learned Attorney General gave us certain reasons and objects for which this Bill is being brought forward, to regulate the traffic, to co-ordinate transport services, and one object he said was to avoid cut-throat competition. If we are expected to be honest in our social life and commercial dealings, there is no harm in being honest in political life also. I suggest that if he had stated that the object of the Bill is not only to regulate traffic or co-ordination of transport services, but is to eliminate Indians from this Colony by prohibiting the motor transport from the roads where it is at present employed, it would have been honest. I would not have blamed him, because I love my enemies as much as I love my friends, for their honesty.

He also suggested that it was to protect the interests of the drivers. It is really very amusing that he should come forward here and suggest that this legislation is to protect the interests of the drivers and conductors. For the last four years from this side of the Council, we have been appealing to your Government, Sir, and your advisers to bring in at least one ordinary measure, the Workmen's Compensation Act, to protect the working class of this country, and we have not succeeded in convincing your Government of the necessity for such legislation.

Yet here we are told by the hon. and learned mover that clause 16 of this Bill and the main object of the Bill is to protect the interests of drivers and conductors as to wages and hours of work! It really seems very strange that all of a

[Mr. Isher Dass] sudden he should have become absolutely a philanthropist in the interests of the poor drivers and workmen, and it takes a lot of time to digest such stuff.

He also stated that it was better to introduce this Bill now because it will not create so much hardship as it would if the measure were brought in four or five years' time, when people had by then invested a large amount of money. In this connexion, he said that similar legislation was already enacted and enforced in England. We have to compare the two countries for a moment.

There can be no comparison at all. Look at the vast country of England. Can there be any comparison? No. There are circumstances and reasons for introducing such legislation after the experience of a hundred years. On the other hand, the whole life of this Colony is only about forty years. I do not think even now you can call this a country of any standing at all. Most people I have met outside Kenya have told me this country is progressing artificially, progress and construction and building is not according to scale, but is so rapidly and artificially and done on borrowed money and borrowed capital on which heavy interest has to be paid that it cannot go on for a long time unless the country definitely becomes bankrupt one day. Here we have the examples of the last four or five years' depression, and the example of the Railway, and unless the hon. the General Manager had prohibited the prohibition of goods by motor I think the Railway would have been really bankrupt.

As I said, in England they have had so many problems of adjusting road traffic that there was an absolute necessity to have this legislation. In Kenya, there is none of those circumstances, but you want the legislation first and the circumstances brought about afterwards. If there are no circumstances here, where is the necessity of bringing in this legislation with a view to controlling or co-ordinating all kinds of transport? You have at present on the statute book all kinds of legislation for licensing, controlling the speed of lorries and buses, and you have municipal committees and township boards with the right to con-

trol traffic in their own areas. I therefore fail to understand the necessity of bringing in this legislation at all, unless, as the hon. Member for the Coast suggested, it is with a view to protecting the Railway and giving it the sole monopoly at the cost of the Indian and African interests involved.

The hon. and learned mover told us that this is not a revenue measure at all. Of course, he pointed out in very sweet and happy phraseology that the sum of Sh. 5 does not go a long way towards collecting revenue and is not much. But on page 23 of the Bill you read:

"Such expenditure of public funds as will be necessary if this Bill becomes law will be covered by additional revenue."

There must be something behind this, and if there was extra expenditure you would have to raise some kind of revenue by means of this legislation. Why not be honest about it and state that this is one of the revenue measures.

There was one thing the hon. and learned member did stress in his closing remarks about this competition. I agree with him in so far as there is competition the people who cannot stand up to it naturally and automatically go out. If people are able to stand up to the competition they always remain in the market. Under no circumstances would I suggest that it is up to Government to go about the streets of Nairobi or Kenya finding out the competition in the different classes of life. There is competition among the shopkeepers of Nairobi, there is competition in every sphere of business, and I do not think Government would be justified in bringing in any kind of legislation to avoid it. Otherwise, where is the limit, that there will not be other legislation brought before Council to remove competition from other businesses? If there is no justification for that, there is no necessity for this.

As I have said, this measure is definitely brought in as a measure to protect the Railway at the cost of the Indians and Africans. In 1934, when the carriage of goods by motor transport was prohibited, the hon. the General Manager said it was with a view to avoiding the attack on the Railway and to save the Railway revenue

[Mr. Isher Dass] to the extent of £100,000; he may have suggested £75,000, but I think I am correct in £100,000. Here, after four years, he has not only saved that £100,000 of the cost of the lorry owners and drivers and those employed, but at the same time he now intends to have a very big surplus, and, not satisfied with strangling those people and removing competition, goes beyond that to suggest that we should have this Bill in order to control all traffic.

What will happen? I do not believe in prophets, but I do certainly believe that when you associate with people you can, by studying their faces and psychological effects, come to the conclusion sometimes as to what is in their minds. What is going to happen under this legislation? I want hon. members of this Council to know what is bound to happen in a year's time.

Under clause 3 (1) (b) the Attorney General would nominate the General Manager of the Railway as his substitute chairman of the licensing board. (Laughter.) As acting chairman of the board, you will see that he is rather anxious to remove competition with the railway between Mombasa and Nairobi. He would suggest no transport carrying certain classes of goods in competition with the Railway.

The hon. and learned mover also said that this Bill includes the bus services. By the end of 1935 I have reason to believe, after conversations with people in Nairobi, the Kenya Motor Bus Co. were anxious to extend their services from Nairobi to Fort Hall. That has all along been in the minds of some people. Therefore, in a couple of years' time there will be exclusive licences granted to that company to operate just for the one excuse which is provided under clause 21 (5), as to the liability, suitability and financial stability of the company concerned.

It will be automatically granted because the company happen to be a very big concern with financial resources; an exclusive licence must be granted. And then, automatically, some 50 small bus people and drivers as well, who are earning a living and employing people as mechanics, will be wiped out absolutely. That will be the second measure which

the hon. the General Manager, whose attitude at the moment—his anti-Indian attitude—is too well known to discuss here, will take.

By the introduction and enactment of the law of prohibition of carrying goods by motor lorries he has succeeded in killing the competition between Nairobi and Mombasa. But he has been very much worried by the fact that goods are still being taken up to Lamu and conveyed from thence by lorries. What will happen? As acting chairman of the board he will state that no goods of any description shall be carried from Lamu to Meru, from Lamu to Nairobi, or any other place. When this act of kindness is done his conscience will be absolutely satisfied that he has killed competition against the Railway.

But he is still worried about one more fact, that goods are brought from Kibwezi to Nairobi and thus people are making a living out of it. He has got his eye on that also, and is very anxious to impose restrictions and kill that competition and oust these people from the market and of earning a living or existence. He does not seem to be very much worried about a couple of other districts, because he finds competition in those districts would not pay. That is a district like Machakos. If he had his way he would, like the railway companies in England, probably prefer to have his own lorries in competition with the people. Unfortunately, this Council would never sanction or agree to any such proposal of allowing the General Manager or the Railway Department to have lorries running between Thika and Nairobi and Machakos. If we were so foolish as to agree to such a suggestion by the hon. the General Manager, I am perfectly sure that he will not hesitate to have performed this act of grace in this country.

Your Excellency, I shall take a long time, if you would like to adjourn now?

HIS EXCELLENCY: Taking that statement literally, I think it advisable the Council should adjourn now till 10 a.m. to-morrow!

The debate was adjourned.

ADJOURNMENT

Council—adjourned till 10 a.m. on Wednesday, 10th November, 1937.

Wednesday, 10th November, 1937

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Wednesday, 10th November, 1937, His Excellency the Governor (Sir Robert Brooke-Popham, G.G.V.O., K.C.B., C.M.G., D.S.O., A.F.C.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 9th November, 1937, were confirmed.

TRANSPORT LICENSING BILL

SECOND READING

The debate was resumed.

MR. ISHER DASS: Your Excellency, yesterday I spoke about the four acts of kindness and grace.

There is one thing more that the hon. the General Manager is worried about, which may be termed his fifth act of grace. He is rather anxious to remove by some means or other the competition carried on by motor lorry transport between Nairobi, Nakuru, Kisumu and Eldoret. He has probably been informed that there are a few individuals who have buses running between those centres, and that they are also carrying goods for reward. This is probably worrying him too much.

The sixth one is his worries about the position between Lumbwa and Kericho, Kisumu and Kisii. He is anxious to grant an exclusive licence to one party, thereby removing competition from those roads.

His last act of grace is about the dhow traffic on the lake. I would not add anything to what the hon. Member for the Coast has said.

Having completed his seven acts of grace and kindness, the hon. the General Manager would believe that he had done two things: at one stroke and killed two birds with one stone (laughter), removed competition so that he can run his railway as a monopoly, to his own benefit and satisfaction, and, secondly, removed the Indians and eliminated them from the industry in which they have been earning their livelihood.

My colleague, the hon. member Mr. Pantya, in his speech said he was surprised that the hon. mover had not seen

fit to offer his appreciation or thanks to the hon. the General Manager for drafting this Bill. I would suggest to my colleague that though the idea is the General Manager's and he might have, according to his own memorandum, tried to have drafted the Bill, surely he had requested the hon. and learned Attorney General to do it? That is why the hon. mover finds himself in so unhappy a position in that he must admit that it is a revenue measure, and that he was asked to do this job for someone else. How, therefore, can you expect him to be in anything but an unhappy position or to give thanks or appreciation to the General Manager for his ideas?

Having said this, I do not think I should be justified in dealing with the Bill clause by clause, since my colleague Mr. Mangat has very ably put the case. If his arguments cannot convince Your Excellency and Government and the hon. mover, I think I should be wasting the time of Council by repetition. If what he has said has really convinced you, and you are willing to change your attitude in regard to Indian representation on the select committee and on the board to be appointed under clause 3, things would be different. But from my personal experience in the past, I have come to the definite conclusion that, however small or large a matter concerning Indians may be, no arguments can convince you or your Government so far as the Indians are concerned, and that it is absolutely useless for us to hit our heads against the wall.

There are only two clauses of the Bill which I should like to deal with, and that is because something has been said after my colleague Mr. Mangat spoke. The hon. Member for Nyanza (Mr. Harvey) in his speech said that this Bill was certainly not against the interests of any section but was in the interests of the general public. I can hardly believe that so far as he is concerned he ever thought for a moment that public interests included Indian interests as well. No, he only thought—

MR. HARVEY: On a point of explanation, Sir, I have given the most intensive thought for a long period of time to that particular aspect of the problem.

MR. ISHER DASS: If that is the position, then he should never have raised an objection to the inclusion of Indian members on the board under clause 3, because the simple fact is that not one of the hon. members on this side of Council has any concern in the matter. Has any European in this country at the moment buses running between Thika, Fort Hall, Meru, Nakuru, Kisumu, Eldoret, Kericho, or any other centre? The whole of the transport by means of buses and the carriage of goods is owned by Indians, managed by Indians, and run by Indians, and under no circumstances have you any reasonable justification for suggesting that you ever thought of the interests of my community for a moment in your life!

The hon. Member for Nyanza also went out of the way to amuse the Council: when Sir Osborne Mance's suggestions met with his approval, Sir Osborne was absolutely right, but where they do not meet with his approval the hon. member makes the silliest suggestion I have ever heard—that because we on the spot have more knowledge of the circumstances and conditions therefore we are a better authority than Sir Osborne Mance. Is this not a ridiculous suggestion. Here you have a person, an authority on the subject of transport, who has submitted a report. You accept a few suggestions and give him credit for them; but when some of his suggestions do not meet with your approval you come out with the silliest suggestion that you are the men on the spot and know more about the circumstances! I leave it to Council entirely to pass their judgment on the hon. Member for Nyanza.

The only other clause on which I shall speak is clause 1. Under sub-clause (1) (a) it is the Attorney-General who is to be chairman of the board, and under (b) "four such other persons as the Governor in Council may from time to time nominate."

Past experience has shown that whenever such a board as this has been appointed, Indian interests have not been adequately, in fact not at all, represented. In spite of the fact that there are hundreds of Indians working for the Railway and using the Railway and contributing

largely to the revenue of the Railway, there is not a single representative of Indian interests on the Railway Advisory Council, and whenever a suggestion has been put forward that one Indian should be appointed it has always been turned down, and always on the racial basis.

If the hon. Member for Nyanza and the hon. Member for Trans Nzoia are so much against racialism—but so sympathetic—they should never raise in this Council any question of racialism. In all sincerity and earnestness I submit they should also have long ago agreed with the Indian community that election to this Council should have been held on a common roll. The very fact of our existence as this Council is based on a most demoralized principle.

MR. HARRAGIN: Has the common roll anything to do with this Bill, Sir?

HIS EXCELLENCY: I think not.

MR. ISHER DASS: The hon. mover has just intervened. I agreed before that he is in a most unhappy position, and you are here, Sir, to see that everything is treated in a just and faithful manner. The hon. Indian members have been elected to Council by the Indian community, and therefore it is up to them to protect the interests of their constituents and the Indian community by all means, as much as the European members are here to protect the interests of the European community. That was the point I was trying to make, and there is no justification whatever for any member to raise the point whenever a suggestion of representation on any committee comes from the Indian side, that it is always raised on a racial basis, but when it comes from the other side, it is always on an equality and that they are competent to represent the interests of all.

If you read clauses 9, 12, 16, 21 (5), what happens? This board is certainly not going to be a licensing board, but one to control all sorts of transport. It is also entitled, when it receives an application, to find out the financial stability of the applicant; in fact, I will go so far as to say, a man's character also. It is very easy for anyone, and particularly the hon. mover, to say that this Bill has nothing to do with character, but if you read the

[Mr. Isher Dass] Bill you will see otherwise. But surely, if a man has purchased a motor lorry and has satisfied all the demands and requirements of the motor dealer, it means that he is a fit person to own a lorry.

The board is not only to be concerned with how a man happens to possess a lorry but his financial stability, so that it is going to be a board of morals! I will pass no comment except to say that, under the circumstances, my community—I have the honour to represent—cannot agree to any such suggestion to give such wide powers to the board.

I would be justified in remarking that some of the European elected members on this side of Council have gone so far as to suggest that a local body should be empowered to grant these licences, and by local body I think is meant district boards or similar bodies. If you care to know, with the exception of one or two cases, there is no Indian representative on these boards, although Government have promised to include Indians on them.

Before I sit down, I should like to say that I should be failing in my duty if I did not make our position very clear. Under no circumstances is my community willing to accept slow death. As hon. members are aware, we are asked to choose between two evils, and we are not in favour of choosing even the lesser one. We have reason to believe, and we have facts in our possession, that your Government and advisers have absolutely made up their minds not to give us even representation on the select committee to which this Bill will be sent, nor any choice of representation on the board.

I am here to make it quite clear that under no circumstances can we Indian members co-operate in the select committee or with Government on this Bill. I hope I make that absolutely clear.

Having said this, I feel sure that some hon. members who have the interests of the Indian community at heart will be very happy that they have now nobody to obstruct them.

For your information I want to point out that if you want to know who are the people working for the introduction and enactment of this Bill in the "public interest," it is not the hon. mover or any

other Indian elected member on this side of Council. It was first the head of the Railway, who submitted a memorandum saying, "We want this Bill in the interests of the Railway."

You have 40,000 Indians with different political and commercial institutions. May I know if any one of them has presented any memorandum or applied for the introduction of the Bill in the interests of the general public? Has any one institution representing the interests of three millions of natives submitted any memorandum to you or your Government for the introduction of the Bill? I will go so far as to suggest that the hon. members who supported this Bill cannot give us the name of any European organization which has submitted a memorandum.

If public interests do not consist of three millions of natives and 40,000 Indians, I want to know exactly then what is the interests of the general public as desired by the hon. Member for Nyanza. If you want to know the truth, who are the people in this country (very anxious to have this Bill enacted in the interests of the general public, it can only be found out by one means. That means it is to suspend further progress with this Bill, and have an independent committee appointed representing all interests. I would go so far as to say, let the European interests be represented even if they do not own transport, the motor dealers should be represented, the commercial interests, as well as motor drivers and conductors, in whose interests you seem to have brought this Bill. Let them all be represented, and every institution, and then you will have the truth as to how many interests actually need such a Bill and what are the interests of the general public. Simply because someone, unfortunately, happened to be in Kenya twenty-five or thirty years ago is not sufficient argument that he knows more about the country than anyone else. Some know more after they have been here six months!

This measure has been deliberately brought in by the hon. the General Manager, simply with a view to removing competition so that the Railway can have a monopoly, and secondly to remove Indians from the field of competition, thereby depriving a certain number of

[Mr. Isher Dass]

people from earning their honest living in this country. I say that with all emphasis.

I very strongly oppose this Bill, and on behalf of my colleagues I say, Sir, with due respect to you, that we reserve the right to ourselves of opposing the Bill and taking all the measures we can against it, both in Council and outside.

ARCHDEACON BURNS: Your Excellency, I should like first of all to say that it is not true that the 3,000,000 natives in the Colony are not represented in this Council or in any measure that is brought before the Council. They are represented by two of us, and although their representatives may not be very clever on this job they have the natives' interests at heart in a very real way indeed.

First of all, I should like to say to the hon. the General Manager that I am going to give him a rest—I won't have anything to say about him because I am not forgetful or unkindful of the fact that earlier, I think it was in the last session or so, we were pressing him to return to the country in reduction of rates something like £100,000. Well, he did that because owing to his foresight and, I think, owing to his real effort to put the Railway on a proper foundation and proper footing, he dragged it out of the confusion it was in a few years ago, and then was able to give the country the benefit of that effort. We hope that that will continue to be his policy and that when the Railway justifies it he will give the country the benefit of these surplus balances once more.

With regard to the hon. and learned mover of the Bill, I should like to say that personally I take his assurance, which was given to us as he introduced this Bill, at its face value. We have listened to the hon. the Attorney General in this Council for some time now, and I think we have all come to the conclusion that what he says he means (Hear, hear.) And therefore, in giving this Council the assurance that the Bill is not aimed at putting off the road or doing away with the present system or the present people who are engaged in transport in this Colony, but that that system or that transport requires careful organization, I am entirely in agreement with that.

On Tuesday afternoon last we had a discussion on this Bill when the need of this was brought before the Council, and as I was on my way back from the Council to Limuru I met on the road a lorry which had, I think, not less than 35 or 40 sacks of charcoal and on top of that load there were six natives and a bicycle. Well, as one looked at that and passed it—one was almost afraid to pass the thing because it was swaying so much. I know there are, of course, laws and rules that can deal with such things as that, but as one comes up a road and meets these lorries coming down with extraordinarily heavy loads of charcoal, swaying from side to side, with natives sitting on the top, I think that that surely wants regulating. If the police are not sufficient to deal with those who are risking the lives of the natives as well as, probably, their own, then the police should be augmented and the Commissioner of Police should have more men to deal with the situation.

With regard to the Bill itself, first of all I would like to say something with regard to paragraph 3 and those who form the board—the licensing board. I see, first of all, that the Attorney General shall be the chairman. Here, I have no axe to grind in what I am saying, this gives me personally the most absolute confidence in the findings of that board and in the work of the board, because I believe in my own heart that the learned mover of this Bill is not capable of doing any unfair thing to any section of the community as far as he can see. On the other hand, that board, or he, has the power of delegating their authority to certain individuals. In clause 3 (6) we find they can delegate their authority to the provincial commissioner or to the district commissioner or any other person. I should like to suggest to the select committee when they are dealing with this Bill that these words "or any other person" be deleted from that paragraph. The reason for this I say is that the district commissioner or the provincial commissioner should have this authority given to them and not have the whole licensing board, as we heard from the hon. and learned mover, running all about the country, for the commissioners know the conditions of their districts and areas in which it is their duty to see to the welfare

[Archdeacon Burns]

of all classes of the community, and they will deal fairly with all who come before them for a licence with regard to arty traffic they may need.

We have been told that the Africans are altogether out of this, that the Africans have not reached the stage when they can take a very leading part in this. But they are coming up to that time, and when the time does come—whether individually or collectively—that they can drive buses or lorries and represent their case to the district commissioner or district officer, I am certain that their case will be heard and all due consideration be given to the needs of the people in the reserves.

There is one thing that I want to speak about particularly, and that is about the dhows on the lake. I am troubled, I admit, very troubled about this, and I do hope that the select committee when dealing with this thing will take into consideration the fact that at present all along the coast of the lake, both south and north from Kisumu, production is going ahead at a very rapid rate indeed. And the producers, the natives, who are bringing their produce to the various little inlets or bays where they are going to get a dhow or a canoe, these should not be interfered with. After all, the dhows are the feeders of the Kenya and Uganda Railway and in bringing their produce in this the cheapest way, as we have here given to us by Sir Osborne Mance, the natives get their produce brought at least at a very cheap rate indeed, compared with what they might have to pay otherwise. I do hope that in considering this Bill the select committee will take that into consideration and if there is an efficient service on the lake at the present time that that service will not be interfered with. Let them be controlled as far as licences are concerned, that is all to the good. But do not take them off from the work they are doing more or less efficiently at the present time.

There is one other thing I wish, especially to speak about and that is that the dhow and canoe service on the lake is providing for a large number of natives a means of livelihood. We have heard here

that at certain seasons the dhows are taken off for repairs, so much so that these natives are given a considerable amount of work and the *fundis* are given work in fixing up these dhows, or building new ones, or building cañoes all along Lake Victoria. And to take off or interfere with this work, in my opinion, would be doing the natives all round the coast of the lake a very real hardship by taking away their livelihood. So I hope the select committee, when they are dealing with this inland water transport, will bear that in mind and that, while dealing as far as is necessary with the transport on the lake, they will bear in mind that these people have put a very great deal of money into it, and although the transport may be slow, yet it is efficient as far as the natives are concerned and, as I said before, they are feeding the Kenya and Uganda Railway which brings their produce right down to the coast.

Yesterday it was mentioned, though perhaps it was only a suggestion, that perhaps we could do without the Uganda Railway altogether. Well, I do not see how we could very well. Because, although sometimes you get a shaking up in some of the carriages, I admit still that on the other hand it is preferable to be inside away from the inclemency of the weather to lying on the side of the road when a lorry or a bus breaks down, and you have to wait perhaps the whole day before it is repaired and you can go on. In this country it seems foolish to speak that way. The country cannot do without the Railway and cannot progress as it should without a railway system. We have had in this budget, and I understand that it has been said, that the money we have had to pay on feeding the Railway in various parts of the country is to be taken away and the Government is to be relieved of that money that they have had to pay. So I think in that way the country benefits considerably.

I am sure as the Railway prospers and when it comes to the time when the railway funds have become more than necessary for the efficient guarantee of the Railway, the country will again be sure of having returned to them cheaper rates and cheaper fares, and I believe too that this has happened here before.

[Archdeacon Burns]

With regard to appeals, I agree entirely with the hon. Member for Ukamba and other members that any appeal with regard to any refusal by the licensing board should go before His Excellency—the Governor in Council. I most certainly am one who supports that very much, and I agree with those who have taken up that line.

There is one other point before I sit down. In clause 17 (3) (c) we have the question of buses or lorries going along certain roads not being allowed to stop except at given points. That is, there may be a point here and another point three miles away or four miles away, and people travelling by that conveyance are not allowed to get off the bus unless they go on, say, one, two or three miles off and then have to walk back, or vice versa. I quite understand the reason for it in towns. If the motor conveyances are to be inspected people cannot hop on or hop off at any time they like, so that the owners or the drivers of the buses cannot get the money from those who do. On the other hand, it should be made as convenient as possible for passengers going along roads to be able to get on a conveyance at a given point and be allowed to get off the bus or conveyance as near their homes as is possible for them to do.

There are no other remarks I wish to make except that I think the natives' interests are being served by the board having the authority to delegate authority to the district and provincial commissioners who know the needs of the natives from that point of view, and who sympathize with their aspirations in a very real way. I think from that point of view the native interests for the time being are met and as the natives develop and are able to put buses and lorries on the road themselves, either individually or collectively, I am sure their interests will be considered and fair play given to them in this matter of transport from their reserves to whatever point they want to go.

Before I sit down there is just one point I want to make clear and urge with all seriousness. That is that the bringing in of this Bill into law will not interfere in any way or keep us from the convenience of having a through road from

Mombasa right up to Nairobi and right on to Kisumu and so on to Uganda. To my mind it is rather scandalous to think that if one wants to go down to the coast in order to rest—and it is becoming a resort for people regularly every year—one has to make one's way down into Tanganyika Territory to get a road so as to be able to motor down to the coast. I do hope that, even if this Bill is passed, there will be a central and good all-weather road where people can drive in comfort and ease and so reach the capital of the coast and enjoy the amenities that they can get down there.

These are all the remarks I have to make with regard to this Bill. My chief point is the dhow service on the lake, and I do urge very much that the select committee will deal sympathetically with the natives and those who are earning their livelihood in the building and repairing of the dhows and canoes all along the lake shore.

MR. BEMISTER: Your Excellency, I wish most emphatically to protest at the insulting remarks of the hon. Mr. Isher Dass in saying that I, amongst others he mentioned of the European members, do not represent any other than European interests, or voice other than European views in this Council. I take it, as an Englishman, as one of the worst insults that has been levelled at me. It is true that I am put here by the votes of the Europeans, but it is a recognized fact in Mombasa that we work together in a spirit of co-operation and state of mutual help with no sign of antagonism. In the Elected Members Organization at the coast there is no question affecting any interests which is not properly and thoroughly discussed, and every time I have spoken or wished to bring anything before the elected members I always have had a satisfactory deal.

With regard to this Bill, it has been suggested that the Railway is very deeply interested. I cannot believe such a statement, because, as you see, in our audience this morning we have several highly placed officials of the Railway, and the situation at the moment reminds me of the trial in America of a celebrated company promoter. In the papers it said that he was the least interested of anybody in

[Mr. Bemister] the court. He did not care how the summing up went, because the jury had all been arranged for. So it cannot be said that they are really interested; they are sitting on the box seat in all cases of transport.

It has been said by the hon. Member for Nyanza that it was never intended to restrict transport by this Bill. But if you will read clause 17 (4) (b)—“a condition that the rates to be charged shall not be lower than such amount for the goods authorized to be carried as the licensing authority may consider reasonable”—I would like to ask what is to be the gauge and who is to be the arbiter of the correct rate for the goods which are to be carried? Either we must go by the running costs of the present-day motor vehicles or take the rates charged by the Railway, and adjust them so that there is not what they call “cut-throat” competition. But time goes on and cheaper methods of transport arise, obsolete cars and every sort of vehicles find their way on the roads. I do not know much about them, but I do know that some people can rate things cheaper than others. How can you gauge what is the correct rate for a given set of traffic and how, also, are you going to gauge for passenger traffic? It certainly is a great ambition for a native to ride in what he calls a *niotaka*, and you will find it tremendously difficult to persuade a native going from Mombasa to Changamwe or Miritini waiting twenty-four hours for a train or for a bus, to refrain from getting a lift on an overloaded lorry at a very cheap rate to his destination.

Again, as to competition with the Railway on goods, I think you will find that the majority of the traffic is piece goods. Now with piece goods, in the days when this country was not properly organized and when the Railway was not a separate department using its own funds, the system of rating on the Railway was based so as to include indirect taxation on the natives through the purchase of their clothing. In consequence, I think you will find that *american*, *kikols* and *shukas*, and such other piece goods, are carried at a higher rate than other goods for that very reason, and not because of their difficulty in handling or anything of that kind. Now, it is obvious that if

motor transport can carry these things cheaper the natives are going to be affected if you are going to raise that traffic rate to the railway rate; you will raise direct, or rather indirect, taxation.

If we continue with the present system we can certainly get a bit of that indirect taxation back through motor taxes, but we must remember that we can get nothing whatever from the Railway. They do not subscribe to the general taxation; they do not help us in any way. This system of control for raising rates is going to hit the native full in the face, and on these grounds I do think that very careful consideration must be paid to the rates to be charged, and that these rates must be the lowest that can possibly be charged irrespective of the rates charged by the Kenya and Uganda Railway.

It has been suggested to me that if this Bill is not passed there will be no roads left in the Colony. I can hardly believe that—merely because you have people in the Colony who do not know how to make roads, for that must be the real reason. You have your Traffic Ordinance which controls the weights and speeds on the roads, and everything will work out fairly in that regard. But to deny the native the right to get the cheapest possible goods to as near his door as possible is a very serious responsibility to take on in this Council.

I would suggest that the most careful consideration be given to that one snag, that as long as natives are not penalized this Bill should have the blessing of Council, but if there is any suggestion that any native loses one cent, then I advise you, Sir, to let the select committee decide to take out the inside of this Bill and just leave the objects and reasons!

DR. DE SOUSA: Your Excellency, I am sure that hon. members of Council are sorry for the weariness that has been inflicted on you in connexion with this debate. It has been a very long one, and has brought about a conflict of ideas, perhaps the first that you have been unfortunate enough to witness.

Coming as this debate does on the top of all our general public interests, it shows, Your Excellency, to what extent these general public interests are being

[Dr. de Sousa] represented in this Council. Apart from the official members, you have heard the European elected members representing the European community, the Indian elected members, representing the Indian community, all representing the immigrant races—and you have also got the nominated unofficial members representing the Africans.

If this Bill really and truly represents the general public interests, can anyone conceive, much less your own self, that there should be such a division of opinion, such a conflict of opinion, as Your Excellency has witnessed in the last three days of this debate? So it must appear to you, as it does to everybody else, that the question is not of general public interest.

Perhaps you may be annoyed, Sir, at the extreme manner in which some of us speak, but the circumstances are such that in the past, as to-day, any debate on a Bill of this nature is without a change of spirit on the part of certain members in this Council, and it has been so for many years.

I take it that most of the evils of this debate are to be traced to Your Excellency's Government long before Your Excellency took office. Government appointed a committee, and on that committee it gave representation to two official bodies in the persons of the General Manager of the Railways and the Director of Public Works. It gave representation to the unofficial European community in the person of Captain Anderson. It also gave representation to the Indian community in the person of Mr. Abdul Wahid, and it also placed on that committee two European elected members.

The very composition of this committee shows to you that the interests this committee were going to represent were not general public interests. You see there was no one, nominated or otherwise, to represent the native interests, except so far as they were represented by the official chairman, the Attorney General, the hon. member of the motion before Council. You see that they had prepared the ground for instilling into the people not only a sense of fear and injustice but, what is slowly and surely coming, a

sense of insecurity, to certain sections of the community. That committee reported, and the draft Bill recommended by them has been before the Council for the last three days.

I say that if Government had taken the trouble to appoint one elected representative of the Indian community as they did in the case of the European community (by appointing two), most of the misunderstandings, I think, would not have arisen. I say that when we have already told you, my hon. friend Mr. Isher Dass has, that we are not going to co-operate any more beyond this second reading with Government on this issue unless and until certain of our conditions are agreed to by Government; we do it because your Government placed us in that position. It is not for nothing that we, on this Council, offer our co-operation, but when you consistently kick us out, I think the time has come when we ought to do something more than we are doing.

That much for the special committee.

It has been maintained all throughout this debate that the villain of the piece is the hon. the General Manager of the Railway. I have been feeling that it was not a right thing for us to blame him all the while. The same principle that is applied to this so-called general public interest has also been applied to the transport policy of the country. I am sorry if I refer to the hon. Member for Nyanza. I very often consider his presence in this Council, apart from his service to his own community, is a great asset, inasmuch as many times he relieves me of the depression I feel in the Council; he comes as a tonic when we sit on these Bills and enlivens the proceedings! (Laughter.)

He said the object of the Bill was not to give a monopoly to the Railway, or words to that effect, and I think it is necessary for us to see whether it is so or not. I should be the last man to condemn the General Manager without being convinced in my own conscience that he is the culprit. It does not matter whether the hon. Member for Nyanza has thrown consistency to the wind; he has admitted that he has done so. But I may read out to him a passage from the report of the committee of which he was a member, which shows that even he has

[Dr. de Sousa]

blamed the General Manager and taken him to task. On page 6, paragraph 17, the report reads:—

"We realize that the general problem in Kenya is much intensified by the fact that a railway tariff policy has been adopted, in the interests of the majority, which grants very low rates to primary produce, and which, in consequence, must charge high rates on imports, which thereby become vulnerable to road competition. We feel that so long as the Colony demands a policy of this sort, special protection must be given to the Railway and that any legislation which may be introduced as a result of the recommendations contained in this report must be capable of providing such protection."

That is what the hon. Member for Nyanza—

MR. HARVEY: On a point of explanation, there is all the difference in the world between giving a justified measure of protection and establishing a complete monopoly!

DR. DE SOUSA: Then, Sir, the same thing has been maintained throughout the report of Sir Osborne Mance. This is shown on page 59, for example, and I am just pointing it out to show the consistency of the hon. Member for Nyanza, where Sir Osborne Mance says, referring to the Railway:—

"It is assumed that in principle import traffic should continue to pay high rates in order that export traffic may continue to be charged low rates. This can only happen either by monopoly or by direct Government action."

Again, on page 17, comparing the rates of the motor transport and of the Railway transport, he makes a suggestion:—

"It is important therefore to reduce the above disparity by reducing the higher class rates to a figure more comparable with road transport charges."

We have evidence in the report signed by the hon. Member for Nyanza and almost all through the report of Sir Osborne Mance, that the rating policy of the Railway has been encouraged and sanctioned for one particular purpose; that is, to allow producers in this country

to export their produce at what is sometimes one-twentieth of what it costs the Railway to transport. Several members say that these export rates on the Railway affect the native as well as European enterprise in agriculture.

When these rates were imposed, and the Railway made to serve more the interests of agriculture than of the general population, there was no such thing as export of native produce. If there was, it was an infinitesimal amount compared to the export of the produce of European agriculture.

Now, again, I am trying to prove to Your Excellency that what is called the general public interest becomes really to the interest of a section of the community, and the debate on this Bill is because of this fundamental fact: that nothing in this Colony can be brought about unless and until it is a sectional interest. I will not call it racial, because that phrase seems to be a red rag to several members, but I say it is sectional interest. And when you consider those interests have been almost antagonistic to the commercial interests, to the transport interests, and to the consuming interests. To a great extent you know that this Bill is not in the general public interest.

A few hon. members have referred to the advisability of importing experts from abroad to advise us on our own problems, and if I am not mistaken one member disagreed because "we are the people here and have got more experience". If that is true, if local people have got more experience than the imported experts, then the local experts are better than the imported ones, and I greatly appreciate that confession. It is so in more than one case.

I would ask Your Excellency to in turn ask your advisers whether they took any notice of the expert advice that was given to this Government and to that special committee by their own expert in road and transport problems, that is, the late Director of Public Works? I was surprised that nobody made mention of that minority report, written by him on page 20. It is a fact that when the experts of the Colony, men who have devoted the better part of their lives to the service of the country and this Government, give

[Dr. de Sousa] authoritative opinions; these sectional interests which are forced upon the country as general interests (though they never will be) take no notice of them. The recommendations which I am going to read will edify many members, and if they have consciences they will express regret that they have never referred to them.

The late Director of Public Works was an expert member representing Government on that committee. He signed a minority report a month earlier than the other members signed their report, as his services had terminated and he was leaving this country. I am glad to say he has left something which to-day stands as a condemnation of these sectional interests. In paragraph 2 of his minority report he says—and I particularly emphasize what I am reading:

"2. I am of the opinion that there is no necessity in this Colony for a comprehensive Ordinance on these lines. It will be expensive to administer in spite of hopes to the contrary. The Colony is not in a position to afford an Ordinance of this kind pending the period when it may become really necessary. I consider that the essential requirements in respect of control and development of transport could be achieved by a short Bill on much less ambitious lines which would be inexpensive to administer."

The hon. and learned mover said that this Bill is on the lines of the English Act. My hon. and learned friend Mr. Mangat proved yesterday that the Bill is not in essence in any way related to the law of England. The late Director of Public Works has this to say in this connexion:

"In my view it is improper to endeavour to draw a comparison between the requirements for the licensing and control of public service and goods-carrying vehicles in this Colony and those for advanced states such as England, South Africa, etc."

The fact is that we have not got in Kenya a uniform public interest. The case in England is that the population is one, the Government of the country is one. Here, we are all different. The only common tie that does exist among us is the tie of British citizenship, and nothing

more. We are all different, even as between immigrant races, and yet it is the contention of the hon. mover that this is all right.

There has been another charge made against the people engaged in transport. It has been said that they are cutting their own throats. It has been said that this is tariff-cutting competition. I do not see what anyone has got to do with throat-cutting competition provided the laws of the country are not violated. I do not see any reason, because after all it is held in many quarters that competition all over the world promotes good healthy trade and that monopolies do not, that they are an immoral thing, unless of course it is the law for one section of the community as we have it in Kenya, and when it gets into their hands it acts exactly as if it were a dictatorship.

It has been held that competition is bad. The late Director of Public Works maintained otherwise, and proved to you in his minority report that he welcomed competition. He said that his cost of running motor transport for that particular year, 1935, was 48 cents per ton mile, and when he had to give a contract it was Sh. 1750. He said:

"In my view the only object required to be achieved in this Colony at present, and for many years to come, is the control of vehicles carrying goods for hire or reward along routes where serious competition with the Railway occurs." (There again we get our hon. friend the General Manager.) "That necessity is only of importance on account of the use of the Railway as a means for subsidizing the export of country produce. If that circumstance did not exist no control of vehicles carrying goods for hire or reward on those routes would be necessary at all."

In connexion with competition he says it was necessary for him to get contracts for transport because it was essential that he should get at times the assistance of private transport agencies.

Another contention is that motor transport should be controlled because of damage done to the roads and the enormous expenditure that is involved in keeping up the roads. The late Director of Public Works was definitely of the opinion that more damage is done to the

[Dr. de Sousa] roads of the Colony by fast cars. I will read what he says:—

"The major damage during dry weather is caused by excessive speed of all vehicles, especially privately owned vehicles."

That is directly against the contention that lorries are mainly responsible for the damage done to the roads.

Again, the Director of Public Works, in the concluding paragraph of his minority report, says:—

"9. For the above reasons I am in disagreement with the majority of the Committee regarding the necessity for the Bill as drafted. At a time when the Colony cannot afford to provide adequate funds for many essential services it is, in my opinion, improper to enact an Ordinance which, as far as many of its provisions are concerned, is quite unnecessary and would cause expense in administration."

I think I have proved for you—I do hope I have—that this Bill and its implications are not as easy as perhaps the hon. and learned Attorney General would make out. Many of us are easily led by the eloquence of the hon. mover, but I say that the implications of this Bill are far more serious than any advantages the Government of the country would derive from the enactment of this law. It is in that spirit and in that conviction that I join the hon. Indian members in requesting Your Excellency to see whether it is not proper at this stage to postpone the Bill so that more interests than were represented on this special committee can be allowed an opportunity of advising your Government.

In connexion with that, and because of the fact that Government do not revise the rating policy of the Railway, bringing it down to an economic minimum, before it had anything to do with the transport system, for it is a system which has been forced on us and the Railway mainly for sectional interests, for those reasons I think it opportune for Your Excellency to endeavour to meet our point of view, knowing that we as representatives of a large section of the community are against it. Nothing will be so galling as to feel that Your Excellency of your

advisers in the last few days have not budgeted one inch when personal requests were made, and the cumulative effect of all this distrust of a community and its representatives is sure to be felt in higher imperial affairs.

Somebody said, "Let us have co-operation; let parochialism go away," and my appeal is the same. Let us leave parochialism, and consider not only this Bill but all other things that come before us from time to time in that spirit, which I hope will be an imperial spirit.

I have nothing further to say, except at the request of the hon. Indian member Mr. Mangat to make it clear that in his references to appeals being made to the Supreme Court—I feel sure I am interpreting his views correctly—in order to obviate objections that would arise if appeals were made to that Court, they should be made to an independent body and not to the Governor in Council.

I have only one other point. The hon. and venerable member (Archdeacon Burns) seemed very distressed by the way lorries run in the districts. I expect that he, like myself, is a very loyal citizen who abides by the law of the country which provides that any menace to life and property should be notified to the authorities concerned. I do hope he has done that, because when I brought up the question of lepers being abroad in the streets of Nairobi I was reminded that my duty as a citizen was to report it to the local authorities. I do hope he has fulfilled that obligation as a loyal citizen of Kenya!

About his compliment to the hon. the General Manager—I would join him if I had not certain conscientious scruples about the giving of 100,000 baksheesh to the country out of the profits made by the Railway. I think that sum represents the savings made by the Ordinance prohibiting the carriage of goods by motor, and also represents hardships to hundreds of men, women and children thrown out of business.

If the reverend gentleman really would congratulate him, I think we have reached the limit.

However, I have put my views before Council, and I am the last one on this side to speak. It may be that I have said things that may not be pleasant to Your

[Dr. de Sousa]
Excellency and your advisers on your right, but I have endeavoured to do my duty, and I do hope you will seriously consider the implications of forcing this legislation down our throats against our will.

Council adjourned for the usual interval.

On resuming:

COL. FITZGERALD: After having heard those long and very interesting speeches given by the hon. Indian members, it will now be realized that the Indian and native interests in this Bill are one and the same. As these members have brought out very forcibly most of the points if not all the points in this Bill, it is not necessary for me to prolong the agony of this discussion any longer. It would appear from what they have said that the whole of the transport in the Colony, bar the Railway, is to be completely washed out, which, of course, is absurd and ridiculous.

There are in this Bill, one or two clauses which appear to me to be somewhat vague, but I have no doubt that these will be thoroughly discussed and considered when this Bill goes to the select committee.

For instance, in clause 14, under that clause it prescribes that Jerogi wa Kamau or possibly an Indian proprietor may be running a fleet of buses on routes throughout the Colony, say between Nairobi and Thika, or between Nairobi and Machakos, and routes of that sort, so that when the Bill becomes law these people will want to take out licences to continue running their transport on these particular routes. We have then this wonderful new Kenya Bus Company coming along with their very fine up-to-date buses who wish to compete on those routes with the natives and the Indians. I confess that everybody will be very favourably impressed with this new kind of transport and it seems to me that the bus company, under these circumstances, will win every time. If that is the case, it appears to me, as the hon. Member for the Coast said in his speech yesterday, that there is likely to be formed a monopoly, and this is a thing that should be very, very carefully avoided if this Bill becomes law.

Everyone will appreciate that transport in this country must be controlled far more carefully than is the case at the present time. Several hon. members have pointed out the dangers of these lorries and things on the roads, like great juggernauts, coming down on top of one, and being a source of danger to people on the roads in their cars and so on. It must also be realized that the Indians and the natives have spent a considerable amount of capital in their various lorries and buses and so on, and there is no doubt about it that they should be allowed to have their share in the traffic throughout this country.

With regard to clause 3 of the Bill, I would very much like to support what my hon. colleague said with regard to this. I think it is of the greatest importance to this licensing committee that there should be somebody representing native interests. I think it is very important, and I have no doubt, as the Indians suggested, they would like to have an Indian representing them.

Then we go on to clause 3 (3) and (6), the question of the licensing authority delegating its powers to any other person. I think that should be deleted from the Bill as I think it is very unnecessary. Apart from that, as already stated here, the power delegated to the provincial commissioner and the district commissioner will go far enough, and I say, leave out this matter of any other person.

I am sure that everyone will be very pleased at the assurance of the hon. Member for Nyanza (Mr. Harvey) that there is not to be a monopoly of traffic on the inland waters of the Colony, and that the native community will be allowed to carry on the good work which they have been doing for very many years, long before any white man ever put his foot in this country. And when the hon. member makes an assurance of that sort we can be perfectly certain that he will do his utmost, at any rate, to see that there is no monopoly as far as the natives are concerned on Lake Victoria.

GENERAL MANAGER, K.U.R. & H. (SIR GODFREY RHODES): Your Excellency, it is, I think, probably unnecessary for me to say that I am going to support this motion. I do so partly

[Sir G. Rhodes]
because I hold the position of General Manager of the Railway belonging to this country, but I do so more particularly, I think, because as a student of transportation matters for the past thirty years I am interested in what I call organized transport, and I feel that this young country, this developing country, needs organized transport probably more than any other advantage at the present time.

In your opening address, Sir, you spoke of the need for consolidation and laying sure foundations for the future prosperity. Well, Sir, I regard a sound transport organization in this country as one of the first essentials to enable such a policy to be carried out. I may be biased in that direction, because I happen to belong to what is called an organized form of transport.

I think, if I may just refer to that for a moment and to what would happen if such form of transport was not organized, it would bring home the particular lesson I would like to emphasize this morning.

What would happen if I allowed my Chief Mechanical Engineer to import a locomotive which was far too heavy for the permanent way? That locomotive would career down the line, break up the rails, culverts, and so on, and do a tremendous amount of damage. That is quite an easy instance to understand. What would happen also if I allowed my Superintendent of the Line to run trains wherever he wished regardless of whether the traffic was there, to any spot he liked? There would be people killed in collisions, derailments, and accidents, and so on. Again, what would happen if he were allowed to change his rates, his charges from day to day, and to quote just exactly what he liked to quote to any particular person who came along? That of course would lead to chaos in the Railway at once.

That, I suggest, is what is actually happening in other forms of transport in other countries, and what is actually happening in these territories. We have found that chaos took place in Uganda, and they have had to deal with it already by means of a special Bill. We have found the same type of controversy arising in Tanganyika, and they also have intro-

duced a Bill to deal with the problem. We, I suggest, are finding the same problem in this country.

So that I speak more as a supporter of sound, efficient, organized transport in connexion with this particular Bill rather than, perhaps, as a General Manager of one form of transport.

But as I have been accused of putting this legislation up to Government, and as I have been accused of being the villain of the piece, it is necessary for me perhaps to say something about the Railway point of view as well.

First of all, in regard to the drafting of the original Bill, it is natural, as one of your transport advisers, Sir, and having a staff trained in this particular matter, for me to be asked to put up draft legislation that might be suitable for this particular purpose. In doing that, we searched the legislation of many other countries, and it will perhaps surprise the hon. member, Mr. Pandya, if I tell him that one of the most important pieces of legislation from which we got a great deal of help—because it happened to be the latest one—was one introduced into a neighbouring territory, Nyasaland. It is all the more interesting that that particular legislation was introduced by no less a transport authority than the chairman of the Kenya committee and the hon. mover of this motion before Council.

I have been able to take full advantage of his studies in transport matters, in putting up the Bill which we did to the Kenya committee for consideration.

Now I will come to the Railway side, because that is more particularly my province at the present moment.

One would think, when hon. members talk of the Railway, that it was a private institution of my own, and that I was getting away with quite a lot of the country's money and putting it in my own pockets and the pockets of my senior officers. But this is your Railway, it belongs to your country, it belongs to Kenya and Uganda. It is serving your interests here and it is, I suggest, my duty to point out to you very clearly any way in which the revenue which I argue should come to the Railway is being lost, and I have not been backward in doing that in the past.

(Sir G. Rhodes)

I have had to come to this Council on many previous occasions to ask for protection. We have at the present time, from our point of view, an ideal form of protection, because we have complete prohibition for the very vulnerable section of line from the coast to Nairobi and Nakuru. I recognize that that type of prohibition, complete prohibition, that type of legislation, cannot last for ever, and I have, as the representative of the Railway, come forward with the suggestion that we should put ourselves on exactly the same basis as every other form of transport in this country. That is, that we should place our facts before a body who are authorized to administer and control transport based on public interests.

The whole of the opposition, as I see it, in this debate has arisen largely from the supposition that the Railway will, from that fact alone, automatically become responsible for all the transport in this Colony. That, of course, is quite ridiculous. To begin with, we have to state our case to this board, and we have to persuade them that whatever case we put forward to them is sound and is based on public interest.

At the present moment, the only case I can think of where we should come before such a board for absolute protection would be in connexion with the movement of goods between the coast and Nairobi and Nakuru, where, as hon. members know, we have complete protection at the moment, and we would expect, for the present at any rate, that board to recognize the justice of our case there, and that it was in the public interest to give us protection.

But there are very few other places where we would ever come forward with such a suggestion for protection. In fact, I believe that once the Bill is law, most of the opposition to the applications for licences will come from the transport side itself, the road transport section, and that will be because people already established and who have already got licences will put forward cases to show that there is insufficient traffic for other people to come in. If they can prove their case before the board they will probably get the protection they require.

The point I want to make at the moment is that the road transport interests themselves will make the fullest use of this Bill and not the Railway.

Sir Osborne Mance, in referring to this question, drew attention to the fact that the Railway should also endeavour to bring down its high rates to make it less vulnerable than in the past. Hon. members know what has been done. That has been our stated policy for many years. We have always complained about this unbalanced tariff and looked for the time when we hoped to be able to get rid of it, either through increasing prosperity, and so being able to reduce the top rates, or, if forced to do so, by raising the lower rates. We do not like the latter alternative, and by giving us protection at the time you did we were able to avoid that particular calamity.

But during the past two or three years we have been able to appreciably reduce our top rates. One hon. member spoke of £100,000. Actually, in the last two years, no less a sum than £400,000 has been devoted to rates reductions, a great part of which has been devoted to reducing top rates. Last year Class 1 disappeared altogether. We are now actually at the present moment considering what we shall do for next year, and while it is premature for me to say what the Railway Advisory Council will finally decide, I can assure this Council that to all intents and purposes we have carried out the Mance recommendations.

But that is not the whole point. He quite clearly states in his report, and recommends even when that is done, that some form of control of transport generally is still necessary in the interests of transport itself. That is, I think, very fully demonstrated in his report, and that is one of the reasons why I am such a strong supporter of the Bill before Council.

One of the main criticisms regarding this Bill has been in connexion with dhow transport. It has been assumed that the Railway on the passing of the Bill are going to object to every application that a dhow owner may put in for a licence. What are the facts? In every public utterance on the subject I have stated that we regard the dhow transport on the

(Sir G. Rhodes)

lake as a feeder service. We consider them as helpful to the development of the country surrounding the lake, and therefore helpful to the transport organization of the Railway and therefore to be encouraged in every way in their legitimate competition.

I have said that over and over again, and dhow owners know it, and I believe the hon. Indian members know it too. So that even when this Bill comes into law we do not propose on that date immediately to resist every application for a dhow licence. What did we say in the Kenya committee? On page 11 we say:

"30. With regard to inland water-borne services, we are satisfied that there is no reason to restrict native canoes, boats or dhows on the inland waters so long as they provide services in the public interest, and any legislation therefore should, in our opinion, be so designed as to facilitate the granting of licences or permits to these craft in such circumstances.

"We are aware, however, of the possibility of other craft of a more serious type plying on the Lake in competition with existing services, and consider that such transport should, in the same way as other forms of transport, be subject to the test of public interest."

That is in the interests of the dhow owners as well as in the interests of the Railway. Sir Osborne Mance also recognizes this particular point as, after seeing what we had to say in our report and hearing our own evidence on the matter in Kenya and Uganda, he wrote:

"The licensing commission would not therefore find it necessary or desirable to introduce any restrictions in the present number or operation of dhows."

That is quite clear, and two points stand out in that sentence.

First of all, Sir Osborne Mance realizes that the licensing commission, what we call the licensing authority, will have to function on Lake Victoria as anywhere else, but he also shows that, as in the Kenya report, there will be no need to reduce such licences wherever dhow services are operating in their proper legitimate sphere. I hope that point is quite

clear, that the dhow service have nothing to fear from this Bill. In regard to their ordinary traffic on any Kenya waters particularly, there cannot possibly be any objection raised by the Railway, or by anybody else as far as I know, against the operations of the dhows.

On this point, however, I must add one other piece of information, and it is this. Owing to the fact that we have not been able to introduce our low rates in connexion with transport to Tanganyika lake ports, Tanganyika Government have asked us to retain our old rates. That at once makes it possible for dhows operating from Kenya ports to Tanganyika ports to take transport they would never have taken in any other circumstances down to those Tanganyika ports. In other words, it enables the dhows to undermine or even to nullify completely the policy the Tanganyika Government wishes to carry out.

Tanganyika Government have just passed a Bill similar to the one before this Council, and I have every reason to think that an application for a licence from a dhow owner to run traffic from, say, the Kisumu port to a Tanganyika port to take advantage in other words of the particular tariff position will be resisted by the Tanganyika railway system. That is a question which does not concern this country or this Administration to any great extent. The opposition to these licences will come from Tanganyika. I thought I had better make that point clear so that the position would be understood.

With regard to other applications for licences, it has been suggested that the Railway might oppose the grant of a licence for a passenger service between Nairobi, Nakuru or Kisumu, and so on. We have always taken the line that we are not suitable for passenger transport; we cannot run at high speeds, for reasons quite beyond our control. Therefore we shall be the last people in the world to oppose any form of passenger transport that would serve a useful purpose; that is, the purpose of the public interest. (MR. SHAMSUD-DEEN: Nairobi to Mombasa?) The same thing applies.

We have no reason to suggest opposition from our point of view to a passenger service because we realize that to a

[Sir G. Rhodes] very great extent indeed we cannot provide such a service. In fact, I will go so far as to say—and I have said it at great length in my annual reports—that if responsible organizations were prepared to undertake that type of work we ourselves might be prepared to join with them in doing so. At any rate, we should be glad to co-operate and co-ordinate our services with them.

That point was clearly made in the Kenya committee report, because on page 16 we say, regarding the building of roads, which is the particular point, because such a fund is necessary first of all before any service to Mombasa could be introduced, as follows:

"Provided suitable legislation, such as that now proposed, is enacted we urge Government to consider at an early date the possibility of allocating additional funds for the purpose of improving roads wherever the public interest justifies improved means of communication."

What more can we say than that?

As far as I can see from the trend of this debate regarding this motion, the whole opposition has been concentrated on the point that the Railway itself might prevent any other form of transport arising. I have pointed out that it is your Railway, your revenue that we are thinking about, but from my point of view I can see no way at all in which the position of the country as regards transport can be interfered with owing to the fact that the Railway, before it can oppose the grant of any licence, must make itself heard before the board which is going to judge the cases in the public interest. I can see no reason for any objection to this legislation if it is fully realized it is designed to meet public interest and that its proposal to appoint five wise men to see that the public interest is safeguarded.

There is one point I would like to make regarding the constitution of the board. One hon. member suggested that the General Manager of the Railway should be an *ex officio* member. I strongly oppose that suggestion. On this board I do not think there should be any person directly concerned in any transport what-

ever. I believe the interested parties should come before that board, the Railway as everybody else, and make their case to the best of their ability, but that the board itself should be composed of people who are completely disinterested.

On page 13 of the Kenya report we make that point very strongly. In paragraph 37 we say:

"37. We recognize that such a board would, under our proposals, possess very wide powers, almost sufficient, in fact, to render sterile Government policy with regard to transport. We feel, therefore, that the board should be composed of individuals of the highest calibre and, if possible, entirely disinterested in any transport industry."

I strongly support that recommendation, and hope that will clear the air when it is suggested that the Railway want to get control.

I want to be quite clear on that point.

The Railway is interested only in seeing that efficient transport throughout the territory is encouraged and allowed to grow. We have had very little of it in the past, as the Railway is hampered in making connexions with outside points. For example, we were asked the other day to try and arrange through booking to a place like Kericho. That is a complete impossibility until we get organized transport. The moment you get organized transport we can make suitable arrangements with such organizations to carry through traffic and give out-districts the facilities they ask for. But until organization is introduced into the transport of this country we cannot get co-ordination or any real efficiency in transport matters.

Therefore, I very strongly indeed support this motion.

LORD FRANCIS SCOTT: Sir, I am afraid the debate has gone on a very long time, and I shall not delay it unnecessarily. I rise to support the motion before the Council.

I do so because from practical experience anybody who travels round the country and who takes an interest in transport matters realizes that some such method of control is absolutely essential. The hon. the Indian members have made their position quite clear, and I have no reason to quarrel with the line they have

[Lord F. Scott] taken up; the line is that they do not want this Bill at all. And if they cannot get rid of the Bill they would like it to be emasculated, and if they cannot do that then they would like to have a committee of advocates on the board to see that it was made null and void. That is a perfectly legitimate attitude from their point of view.

I do wish to say that the hon. and gallant member the General Manager represents exactly my views as to the composition of the board, and I entirely disagree with those members who advocate sectional interests. We do not want a board that advocates sectional interests; we want it to be composed of five wise men with practical experience and a just and fair outlook, and to consider all the applications that come before them in a fair and impartial manner. It has nothing to do with the matter whether these gentlemen happen to be Indians or not; that is not the point. The point is that they should be disinterested people.

I have been amused in the course of the debate to hear the wild accusations which have been levelled at the head of my hon. and gallant friend opposite. I never realized before, though I have known him for a great many years, and for six years as a member of the Railway Council, that Machiavelli was not in it with him in his nefarious methods of achieving his particular end! (Laughter.) This incident shows, I think, pretty clearly the unsoundness of the attacks that have been made. For over six years I have been a member of the Railway Council, and in that capacity one realizes that it is essential that the Railway should have a certain amount of protection against what we call uneconomic competition.

No one is stronger than I against any idea that the Railway should have a monopoly and the control of the transport in the country. I think I may say that such an idea never entered the head of anybody on the Railway Council or of the General Manager, and to insinuate that that is the object of this Bill is wrong in every way. As I see it, the Bill takes away a great deal of the control vested in the Railway, and the whole object of the Bill is that there should be a sound and sensible control of the transport services

of the country, and to protect the roads of the country from being needlessly knocked about, which must entail an enormous increase in expenditure on them. I maintain, as I said before, but which has been disputed by the hon. the Indian members, that this Bill is framed entirely in the best interests of the general public and the country itself in general.

Sir, I support the motion.

MR. HARRAGIN: I must confess that it is not often that I am taken entirely by surprise in this Council; but on this occasion I have been amazed at the attack that has been made upon this innocent-looking Bill. When I returned from leave to find that it was my duty to introduce it, I thought I was introducing rather a dull Bill, but at least one which had been investigated by anybody and everybody that knew anything about the subject at all, and a Bill about which the public had had every opportunity of putting forward their views.

We had a committee that sat to take evidence from everyone that would give evidence, and we had on that committee an Indian gentleman, and the findings of that committee were signed by that Indian gentleman. So you can imagine my surprise when I find that the Bill is supposed to a hidden attack on the unfortunate Indian population. Following that, we had the advantage of the report of an expert who recommended much the same sort of thing; and on these two reports this Bill was drafted.

There has been one point made with regard to the fact that on the original committee which sat the former Director of Public Works (Mr. Sikes) had put in a minority report, and it has been quoted by the hon. Indian member as proving conclusively that the Government expert did not believe in control. Well, now, if you turn to the actual report, there are only two passages which I would like to read to you: I am referring to the Minority Report signed by Mr. Sikes, pages 21 and 22: I am sure that, unwillingly, the hon. member in quoting it carefully left these out, probably because he did not notice they were there.

I refer to paragraph 5 in which the hon. member told you about the damage done during dry weather by the excessive

[Mr. Harragin] speed of privately owned vehicles. Now I would ask you to look a few lines higher up and see the following:—

"5. As far as damage to road surfaces is concerned, I hold the view that the major damage during wet weather is on account of goods-carrying vehicles."

Well, now, hon. members can compare the amount of damage done to the roads in dry weather and the amount done in wet weather. I think you will agree that it is necessary at any rate that we should control these goods-carrying vehicles referred to in wet weather.

Then, again, you will read in paragraph 8 of the same report and in paragraph 9 the following words:—

"I agree with provision being made for A and B licences, but only in so far as certain scheduled routes, which would ordinarily be those parallel to the Railway, are concerned."

"I am in disagreement with the majority of the Committee regarding the necessity for the Bill as drafted. At a time when the Colony cannot afford to provide adequate funds for many essential services it is, in my opinion, improper to enact an Ordinance which, as far as many of its provisions are concerned, is quite unnecessary, and would cause expense to the administration."

So that we have Mr. Sikes agreeing: (a) that there should be control; (b) that there should be control by certain licences, A and B licences; and (c) that the control should be used in such a way as to protect the Railway. I think I am being quite fair in my reply in saying that the only objection to this Bill taken by the hon. members is that it was supposed to be a Bill prepared by the Railway for the Railway. Though we find we have Mr. Sikes agreeing that the Railway is entitled to some protection, it is quite obvious when reading the whole report that he felt that he could spend the money on the larger share of it far better himself. He did not think that we were entitled to spend the money then—and I may mention that the Bill has been simplified considerably since he wrote that report—and that the money could be better spent by putting metal on the roads.

What are the advantages of this Bill? This Bill provides, it is true, for the whole Colony, but if you look at clause 1 you will see that it can be brought into force in such areas as the Governor in Council may decide, so that it is quite possible to bring in this Bill as it stands piecemeal and meet the objections of the late Director of Public Works.

The only point on which he disagreed, and a point which we will consider in the select committee, is in regard to C licences.

Of course, the chief trouble about replying to a debate like this is that I believe the opposition has deliberately misunderstood the meaning of the word "control". If you take the word control to mean extinction, naturally there is every reason for opposition, but if you take the word control to mean exactly what it does mean, it is that lorries as well as inland water transport will be under some proper form of regulation. We are then told that it seems all control and no co-ordination. You cannot put details of co-ordination into the Bill, itself, co-ordination is supposed to be done by the board set up under the Bill to do it.

I think I should make one point clear regarding the drafting of the Bill. The hon. the General Manager mentioned that I introduced a similar Bill in Nyasaland. Just before its introduction I was transferred to act as judge, so that I knew all about its preparation beforehand, and to that extent he is perfectly correct.

The next point made was with regard to dhows. My hon. friend the General Manager has already explained the position, and if as practical men you realize what is going to happen you will know that not a single dhow which is running at the present moment on the lake will be put off. It is necessary to control where they go and what they carry, but it certainly is not the intention to extinguish the principal feeder services of the Railway in that particular district.

There was a point made with regard to public interest. I will be perfectly frank with hon. members here: that if has always been the policy of Government, and as chairman of this board if it comes

[Mr. Harragin] into existence I will certainly so direct the board, that from the local point of view it is a matter of public interest that the Railway should be kept in existence and on a paying basis. By that I do not mean for an instant that the Railway is going to be able to charge any rates or do anything they like and be supported by us, but I do want to make it perfectly clear that it is a matter of public interest that the Railway should be kept in existence in this country.

Another point made was to the effect, why should we ask Uganda or Tanganyika anything about the issuing of licences to dhows? Naturally, where you have a lake serving three countries, to issue a licence to go from a place in Kenya to a place in Uganda, and when the dhow gets there it finds it is unable to operate, would be useless. It is merely a matter of co-ordination to know that when you issue a licence for a dhow to go from Kenya to a place in Uganda or Tanganyika the dhow will be able to operate in the usual manner when it gets there.

It has been sought to bring into this debate something with regard to high railway rates. It is very interesting to me that the one person who is giving up something in this Bill, and who is giving up a great deal, namely the General Manager, is such a warm supporter of it, and the enemies of the Railway, if I may be allowed to call the hon. Indian members the enemies of the Railway (I think I am entitled to, having listened to the debate) are opposing the Bill so severely.

If there is anybody who is giving up something it is the unfortunate General Manager, because if you look into this Bill you realize that he is placing himself in the hands of this dreadful board which is going to be formed under the Bill. Although we have heard a lot about the Railway Council and membership here, of this much is clear: that the board will have the power of being extremely irksome to the Railway and its finances if it so sees fit. Therefore, if I may say so, I must congratulate the hon. the General Manager on the broad-mindedness he has shown in being prepared to hand himself over, lock stock and barrel, to such a nebulous board.

A small point was made, under clause 16, with regard to details about employment of loaders and ticket-collectors and so on. It is true that it is not, perhaps, usual to apply piecemeal legislation of this sort, but if hon. members will refer to various Bills that have been passed in this Council in the last year or two they will find many instances where we have seized the opportunity of obtaining some sort of control over these employed servants. For instance, take the Shop Hours Act: that is one example which has been passed in the last six months.

MR. ISHER DASS: On a point of information after four years that Ordinance is not yet in force in Mombasa.

MR. HARRAGIN: I have no doubt that if the hon. member makes suitable representations it will be done, if he can prove it to be necessary in Mombasa.

At any rate, the fact remains. Personally, I have no strong views, and if the select committee think these people could be omitted from the Bill there is no real reason why they should not be. Personally, I should like to see it remain in.

The hon. member Mr. Mangat, who had obviously made a very thorough examination of the Bill, made some very interesting comments at the outset. His main argument was that because the standard of intelligence in this country was lower than in England and other countries which had similar Bills; therefore this Bill should not be introduced. Surely, that is one of the main planks in my platform: the more uncivilized a country the more control is necessary to get it on proper lines.

The next complaint, and rightly so on this occasion, that there were so few traffic convictions last year. I join in deprecating that fact, and hope this year, if we can increase the police force, there will be very many more convictions; because I entirely agree with what hon. members stated, that on our roads to-day there are many cars, lorries and buses which are an absolute menace.

I was then taken to task because the Bill was not on the exact lines of the Bill at home. Well, I admit that on one or two occasions we have deviated from the exact wording, but if in select committee

[Mr. Harragin]

it is thought that the English wording is better I shall be quite prepared to put it in, and I am prepared to give him examples later on of the difference between here and in England.

If I may sum up the whole of the hon. and learned member's argument, it came at the end of his speech, when it appeared to me that he had no objection to the Bill if he was certain he had what he thought proper representation therein. The moment he said that he delivered himself into my hands. There is nothing wrong with the Bill at all; it is all right, provided we accept the people whom the hon. member considers the proper representatives then the Bill may be allowed to go forward.

I should like to say a word with regard to this proper representation.

Nothing has been said by Government to lead anyone to believe there will not be proper representation. We have not left in any way the recommendation of Sir Osborne Mance when he suggested there should be one legal member and four other members whom he proceeded to say should represent W, X, Y and Z. There is no one in this Council, not even you, Sir, who has come to a conclusion yet as to who will be the most suitable people on that board, and I do suggest that the time to complain and, if you like, to condemn this control, will be when the hon. member hears who that board is. If the board has not his confidence, no doubt he will be able to move the necessary motion in Council to have it pulled.

With regard to the powers of the board, which he suggests will mean that not a single native will be able to own a lorry, that again is a gross exaggeration. You know perfectly well that if a Local Native Council, or a native who can afford it, wishes to own a lorry to transport either goods or people from a native reserve or wherever they happen to be living, it would be considered on its merits, together with every other application. There is no reason in the world to believe that a native would not be granted a licence in the usual way.

The next point he made was with regard to the method of appeal, which is

to the Court of Appeal at home. It is quite true that at home, instead of appealing to the Supreme Court or Governor in Council, there is set up another board of three people who do, in fact, hear appeals and whose decision, incidentally, is final.

While on this point, it was very interesting to me to hear the hon. and learned member criticize the Bill, because it suggests that appeals should be to the Supreme Court. I should like to say on behalf of the hon. Member for Nyanza (Mr. Harvey) that on the Kenya Council it was very anxious that appeals should in fact be to the Governor in Council. It was due to my over-persuading him by saying that it would perhaps give greater confidence to the opponents of the Bill if they knew they could go before the court and possibly the Privy Council, that I managed to get him to agree to put in the Supreme Court.

I am interested now to hear the hon. member Mr. Mangat (though what he said has been corrected by the hon. member Dr. de Sousa this morning), would like some other nebulous board appointed as a court of appeal.

There was a point made that in England licences were issued for one, two or three years. That is true, but in the books that we have in the office on this subject, and which I am quite prepared to show the hon. member, it is made perfectly clear that this is found very irksome and difficult, and no one knows when a licence comes to an end. It might be better, therefore, if licences ran from year to year. I think he will agree that that is largely a matter of detail, and it will be quite easy in select committee to alter a detail of that description.

The hon. member went on criticizing the Bill, having made up his mind that nothing in the Bill was right, and there is nothing easier. All know that when one is briefed in a case you find fault with every sentence said by the other side. For instance, he objects to getting the written consent of the board for a transfer. When you consider that one of the principal objects of the board is to control not only the vehicles but the class of man, having regard to his financial status, who would run a fleet of vehicles, it would be per-

[Mr. Harragin]

fectly ridiculous that X, a highly respected and reputable person, should be able to walk before any board, get a licence, and walk out, and transfer it to a man of straw, without so much as letting the board know about it. Quite rightly, we say that before a transfer is made he must get the written consent of the board.

Exception is then taken to clause 19, which deals with exclusive licences. We all know that when dealing with exclusive licences we are dealing with a dangerous subject, and for a long time it would have been impossible to introduce such a thing into a Bill of this nature. But a few years ago it was realized that unless something of this description, with the safeguards I suggest are to be found in the Bill, was introduced into this country—and other countries—incidentally—progress would be retarded.

You may wonder what I mean by that, and it will be better if I give you a simple example. It is purely imaginary, and refers to nothing which has happened in Kenya at the moment.

Let us assume it is considered necessary to run a bus service from here to Limuru, that there was none in existence. A company comes along and says that everybody in Limuru is screaming out for a bus service, but the moment they provided it half a dozen others would come into the field and the first company would be frozen out. They are not prepared to put up the money unless assured of an exclusive licence for a time. Surely every reasonable person in Council will agree that in the public interest an exclusive licence could be granted to such a company.

I know perfectly well it is a provision which can be abused; of that there is not the slightest doubt. It gives very wide powers to the board, and so all we can do about it is to give the right of appeal to the Governor in Council, who will have all the argument on the other side and will be able to give a wise decision on it. I think it would be most unfortunate if we had to take it out of the Bill.

The next criticism was with regard to the conditions in clause 11, which were said to be too wide. I would merely refer the hon. member to clause 17 (2), which

restricts the conditions the board can impose on applicants. I have no objection to the suggestion made by the hon. member regarding the board stating reasons when a licence is refused, because in practice that will always be done, as how on earth could a judge or whoever heard the appeal come to any decision if he did not know the reasons which guided the board in their decision? I have no objection whatever in the committee stage to inserting that provision.

I am also asked why it is necessary to call for a time-table and why the board should have power to lay down a time-table. Surely, that is one of the most necessary things a board should have if they are going to control a bus or buses on a certain route. It is a very small point, but I do suggest it is a very necessary one to have in.

The next point taken was with regard to the word "prescribed". The hon. member was referring to clause 17 (2). (c) when he said the board was going to have power to prescribe this and that. If he looks at the beginning of the Bill, he will see that regulations can only be prescribed by the Governor in Council and not by the board.

Regarding clause 19, the hon. member is of the opinion that it is too strong, and he suggests a proviso similar to the one which occurs in the English Act. That proviso reads as follows—it is dealing with licences.

"Provided that the licensing authority shall not revoke or suspend a licence unless it is satisfied, after holding a public inquiry, if the holder of the licence requests it so to do, that owing to the frequency of the breach of conditions of the licence, or to the breach having been committed wilfully, or to the danger to the public involved in the breach, the licence should be revoked or suspended."

Actually, when a licence is suspended or revoked, these are the particular things which would guide the licensing authority in coming to their conclusions; but I have no objection whatever in putting in something similar to that when it comes up for consideration before the select committee.

Under clause 21, the hon. member suggests there is no licence which the board

[Mr. Harragin] is bound to grant. I am afraid I disagree with him, because a C licence will be granted although subject to conditions, so that this section may remain.

Then comes his last point of detail, and that is with regard to regulations being submitted to the Governor in Council. I personally think on this occasion it would be unnecessary, but in other Bills it has been done, and in select committee we will consider it.

I think the whole case of the hon. member falls to the ground with what I took to be almost his concluding words: that he did not consider the Railway essential to the country. If our views are so divergent as that, I think I shall be wasting the time of Council to answer any more of his arguments.

With regard to the point that people were going to stop importing vehicles, I think I mentioned in my opening speech that, as far as one could see, every vehicle in operation for twelve months would continue to be in operation after this Bill had come into force. The only vehicles that will not, will presumably be those not fit for the road, and I suggest that as they have to be replaced it is probably an intelligent anticipation that even more lorries will be imported after the coming into force of the Bill than before.

The hon. Member for Ukamba (Sir Robert Shaw) wishes to give a local authority the right to object. I see no serious reason to oppose that; it will be more a nuisance to them than to the board, but I am sure there can be no valid reason why they should not appear if they have the interest of the district at heart.

With regard to appeals, we shall have to go into that question very carefully in select committee. I have touched on the subject already. I had originally suggested and had managed to persuade the committee that for various reasons it was better that an appeal should go to the Supreme Court. If, however, the majority of Council are in favour of going to the Governor in Council, I see no reason why we should not make that alteration.

I would like to associate myself with the hon. the General Manager when I say that under no circumstances would I

agree that he should be a member of this board. I feel that the hon. member who made the suggestion will realize on reflection that it would be impossible to have one, who will presumably object to a great number of applications, sitting and hearing his own objections. I may say that that has been the view of the hon. the General Manager from the beginning.

It is suggested that there is no need for water control, but I suggest that there is, just as much as with any other type of transport, with the difference that you do not actually have roads torn up by ships, but the question of the co-ordination of transport remains exactly the same.

The hon. Member for the Coast (Major Grogan) can rest assured that no treaties are going to be broken by the introduction of this Ordinance.

The hon. member Mr. Shamsud-Deen is of the opinion that this is going to give the Railway a monopoly. As regards certain roads in this Colony, as you know, it already has a monopoly, and it is a question for serious consideration as to whether we would prefer to have the existing Ordinance, possibly with extensions, totally prohibiting all forms of transport in competition with the Railway along roads, or one which might permit under certain circumstances lorries or buses to be run in the manner you have heard from the hon. the General Manager. I can only repeat what was said by him this morning, that as far as he is concerned passenger transportation between here and Mombasa is not objected to by him in any way whatever, so that that, I suggest, may be a very big gain for the travelling members of the community.

It has been suggested that in the Bill it should be laid down exactly who should have representation on the board. I have no more to say than I said earlier, namely that it will be the duty of the Governor in Council to place on that board four persons most suited to serve, without any regard to colour, race or creed.

MR. SHAMSUD-DEEN: On a point of explanation, I tried to make it clear that no racial question was involved. All we ask is that on the board are representatives of the people who are engaged

[Mr. Shamsud-Deen] in that trade, including natives and Indians. We never said on a racial basis at all.

MR. HARRAGIN: I expect that I shall be told that no racial matters were referred to at all in this debate. I certainly understood that if the board was going to consist of Indians alone no objection would be raised to the board coming into existence.

A point of minor importance is with regard to delegation by the board. I agree that we might have to tighten that up a little if hon. members think it is too wide, but that there must be some form of delegation I am certain is correct. You cannot have a board going all over the country perhaps to hear one application, and it is quite possible when the board has made its rules and has been running a short time to direct provincial commissioners or district commissioners as to the manner in which licences may be issued. You may be sure that when we give that power it will be subject to confirmation by the board.

Some question has been raised as to whether C licences are necessary at all. If we are going to control transport, and as C licences will, I suppose, consist of 90 per cent of the lorries on the road, I think it stands to reason that we must have some control over them. I will be perfectly frank with you here. Why we have inserted the provision that there shall be conditions attached to the C licences is that if a man, under the guise of a C licence, is competing unfairly with the Railway or other licensees, it may be necessary to insert some condition in the licence which would prevent it going on in the future.

It has also been suggested that it might be possible to amalgamate A and B licences. That, I will admit, has been done in Tanganyika. But, for reasons we will go into in detail in select committee, as a matter of practical politics it is unwise. As I visualize A and B licences they are: A licences for general haulage—I do not know how many there will be, but let us say ten altogether—who will have the right of plying for hire in all parts of the country. And take B licences, which is a restricted form of licence made for a

man doing his own job of work with his lorry. As a typical example, a man bringing goods in from Kiambu to Nairobi applies for a B licence to be able to take goods back for hire and reward from Nairobi to Kiambu. There you know what exactly to permit on the roads on which he expects to travel, but if you just give one licence enabling him to travel all over the country you will have no control and it will be quite impossible to coordinate transport, which is the board's duty.

I do not think, really, that the hon. Member for Nairobi North (Major Cavendish Denton) has much difficulty in knowing what the word "aggrieved" means, and I can only tell him it means exactly what it says in the dictionary and that there is nothing peculiar in having this word in this particular Ordinance. If we said, as an interpretation of the word "aggrieved," "A person who has had his application for a licence refused," it would limit it to actual refusal, but by the word aggrieved, if the board grant a licence and there was an unfair condition attached to it, the person would be aggrieved by that condition and be able to appeal under the clause as it stands. That is the real reason why that rather nebulous term is used.

The hon. member Mr. Isher Dass was opposed to the Bill as far as I could make out, because he was opposed to the Railway. He had a great deal to say about honesty, and that it would be well if I put all my cards on the table, and he referred to the General Manager as honourable very often and proceeded to prove to us conclusively that he was anything but honorable. Be that as it may, I can assure the hon. member of this that if he imagines that the Attorney-General of this Colony, after a year or two I think he said, would calmly hand over his duties, presumably for a price, to the General Manager of the Railway to perform, he is making a great mistake. I can well understand that he should picture that that would happen, but I assure him that there is no likelihood whatever.

I regret very much the attitude taken up by the hon. Indian members with regard to serving on the select committee. It is not clear to me exactly why

(Mr. Harragin) this Bill should be different from any other that has been before the Council in the last four or five years. I can assure the hon. member Mr. Isher Dass that if an Indian member had served on the committee, as he well knows, any suggestions he had to make regarding amendments would have been most carefully considered and, if rejected, would have been rejected for reasons which would have been given him at the time.

It makes the task of the committee more difficult in not having an Indian representative, for the simple reason that we shall have to try and remember various points made in the lengthy speeches we have listened to during the debate.

I must thank the hon. and reverend gentleman (Archdeacon Burns) for his kind remarks with regard to myself, which I feel are quite undeserved; but I would like to assure him on one point, that he is quite wrong if he imagines the board is going to insist on buses stopping only every four miles. I do not know exactly what the distance will be; but the whole object of that clause is to see that buses stop at proper places and not at any place causing congestion of the traffic or being a danger to incoming or outgoing traffic.

The hon. and gallant member representing native interests (Col. FitzGerald) seems worried about the new buses turning out the old. I think the example he gave was a perfectly good bus service being carried on by a native or Indian, and some up-to-date transportation company coming in and the board immediately turning out their old friends and introducing the new. I do not foresee anything of the kind happening at all. I feel that the one who wants to come in will have the burden of proving some necessity in the district that they should come in. If it is shown that the district is already served by the natives or Indian bus, and adequately served, I can assure the hon. member that the licence will in all probability be refused. That, at any rate, is the object of the Bill.

There may be some small points in the debate that I have missed. There was some question at one time that the authority of the board was much too elastic

and that it would be far better to have the same powers that existed at home. I took the trouble to write out the powers of the licensing authority at home with regard to making inquiries.

You will remember that there was some objection taken to the fact that the board had the right to make inquiries into the stability of an applicant. At home that power reads as follows:—

"The licensing authority may hold such inquiries as he thinks necessary for the proper exercise of his functions under this Act."

If the licensing authority at home think it necessary to go into anybody's private affairs and find out whether a licensee has been bankrupt and so on, they have authority to do so; and that is really the power we have taken here.

I think I have already dealt with clause 17, and pointed out that only the Governor in Council can in fact prescribe rules.

Clause 4 (6) (f) was purposely put in to meet such a case as the hon. Member (or Nairobi North quite rightly put forward, when we say that the Governor in Council shall have the power of general exemption, for it is quite impossible in an Ordinance to put down every single possible vehicle to be exempted, and so we have this general power.

I have dealt very cursorily, for it is getting late, with all the specific points made on this Bill. If you then come to the general principles, and hon. Indian members allow themselves for one moment to eliminate from their minds the word "racial", I think they will find very little wrong with the Bill at all. From my point of view there is nothing racial in it. There is also another thing, to eliminate from their minds that the board is going to be composed of numskulls and cranks. If you presume that, it is a very dangerous Bill to enact.

MR. ISHER DASS: No Indians.

MR. HARRAGIN: I have already dealt with the point about the dhows, which occupied a great deal of time, and I assure hon. members once more that I do not believe that a single dhow will be prejudicially affected.

(Mr. Harragin)

Opportunity has been taken to make a violent attack on the Railway, and the General Manager is well able to look after himself. I shall certainly not take on myself that task, but merely repeat that, although at present I am not a member of the Railway Council and have no control over the Railway, I think in my new capacity of chairman of the board it will come within the ambit of my authority more than the hon. member thinks.

I do trust now that these details have been explained, people will realize there is not the slightest effort made in this Bill to oust anyone making an honest living in this country out of transport work, and the Bill should be given a fair and just trial without having recourse to bringing in entirely extraneous matters such as racial trouble and hatred of the Railway, which have nothing to do with the Bill before us.

The question that the Bill be read a second time was put and carried by 29 votes to 5.

Ayes.—Messrs. Bale, Bemister, Boulderson, Archdeacon Burns, Major Cavendish-Bentinck, Mr. Daubney, Col. FitzGerald, Messrs. Gardner, Harragin, Harvey, Hayes-Sadler, Hebden, Hoey, Hodge, Hosking, Col. Kirkwood, Messrs. La Fontaine, Logan, Maxwell, Morris, Dr. Paterson, Mr. Pilling, Sir G. D. Rhodes, Lord Francis Scott, Sir R. Shaw, Messrs. Stooke, Walmesley, Willan, Wolfe.

Noes.—Messrs. Isher Dass, Mangat, Pandya, Shamsud-Deen, Dr. de Sousa.

MR. HARRAGIN moved that the Bill be referred to a select committee consisting of—

Mr. Harragin (Chairman)
Mr. Hosking,
Mr. Walmesley,
Mr. Fazan,
Major Cavendish-Bentinck,
Mr. Harvey,
Sir Robert Shaw,
Archdeacon Burns.

MR. WILLAN seconded.

The question was put and carried.

ADJOURNMENT

Council adjourned till 10 a.m. on Friday, 12th November, 1937.

Friday, 12th November, 1937

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Friday, 12th November, 1937. His Excellency the Governor (Sir Robert Brooke-Popham, G.C.V.O., K.C.B., C.M.G., D.S.O., A.F.C.) presiding.

His Excellency opened the Council with prayer.

MINUTES

The minutes of the meeting of the 10th November, 1937, were confirmed.

DRAFT ESTIMATES, 1938

REFERENCE TO STANDING FINANCE COMMITTEE

The debate was resumed.

LORD FRANCIS SCOTT: Your Excellency, I think the first point I should like to draw attention to in dealing with the Estimates for 1938, is the fact that if you compare the Estimates of Revenue and Expenditure for 1938 with the actuals for 1936, which are the last final figures we have had, you will see we are estimating for £33,000 less revenue in 1938 than we actually received in 1936. At first sight that might seem as if Government were being very unduly conservative in their Estimates, but I would like to point out that in actual fact this year there are very large net reductions in direct taxation as compared with 1936.

I refer of course to the fact that there was a complete abolition of the non-native graduated poll tax, the education tax, and the levy on official salaries. There was also a considerable reduction in trades licences, which were brought back to the basis on which they were framed before the depression. There were reductions in the petrol tax and postage, there was also a very large reduction in the native hut and poll tax by the raising of the taxable age from 16 to 18 years.

I think speaking from memory, those reductions altogether came to something like £170,000, whereas, on the other side of the picture, income tax was estimated to bring in £43,000 which must be taken into consideration. But the net result was a very large decrease under Head II—licences, duties, taxes, etc.—and that of course does account to a great extent for

[Lord F. Scott]

the fact that this year the Revenue Estimates are £33,000 less than the actuals for 1936.

Having explained how it is that there was a considerable reduction, I still think that these Estimates have been framed on a conservative basis. I am not going into detail with regard to individual heads, because that is always done very fully in Standing Finance Committee when the various persons concerned under the heads are there to give us the latest information that they have as to what is likely to accrue from the various heads. When you turn to the other side of the picture, the expenditure, I must say that I am, frankly, seriously alarmed.

The recurrent expenditure for 1938 is estimated to be £136,000 more than the actual recurrent expenditure in 1936. I should like to explain that I am taking recurrent expenditure and, in the case of the revenue, I was not including the land sales, but the figures which you will find on pages 6 and 7 of these Estimates. The great difficulty which we are always faced with in Kenya in dealing with the budget is the very high cost of Government services.

The reason for that is, first of all, the terms of service to Government officers are framed on a very generous scale, and we have always got to take into account, as has been shown by various committees which have gone into this that, in addition to actual salaries we have to add something like 50 per cent for hidden emoluments, and the result is that we are saddled with very heavy pension commitments.

Another factor as to why it is so difficult to keep down the cost of Government is that we have developed a very full system of services through the country, perhaps more in advance of what one would expect in such a young country as Kenya, and whenever one tries to economize by curtailing services there is immediately a clamour from the public accustomed to those services and who object to having them taken away. The result is that we must keep the very closest control on the expenditure in this country.

I do implore Government to remember the lessons of the past. Soon after the war

was ended, there was a serious depression here, and drastic cuts had to be made in expenditure by a committee which sat under the chairmanship of Sir Charles Bowring. Shortly afterwards, prosperity boomed, chiefly owing to the large importations of capital on both Government and private account. Revenue increased rapidly, and we did indulge in rather a spate of profligate expenditure. The result was that when 1929 came along with the world's slump, which we did not feel here until about a year later, a lag of about a year, we found ourselves in a very unsound financial position.

Drastic cuts had to be made, and for a period of 5 years there was a perpetual fight going on between us on the unofficial side and Government to try and get expenditure down to something which this country could stand. May I emphasize that it is absolutely essential that Government must keep the closest control over any tendency to increase expenditure at the present time?

A few years ago I had occasion to have an interview with the head of the Inland Revenue Department at Somerset House in London, and he used an expression to me which I have always remembered. He said: "You must remember that we are a completely soulless entity, and that we can take no consideration of any act of misericordiam of any sort." I am going to suggest that it is the duty of the Colonial Secretary and the Financial Secretary, whoever they may be at the time, to look after this in the light of soulless entities, and that they shall resist ruthlessly any attempts by the spending departments to increase their expenditure until the country is on a very much sounder and stronger financial basis.

I say this because I was a little alarmed after hearing the remarks made by my hon. friend the Acting Colonial Secretary, when he said:—

"Nothing would have given me greater pleasure in introducing the one and only budget which I shall have the privilege of introducing in Kenya, than to have invited attention to the large sums provided for improvement of services and amenities, and constructive development."

I agree that it is always very nice to be able to tell people, "Here is a lot of

[Lord F. Scott]

money you can spend on your pet hobbies and so on," but I suggest the hon. member is quite right in not allowing himself that pleasure. I say further, that the hon. the Colonial Secretary, in watching over the budget, should be very careful never to slip into the position of giving himself that pleasure.

There is one symptom that I notice in these Estimates this year which frightens me. During these past years many of us had on those various economy committees to see where economies could be made and where unnecessary extravagances occurred, and one particular point which I think was agreed on, on the committees, on which I sat was that one should avoid high sounding titles. I am sorry to see in next year's Estimates the reintroduction of many of these high sounding titles, chiefly applying not to the heads of departments, but to their No. 2's and No. 3's.

What happens? One reads in the notes on the Estimates that "owing to the onerous duties whatever the person is has to perform it is more in keeping that he should be known as Lord High Deputy Director of something or other. There is no financial commitment." The next year you get this: "In view of the fact that this gentleman holds an important post of Lord High Deputy Director of something or other, it is more in consonance with the dignity of his post that his salary should be increased by another £100 or £200." So it goes on. I do ask that Government will keep close control on that particular point.

I am going back for a moment to the revenue.

For some years we have had a bitter controversy in this Council on the subject of the Estimates of Revenue. We took the line that Government, in framing their Estimates, were not paying sufficient attention to the curve which is bound to occur in times of depression and times of prosperity. We pointed out that, during the depression, Government were unduly optimistic and would not reduce their Estimates sufficiently, and we rather insinuated that they did not wish to keep down expenditure to meet such reductions.

Then, when the tide turned, we pointed out that they were estimating much too

conservatively and that they had not taken into consideration that the curve was now in the opposite direction. In support of this, I should like to point out that in 1936 the original estimate for customs and excise was £680,000, while the actuals were £802,000, or £122,000 more than the original estimate.

Last year, when Government first produced their Estimates, the estimated customs and excise was £740,000. When we went into Standing Finance Committee we revised that and raised it to £810,000 with, I may say, the complete concurrence of the Commissioner of Customs. As I understand the actual figure at the end of the year is likely to be between £880,000 and £900,000. I just quote those figures to show that we on this side of Council have not been so far wrong in our criticisms of Government's Estimates.

This year there is no particular point on which I can put my finger, where I can say Government have grossly underestimated and, as I said before, I am not touching on any of these figures but will leave them until we get into Standing Finance Committee.

While dealing with this question, I now want to refer to the matter of the surplus balances.

May I first of all say that I think it a great pity that Government should have put themselves in a somewhat false position with regard to the surplus balance by giving in this document three completely different sets of figures in three different places.

On page 12 of the Estimates of Revenue and Expenditure, you will see that the estimated excess of assets over liabilities on 31st December, 1937, is put down at £409,402. Turning to page 119, where the balance sheet of the Colony is shown, you find that the figure has become £479,889, a difference of £70,000, while on page 2 of the Memorandum it is stated that at the end of the year it should be in the neighbourhood of half a million. I suggest that before the Estimates are finally printed, page 12 should be completely revised, because, basing it on the Estimates which were formed last year, it gives a completely erroneous impression which is of no use to anybody and should not be

[Lord F. Scott]

shown on that page at all, but the revised figure would be the one to put down there.

There is a point in connexion with this surplus balance which I think my hon. friend the Acting Treasurer should explain for the information of the public. That is why it is now considered essential to put aside £250,000 for a working balance, whereas in the old days £100,000 was considered necessary? I have no doubt he has a very good explanation, but it is a point which people ought to be informed about.

Dealing with the surplus balance, a very important issue really arises: For what purposes are those surplus balances really needed?

I think we are all agreed that for the Colony to be in a sound state financially we must have surplus balances if we can amass them. I agree with the hon. member that if we want to raise a loan at any time it is necessary to have a surplus balance to give ourselves credit in the city, but I do not agree with him that the first purpose for which it is necessary is to subsidise official salaries and so on in case bad times come again. Certainly it is very useful to have reserves which might help to avoid unnecessary retrenchment, but personally I look on the surplus balances first and most important duty to provide any necessary funds which may be required for the policy which you yourself, Sir, enunciated, a policy of constructive development. I think, in dealing with the policy of the future as you have outlined this is one of the points on which Government should lay down their definite views.

I do not know how many members of Council are aware that about 10 years ago, I think it was 1927 or 1929, there was a committee of this Council which went very thoroughly into the question of the surplus balance and issued a report. I do not know whether Government have looked up that report or taken it into consideration, but I suggest it might perhaps be worth their while to do so. What I do suggest, to emphasise what I have said before, is that the right way to increase our surplus balances is to keep the very strictest control over expenditure.

Now, if you will allow me, I will turn to the expenditure side and take a certain

amount in detail. I do not want to frighten hon. members into thinking that I am going through all the items. I am not, but I want to touch on a few individual items which seem to me to affect principles. The question of many other items is entirely for the Standing Finance Committee.

The first point I want to raise is under "Administration".

You may remember that in all the committees which dealt with economics the Administration remained practically untouched, until Sir Alan Pim came along and found that that really was the chief part of the Government machinery in which there were still possibilities of economies. Sir Alan Pim recommended that the Administrative staff should be reduced to 80 posts of district officers and seven senior posts, and that many of the expensively overseas recruited officers should be replaced by a cheaper type of officer recruited locally.

Government apparently appointed a committee of their own which went into this question, and has turned down Sir Alan Pim's recommendation, and has recommended that there should be 95 district officers instead of 80 and 8 senior officers, a total of 103.

What we want to know is, what is Government's policy towards Sir Alan Pim's report? When something particularly obnoxious to the unofficial community emerges from his report, we are told that we have to swallow it whole because Sir Alan Pim said so and therefore it has got to be done. When, on the other hand, something not so palatable to the official side occurs, a committee is appointed which apparently washes out his recommendations and adopts something else.

I think the country would like to know what Government's policy regarding Sir Alan Pim's recommendations really is.

Coming to "Agriculture," the first point I want to make is that it has been pointed out before that the heading "Non-native services," on the top of "Administrative and general personal emoluments," is a complete misnomer and should not be there. It was not in last year's printed Estimates, it was taken out; it obviously must be a misnomer.

[Lord F. Scott]

It suggested that the Director of Agriculture, the Deputy Director, the Agricultural Economist, do no work for the native side, that theirs are purely non-native services? I feel this is a misprint, and Government, having had their attention drawn to it, will see that it is rectified.

In the reorganization of the Agricultural Department we understood that economies were going to be brought about, but we have now got two: the Agricultural Department and the Veterinary Department, and I find that what I have already referred to about the titles of officers crops up very seriously here.

Going back some years, there used to be the Director of Agriculture, Deputy Director of Agriculture, and Chief Veterinary Officer. It was owing to Sir Daniel Hall's report that it was changed into two sections, with the Director of Agriculture, the Deputy Director (Plant Industry), and Deputy Director (Animal Industry). Now we have the Director of Agriculture, Deputy Director of Agriculture, Director of Veterinary Services, Deputy Director (Research Services), and Deputy Director (Field Services). I suggest that it is quite unnecessary to have these Deputies at all. In saying this, I trust it will be realized that I am speaking purely on the principle and have no reference to the personal holders of the posts.

There are some questions I should like to have information about, and one is under Item 26 of the Agricultural vote, "Contribution to Imperial Economic and Imperial Shipping Committees." I do not know what these committees are or the services we get from them, and I should like very much to have some information on that point. One sees the words "Imperial Shipping Committee." Does that committee do anything on our behalf vis-a-vis the Conference lines, because the only thing we know about them is that whenever any of our industries begin to show some prospect of being run at a profit freights immediately go up and the profit is washed out. (Hear, hear.)

Another item on which, I think, we should have some information is No. 28, "Grant-in-aid to sisal industry." I believe this is well-expended money and good work has been done, but I do think that

in a grant-in-aid to an industry of this sort Government ought to give the public full information of what is being done and what is proposed to be done in future.

The only other item I wish to refer to under the Agricultural Department vote is the new sub-head "8. Soil conservation Service." I welcome this. I think it is right and sound and fully realize that that vote of £2,500 is a purely token vote which does not represent that the actual amount of money to be expended is £2,500. I do welcome it, but what is not shown in the Estimates is what you, Sir, referred to in your speech the other day, that there was a £24,000 loan for the same service. I think that is correct, from the Colonial Development Fund.

I would like to hold out a word of warning. We all agree that soil conservation is most important and must be tackled, but I do hope that before any large sum of money are expended for this purpose that Government will take into consideration the experience in other countries which have had to deal with the same matters and which have made mistakes, so that we can avoid the mistakes, and which have had success so that we can have success. I do hope, too, that we shall beware letting too many enthusiastic experts loose who may expend money like water on some pet scheme of their own in such a way that we shall not get the benefit we want to get from the money which is available. (Hear, hear.)

The next head I want to refer to is "Civil Aviation."

This is a new heading and I think it is important that we should know what has been done though I should have thought that there was still one other heading that might come under this heading, and that is the Meteorological Service, that is chiefly for the sake of helping civil aviation and I think that might, perhaps, be shown under this same heading.

In several places in these Estimates we see expenditure in connexion with an Empire Air Mail Scheme. Can we have some clear information as to what the Air Mail Scheme actually is and what it entails? For some time past we have been asking Government that we should be given this information but we have never got it yet. I understand that the whole

[Lord F. Scott]

scheme was arranged over our heads in London, without any reference to Kenya, whether that is so I do not know but I think we should be given some information on the subject.

Now we come to Education. There is a considerable increase but that again I think is a matter to be dealt with in Standing Finance Committee. There is only one question which I really want to raise because it raises a very big issue. Under heads 93 and 106 you will see that there are large increases which, we are told, are due to the Government taking over certain schools from the native authorities. But we are not told what the Government's policy will regard to that is, why that has been done or what the financial implications are for the future. I consider this raises an issue of real importance and that is the financial relationship between the Government finances and the Native Councils' finances. (Hear, hear.) Perhaps under this head we may get some information from Government as to what their policy is and what is going to be done.

Under the Kenya Royal Naval Volunteer Reserve you, Sir, have told us that the Admiral Commanding the East Indies Station said that it is absolutely necessary that we should have an efficient mine sweeping unit and under those circumstances we must do our best to have that efficient unit. But what I do ask is, are we getting our money's worth from the amount of money which is to be spent on this particular service, for it is very high in proportion to other votes dealing with other sections of our defence forces? Two Europeans, one Asian and a few natives—it is costing a great deal of money, and I sincerely trust that before the Government commit themselves to the expenditure of £10,000 on a tiny vessel for this small unit to be trained in they will go very carefully into it and see that not a penny is spent unnecessarily and that no greater amount of money than is really required for the purpose is allocated.

Taking the Military—with this vote I have not very much to say. It is quite obvious that in the present disturbed state of the world we have to face up to additional expenditure, and re-armament and so on is essential. I am delighted to

think that the Kenya Regiment has made such a good start and has proved so successful and I trust now that the other part of our local forces, the Kenya Defence Force, will also be thoroughly organized. There is only one head which I wish to make a protest about and that is under the Inspector General, the second staff officer, I do not know whether things have changed very much but for many years it seems to most of us out here that really these posts are not very necessary and we rather look upon them as very nice jobs for very nice officers. We have provided posts for two in the past and now, presumably, we have to find the funds for a third officer to have a very nice post in the future.

Coming to Local Government, I think it is a very sound move to have, the addition of a Settlement Section, but there is one item I wish to refer to under Head XVII and that is the change in the name and in the salary of the Director of Surveys who was last year called the Chief Surveyor. That question has been gone into exhaustively by various economy committees and by Sir Alan Pim and I should like to know the reason why these recommendations have now been turned down.

The Local Government contribution to Local Authorities: I welcome the fact that a suggestion, which I think was rather my own baby, has been adopted, and that is the Consolidation Road Grant to the Nairobi Municipality. It has been the source of endless controversy because under the old arrangement the Government had to contribute fifty-fifty with the Municipality to any new works on main roads in the municipality. And what has happened: The Municipality had got the money to go on with it and the Government had not the money or could not put the money up and there were endless arguments as to what should be done. I think the Government are right in getting rid of that controversy to enable the municipality to have something on which they can base their road policy. To my mind it is well worth giving away the little extra money.

I notice, that for the first time, Mombasa is going to get something from their water supply and I hope my hon. friend

[Lord F. Scott]

the Member for Mombasa will be satisfied. I do not suppose he will be, but no doubt he will tell you all about that later on.

The only other item out of that is the question of the basic road grants. It looks at first sight in the Estimates as though there is an increase of £9,000 in the basic road grants. Of course, in actual fact a great deal of that is money transferred from the Public Works Department to the newly constituted District Council of Nyeri and Laikipia. So, in fact, I think the actual amount of basic road grant which has been given back to the established district councils is £2,880, according to the notes on this Budget.

Now, I am very glad that the Government are giving back some of these basic road grants. I should like to emphasize this point that in fact the Government have no right to cut these basic road grants. (Hear, hear.) They were given up voluntarily by the district councils to enable Government to get through their bad times and they have given it as their contribution towards that with the result that there has been no money and these district roads have been allowed to get to a state below what they should have been. When this matter has been further considered and when we get the somewhat belated report of the Road Policy Board the Government may see their way to restore the whole of the grant to which, in fact, the district councils are entitled.

Coming to the Medical Department, I have not very much to say. Again, of course, there is a big increase, but again, as I said before, it is a matter for the Standing Finance Committee. There are only one or two main points I wish to touch upon. Firstly, I notice there are new pensionable posts amongst the Nursing Sisters. Perhaps they may be quite right and justifiable but I must remind the Government that some years back the Government made an undertaking to the unofficial members that there would be no new pensionable posts created without agreement with the unofficial members. So I presume it has only been put in tentatively on the recommendation of the Government and will be subject to the

approval of the Standing Finance Committee.

There is a very interesting little table on page 34 of the Memorandum giving all the rates of pay which the Medical Department pay and I must say it fills one rather with alarm when one sees that the rates of pay for shamba boys is from Sh. 20 to Sh. 30 a month. If that is the basis on which the Medical Department pay their people it is not surprising that it costs so much money. If individual people had to pay their shamba boys that amount very few people would be able to have gardens at all.

I notice underneath that table "The increase in establishment is due to the greatly increased demands which are being made in the Native Reserves for medical services." That, of course, in effect brings up a point that I brought up before, unsuccessfully. That is, the time has come when some charge should be made to the natives for medical services. I do not say a heavy charge, but some slight charge should be made and if that were done it would be much easier to find these increased services that are in so much demand. The Missions' charge, and I understand that the natives prefer to go to the Missions rather than to the Government.

Under Miscellaneous I am glad to see that another item, the contribution to branch railways, has disappeared.

Under the Police: It was pointed out in the debate on the Transport Bill that it would probably be necessary to have a slight increase there for the sake of bringing in the transport regulations and making them effective and that, Sir, I shall be prepared to support.

Lastly, the Inland Revenue Department and the Treasury: This is one of those departments which each year grows and grows and grows. It was first introduced as a definite economy measure; it was to save money and it was going to justify itself by the greater efficiency with which it was going to collect taxes and so on. I notice, now, that the Treasury Personnel emoluments amount to £20,000 and the Inland Revenue, which is a sub-department, to £14,000. This seems rather out of proportion.

[Lord F. Scott]

And also I see again there is the question of number two deputy who has jumped suddenly from £840 to £960.

Sir, this is all I have to say on the expenditure at the present time though, of course, I reserve to myself the right to criticize any items that come up in Standing Finance Committee.

Now, Sir, we must go back to the question of revenue and in particular, to taxation. Obviously it is a most contentious matter. Before us is the question of income tax and perhaps, with the indulgence of the Council, I can go into the past history. I hope not go lengthily, and try and make the whole position clear.

I shall not go back further than a year ago, last October.

When Government first announced their intention of introducing income tax on the recommendation of Sir Alan Pim contained in his report, we European elected members put forward memoranda to point out that, while the majority of us were not opposed to the principle of income tax, we did urge that before it was imposed on this country and form part of its fiscal system, a conference of all the territories in East Africa should be called to go very thoroughly into this question.

We stated:—

"There are two distinct issues before the country:

- (a) to what extent and in which direction, if any, can existing taxes be reduced without risk to 1937 budgetary stability?
- (b) whether or no the normal ratio of direct to indirect taxation should be modified and, if so, by what method?"

Later on we said:—

"Elected members earnestly request that an inter-territorial commission be appointed without delay to consider and report upon the proper ratio of direct to indirect taxation, and the measures whereby such ratio should be effected with special reference to the applicability of a system of income tax to the peculiar circumstances of the territories concerned; and that the particular sections of the community upon whom

the tax is to be levied should be adequately represented by the members from the four territories."

We put that up, and I think it was a reasonable demand. We did not say that we were opposed to income tax under any circumstances. One or two of our colleagues had always taken that attitude certainly, but the majority did not. We asked for a proper inquiry into the proportion of direct to indirect taxation. Unfortunately, the Secretary of State turned that down.

The next stage was that we went into Standing Finance Committee. Government's proposal was an income tax to bring in £83,500. In the course of our investigations, as I have said, we found the revenue considerably under-estimated, and with complete unanimity, the committee—the official as well as the unofficial members—agreed to increase the revenue estimates by a considerable sum.

It did seem that this question of income tax could be shelved until there was a proper inquiry, until we were told that the Secretary of State insisted on the full implementation of Sir Alan Pim's recommendations with regard to a reduction of native taxation. This, Sir, as you know, consisted of two recommendations: one, that the age at which a native became liable to taxation should be raised from 16 to 18 years; the other, the abolition of the tax on multiple huts.

The position then arose that we said we were not prepared to agree that all this taxation should be taken off the native and put on the non-native by means of income tax. Eventually, Government tried to meet us, and a proposal was put forward that the income tax should be reduced by half, that only part of Sir Alan Pim's recommendation should be implemented (that is, raising the age from 16 to 18 years), and that the question of the multiple hut tax should be left for further investigation which, as a matter of fact, is still going on.

The position then arose, either we were to accept Government's offer, which meant accepting a modified form of income tax, or, if we refused that, Government intended to go straight ahead to put on the full income tax and implement the

[Lord F. Scott]

whole of Sir Alan Pim's recommendations. I wish to emphasize this, that the problem before us was not income tax or no income tax, but it was a heavy income tax or a light income tax.

Those of us who were on the Standing Finance Committee informed Government that we could not agree to those terms without further consultation with our colleagues. This we did, and as a result of that the majority of our colleagues recommended that we should accept Government's offer. But we did, in accepting, lay down two conditions. I should like to read out those conditions, because I think it right to do so in the light of the inaccuracies and mis-statements of what actually did occur. I have here the actual telegram:—

"After the most careful consideration and because of their earnest desire to bring finality to political strife, majority of European elected members are prepared to accept the compromise terms agreed to by the Kenya Government and will not oppose the proposed fiscal change provided that assurance on two points are given by the Secretary of State: Firstly they request he gives an assurance that the new Governor will be instructed to explore the possibility of changes in the Constitution which would result in the Unofficial community being far more closely associated in the responsibilities of Government."

I will take that first term by itself, because it has been said that the Secretary of State has gone back on what he promised. The answer from the Secretary of State was to this effect:—

"(a) He has agreed to the settlement recommended by the Standing Finance Committee."

Then there is a certain amount about the native hut and poll tax which is not relevant to this.

"(c) He had already intended that the new Governor should be asked to consider how Executive Council could be made more convenient in working and more useful as a means of association with unofficial opinion. It should be understood, however, that the responsi-

bility of the Government of Kenya must be through the Secretary of State to the Imperial Parliament and he is not prepared, and indeed is unable, to agree to anything which would be inconsistent with that responsibility. He does not propose to make any changes in the composition or powers of Legislative Council."

What actually happened? No sooner had you arrived in this country, Sir, than you did undertake this inquiry which the Secretary of State said he was going to instruct you to do. You wasted no time over it, and made your announcement that you had decided, so as to associate more closely the unofficials with the responsible government of the country, to change the composition of the Executive Council so that there should be four unofficials and four officials on that Executive Council.

Some people say that this is no advance. Actually, constitutionally I dare say you can argue that it is not, but in the British constitution things have always happened more by evolution rather than by actual change of the constitution, and I do suggest that no one can say that this does not more closely associate the unofficial community with the responsibilities of Government when it has been agreed that there shall be an equal number of unofficials and officials on the Executive Council of the country.

But, even more than that, is the spirit in which that is interpreted. I suggest, Sir, that you have already shown that you intend thoroughly to carry out the spirit which is intended, and I say the spirit, which is intended, is that the representatives of the unofficial communities shall be more closely associated with the responsibilities of the policy of Government. (Hear, hear.)

What has happened? For the first time for many years you have placed the Estimates which we have before us now before Executive Council for their information. That has not been done for at least 10 years or more; I believe not since Sir Edward Northey's time. Not only that, but you have yourself announced that you mean to make much more use of your Executive Council in formulating the

[Lord F. Scott] policy of Government, with special reference to constructive economic development. And I say that you have definitely shown it is your intention to bring us into direct co-operation with Government and make us share our part of the responsibility of Government's policy and Government's plans.

I submit that we have had that condition complied with.

The second condition was this:—

"Secondly, that some safeguard be forthcoming so as to ensure no further departure from the Moyne formula resulting in increased non-native direct taxation" to support increased native services."

I will read the Secretary of State's reply in regard to that.

"(d) In regard to the Elected Members' representations on the subject of Lord Moyne's formula, they may be assured that their point of view will be borne in mind as the question arises regarding provision for native services, but he trusts that they will not press for a new hard and fast limitation on this subject. They will recognize that circumstances might well arise, such as an increase in prosperity leading to a large increase in the yield from native taxation, which would make such a limitation of native services both unreasonable and unnecessary."

That went a certain way, but we were not quite satisfied, and so brought it up to the Standing Finance Committee, and it was definitely agreed to by Government in the report of the committee last year to the effect that Government recognised the reasonableness of our demands, and would not impose increased taxation of the non-native communities for the purpose of financing native services due to decreased native taxation. That is again referred to in the Memorandum on the 1938 Estimates.

We all agree that indirect taxation paid by natives has increased. At the same time, there has been a very considerable decrease in direct taxation, and while I agree that Government have not imposed

any increased direct taxation on the non-native communities though they have increased a certain amount of native services in next year's Estimates, I should like to point out to Government that there is another aspect of the case.

It can clearly well be argued that to fulfil the spirit of that agreement, increased native services cannot be financed in such a way as to prevent a decrease in non-native taxation, if such decrease would have been available had this increase not taken place.

Those are the two conditions we laid down, and I do not think anybody can really, and truthfully say, that Government have departed from them.

There was a third. It is not a proviso, but an addition which we put in:—

"Lastly, they stress most strongly their conviction that unless an income tax is imposed on the adjoining territories—this measure must necessarily bear unfairly on and to the detriment of Kenya."

That, I should point out, was not a condition of our acceptance, it was a fact we pointed out and emphasised, and it is of course a fact too obvious to have to argue about. What did the Secretary of State say to that?

"(e) He will not fail to give weight to the Elected Members' views that Income Tax in Kenya should be followed by Income Tax in the adjoining territories. No change, however, can now be made which would affect the budgets of those territories for 1937; moreover, the enactment of Income Tax in those territories must depend on local conditions. Their Governments have undertaken to take such steps as may be necessary to prevent evasion of Kenya Income Tax."

I do not think I am saying something I ought not to, but as I say, I believe it is the Secretary of State's firm conviction that income tax should be applied to all these territories though, in fact, such strong opposition was rendered to income tax, anyhow in Uganda, that the Secretary of State did not feel justified in overruling the strongly expressed views of the

[Lord F. Scott] men on the spot—the Governor of Uganda and, I believe, the Government of Tanganyika took the same view.

Can we really quarrel with the Secretary of State for taking that line? From our point of view, as we have said here, we are unfairly and detrimentally affected but, in fact, in not overruling the man on the spot the Secretary of State is conforming with one of the biggest principles we have always fought for in this Council.

It is not my job to stand up for the Secretary of State, but it is my job to see that when agreements are entered into between us and the Secretary of State that those agreements are kept both in spirit and in the letter, and nothing could be more harmful or detrimental to any future agreements of the same sort if here we try to get out of what we agreed to by trying to twist what the Secretary of State has said into something he has not said. I, for one, will not be the first person here to go back on an agreement I have entered into.

I have tried to explain what happened, and I should like to say that I consider I have committed myself, and my colleagues who agree with me, to giving income tax a trial. Income tax has been brought in as a part of the law of the land, though Government, I must say, when it was in committee agreed to the important points we raised so as to make it as little onerous as possible to the farm producing communities. I maintain that income tax must be given a run and for that reason I and others will not oppose its appearance in this year's Estimates for 1938.

But I do say this. When we have got the full figures which I think should be properly collated and analysed so as to show how much money it has brought in, what it has cost to collect the money, which section of the community have paid for that money, where it has come from and whether any hardships have been imposed on any section of the community, when these figures are available I ask the Government to have them referred to Standing Finance Committee for a thorough report on its incidence and any question appearing to be related to it, and for the Standing Finance Committee to

report back to the Governor. I think it is a reasonable request and a request which will be helpful to Government.

As I see it the question is this—there are certain sources of legitimate revenue which can only be tapped by the imposition of income tax. There are certain well-known disadvantages in a young country like this having an income tax at all. As I see it, the point that has to be decided is, are these disadvantages of greater importance than the advantages of being able to tap these sources of revenue. I submit, Sir, that that ought to be judged on the basis of which is going to be most beneficial to your policy of the constructive development of this Colony. Is it going to be more helpful to have this additional taxation with revenue coming in from that taxation, or is income tax going to be a greater handicap to that development? I am not going to commit myself one way or the other, I want to get my facts. We have had a spate of arguments based on theory and rhetoric and in order to see where we are it would be as well to have figures and facts, form our own views and let us see whether it is to be of advantage or not and let us see those who have right on their side and those who are wrong.

That brings me to the question of taxation generally. This year the Government are estimating a surplus of £33,000, and according to the hon. member of the Estimates they will get a great deal more. He has spoken of an eventual surplus of over £100,000. Under these circumstances we would be well justified in asking for some material reduction in taxation but in fact, we have agreed that for the year 1938 we are not going to ask for any material reduction. We may ask for some small amounts possibly, for something off the stamp duty or things of that sort, but we are not going to ask for any large reduction. We are going to agree to the Government accumulating a certain amount of excess revenue this year to add to the surplus balances. But I want to be quite clear in this, that if the general financial position of the Colony carries on in the forthcoming year on the same lines as during the past two years, and there is no great disturbance in world conditions

[Lord F. Scott] which might affect us, we will definitely ask for a large reduction in the taxation for 1939.

It may be that we will press for the abolition of income tax if, when the facts and figures are properly analysed, we are satisfied that it is definitely to the detriment of the progressive development of the Colony and in that case, presumably most of the other taxes will have to remain much as they are. If, on the other hand, it is proved on our suggestion, that it is advantageous to retain the income tax as a part of the fiscal system, then we shall ask for a considerable reduction under other heads such as trade licences, and stamp duties which are very onerous on land deals, and so on, petrol tax, and entertainment tax (which was only put on as temporary, in bad times and while not a very onerous tax is rather a handicap sort of tax to many interests), and also possibly certain questions of customs.

With regard to the last point, customs, it must be obvious that if we in Kenya have an income tax and the neighbouring territories do not then it would make it much more difficult for us to get alterations in these duties when we are tied up with a customs agreement with Uganda and Tanganyika. There are one or two more points I want to touch upon.

On the question of loans, the European elected members have considered the question of future loans and our attitude is this: we do not want any large or extravagant loan expenditure embarked upon. But we do recognise that there are certain things which will require some loan expenditure, such things as some buildings which are Sir, a part of your consolidation side of the picture, and very likely the hard surfacing of roads. Before we embark on any loan expenditure every item must be carefully scrutinised and carefully looked into so that we shall not borrow more money than is necessary for that policy of consolidation and development.

May I say how much we welcome your remarks reiterating the true spirit of the dual policy. For many years a dual policy has been the policy in Kenya and if that policy is to be carried out in a proper spirit and with due regard to the good of

the country as a whole, it must be looked at from the particular point of view that the development of the native areas and the settled areas are complementary to each other and not antagonistic, and any unnecessary drive to increase the native cultivation which is going to have the result of depleting the labour market and so preventing the development of the settled areas cannot be to the real interests of the country at large.

I look at it like this: that the policy one should adopt is better methods of cultivation and development in the native reserves, and a largely increased settlement in the settled areas. For that reason I greatly welcome the fact of the appointment of a committee to go into the whole question of settlement which should now be faced up to and a definite policy be adopted which can be pursued and properly carried out.

Finally, Sir, I would like to say how much we welcome the lines which you have indicated whenever you have spoken that it is your policy first of all to consolidate and then develop. I only trust that everybody in the country will contribute what they can to the common pool and that however much we may differ over the details, methods or motions, we shall all do our very best to pull together and work with you, Sir, with one object and one object only in view, the welfare of Kenya Colony and Protectorate.

Council adjourned for the usual interval.

On resuming:

MR. PANDYA: Your Excellency, I think we are in a very happy position this year, in that we have not got to discuss any measure of taxation issue. It always happens that in times of prosperity we have very few quarrels. It also happens that in times of prosperity we are likely to lose our heads. It is therefore very necessary indeed and I agree with the remarks made by the Noble Lord, the hon. Member for Rift Valley (Lord Francis Scott), that the closest control over expenditure is absolutely essential. I think there can be no two opinions on this issue.

If anything has been learnt by recent experience in this country, I think we should learn one thing: that we must

[Mr. Pandya] look after the pennies, and therefore the expenditure should be very strictly controlled. We had the experience from 1924 to 1929 when times were very prosperous and there was plenty of money, and the effect of all the extravagant expenditure indulged in was felt during the times of depression which followed, so that the first work we had to do was to cut down expenditure to a very great extent.

This unfortunately created a lot of difficulties, and in the last three or four years we had a good deal of strain: we had to undergo a good deal of hardship, and we had to go through a period when we had to be very very careful as to how we spent our money. This is the first year when we can breathe more freely, and it is the first year of Your Excellency's regime when it is extremely fortunate that we find the financial conditions of the country improved.

The hon. mover pointed out certain problems which are on the horizon which may affect our Estimates next year, such as a drop in cotton prices and other things. It shows that prudence in finance is all the more necessary at this stage. We have also heard of the possibilities of trade cycles which come and go, and we should not be surprised if we had again to go through a time of depression. On this basis, I should like to make certain general observations in regard to these Estimates.

The Revenue Estimates, as pointed out by the Noble Lord, have been conservatively estimated. I think they err on the side of safety, if they err at all. There was one point made by the Noble Lord, that the income tax revenue of £43,500 was against a reduction of £170,000 in taxation last year. In my opinion, the revenue figure from income tax was merely a token. I pointed out, at that time, that even under the generous allowances which we agreed to about the tax, it was going to bring in a far larger amount of revenue than was estimated.

So we have not actually got so much reduction in tax, for we cannot say we have got it until we know what amount is realized from income tax. But, in connexion with this, I should like to point out

that while I entirely agree that before we have got figures and facts in regard to the collection of income tax it would be too early to advocate any further reduction in taxation during the next year, at the same time I entirely agree with the Noble Lord that the policy which this Government should follow must be based on the reduction of taxation.

The first thing, I should think, to receive our attention in that connexion is the customs duties.

In connexion with the surplus balances, I think we do not grumble at the building up of the reserves which, generally, should be the policy in prosperous times. We have already reached, or are likely to reach next year, the half-a-billion pounds as reserve, but I notice there are certain items which are not likely to be fully realized, so that before the hon. the Treasurer intervenes in the debate, I should like to ask him what the present position of certain advances which are made from these surplus balances? I think they should be liquidated for if we cannot collect these advances in times of prosperity I do not think we are ever going to collect them, and the sooner we know the position the better.

The hon. mover, speaking in connexion with the surplus balances, would like to see them built up to the neighbourhood of a million pounds, and he would naturally like to do it in the next four or five years. He mentioned that at the same time he would like to see these balances built up hand in hand with constitutive development, with expenditure on productive development but, in this connexion, the hon. mover (who spoke on behalf of Government) seems to have entirely forgotten one very important thing. He never gave any attention, and usually Government do not give it, to the position of the poor taxpayer. I did not hear from him that it was the intention of Government to have regard to reduction of taxation when the revenue came to more than was estimated.

In this connexion I would like to stress this principle of reduction of taxation or remission of taxation, and to quote here the views which were very forcibly expressed by His Excellency Sir Philip

[Mr. Pandya] Mitchell, the Governor of Uganda, very recently. At a luncheon in Manchester he is reported to have said:—

"All my service in East Africa convinces me that the more money you leave in the taxpayer's pocket the better . . . and that an increase in revenue is something to be used in reducing taxes."

I submit that those views, coming from an experienced administrator in these territories, are very important indeed, and that they should receive sympathetic consideration at the hands of this Government. I should like to hear from the hon. mover, when he replies to this debate, what is the policy of this Government in regard to such an important matter.

Coming to the expenditure side of the Estimates, I entirely agree with the remarks of the Noble Lord in regard to the high-sounding titles of officers which appear in these Estimates. I was going to call it the "designation-mania" of this Government. If I may be allowed to assume the degree of a doctor, I would trace the germs of this menace in this country, and I am sorry indeed that the hon. the Director of Medical Services was unable to spot it in time! That was only to be expected, because the other day he said in this Council he was unable to trace a case of leprosy which others had seen wandering in the streets of Nairobi; at the same time he shows very great efficiency in tracing malaria, mosquitoes. If my hon friend Dr. de Sousa is in his last year's mood he will have very kindly remarks to make in regard to the department of the Director of Medical Services!

With regard to this mania, during times of depression, due to loss of blood, this disease was under control. I should like to go into a little detail, and clear the air that in these Estimates I find no less than seven new designations created. I am only dealing with the important ones.

In the Agricultural Department, two senior agricultural officers; in the Customs Department, one more senior collector of customs; in the Department of Local Government, Lands and Settlement, a local government officer in place of an office assistant and a Director of Surveys in place of a Chief Surveyor; in the Posts and Telegraphs Department, two deputy

postmasters general in place of assistant postmasters general; the Prisons Department, the post of Assistant Commissioner of Prisons has been put in again.

These innocent looking titles no doubt confer increased prestige on their holders and, in certain circumstances, perhaps the emoluments are not increased. At the same time, in very many cases, it does lead to increased expenditure. I therefore wish to bring to the notice of Government that it is not a wise policy to give these designations to members of the Civil Service. No doubt there are explanations for them, but they are not justified when we want to control very strictly the expenditure side of the Estimates.

I should like to refer very briefly to a point which affects the Indian community, the question of the White Highlands. I do not wish to go into detail. We have had discussions in this Council many times in regard to that particular issue, but this point arises from the recent announcement of the Secretary of State for the Colonies in which he says that the order in Council concerning the White Highlands is to be promulgated very soon and that he was awaiting the views of His Excellency.

The only point in this connexion I wish to make is that the Indian community have always opposed this principle of reservation of the white highlands, but if this question has been referred to Your Excellency for further consideration or expression of opinion, I think it is only fair that the Indian side should be given the opportunity to submit their case before Your Excellency arrives at a final decision in this matter and before you convey to the Secretary of State the views of this country which includes the Indian population as well.

We are all in sympathy with the increase of the productive development of this country. It is quite right that the development on the whole reflects upon the prosperity of the people, but I am concerned that so far as this side of Council is concerned or Government that the word "settlement" only means white settlement. It is forgotten that there is an equal responsibility on Government to encourage production or productive development by the Indians of this country.

[Mr. Pandya]

I should like to take this opportunity of informing Government that we are becoming painfully aware of the pointed indifference and forgetfulness of the existence of Indian interests. I believe it is short-sighted policy. The only reference which Your Excellency made in your communication from the chair regarding the Indian community was that we have an increase in our school population.

This order in Council is an issue pregnant with many grave problems. We are in this country part and parcel of a permanent population, all resident here, and the mentality of running away from facts will not ultimately make to the advantage of the country as a whole. You cannot keep an element of the body politic apart or at a disadvantage and succeed in the general progress of the whole country. I ask Government, when they are thinking about the constructive development by Europeans and natives, if they cannot give any attention to the development of the country by the Indians.

On the other hand, I am afraid that the efforts being made to deprive my community of the opportunities of earning a livelihood in other directions, and the restrictions imposed under the Marketing of Native Produce Ordinance or the Co-ordination of Transport Bill, are going to create very great hardships on them. In addition, sometimes we find that unjust and unbecoming methods are used to keep the Indians out from some place. I am not going to deal with this question in this debate, because it is an issue by itself and should properly be discussed in this Council by motion, and when the time is ripe we shall from this side bring in such a motion. The only point I wish to stress this morning is that in regard to any settlement scheme Government should give some attention to increased development by Indians.

Coming to the question of the defence of this country, we support the defence votes in these Estimates. I think, having regard to the fact that we have a very complicated international situation today, we cannot be blind to the danger signal and we should at least place this country in a position of defence so that

in times of difficulty we can hold on until we get help from other countries of the Empire.

But, in this connexion, I would like to point out to Government that the Indian community in this country is not only willing but anxious to participate in the defence schemes of this country. At the present moment the defence force is entirely composed of Europeans, and there is no chance whatever given to Indians to join. Let it not be said in future that the Europeans in this country are shouldering the responsibility of safeguarding the Indians! Whatever men say, there is, in my opinion, a sufficient number of people from the martial races of India in this country who can fit into the scheme of defence. I hope Government will realize this point before it is too late, and allow us to make some contribution towards the defence schemes.

I should like to ask Government whether they have any scheme in view or whether they are going to make representations to the Secretary of State in this matter?

Coming to the question of education, I should like to say that Indians in this country are very anxious to give their boys and girls the best education they can get in this country. At the same time, no doubt Government has tried to help us in regard to Indian education by providing more funds, but they have not been able to keep pace with the interests of the Indian community and with the demands which we make from time to time.

The hon. mover, referring to the increased expenditure for education, made a point that it was to maintain the present efficiency. But, I submit, we cannot rest satisfied with the present efficiency and that we must take into consideration the increased number of students and the increased needs of Indian education. It should not be forgotten in this connexion that the Indian community has contributed very large sums to the Indian education, because they are running private schools towards which Government only give grants in aid. To-day, the whole of the Indian girls' education, with the exception of Mombasa, is being run under that scheme. This is a tremendous saving to Government, and I hope that the hon.

[Mr. Pandya] the Director of Education, when he intervenes in this debate, will make it clear how difficult it is for grants in aid schools to carry on at the meagre rate of £2 or £3 a head. It is impossible to maintain efficient schools or give proper education by this means.

A few years ago it was Government's policy to take over Indian schools as funds permitted. During the times of depression, naturally it was not possible to do that, but I should have thought that the time has now come when again that policy could be taken in hand and one or two schools each year taken over. I do not find that that is provided for in the present Estimates. I hope that this policy of taking over schools will be followed in future years.

There is another point in regard to this education vote to which I should like to draw the attention of Government, in connexion with relief teachers. I think the present policy of engaging locally any one who is available as a teacher is not right. We have not in this country qualified material from which to take teachers for secondary schools, and therefore it is very necessary indeed that the policy of engaging relief teachers permanently should be followed. This would involve additional expenditure of about £900 in the Indian education vote, and I think it would be justified in every way.

Also, I should like to draw attention to the present amount of the grant in aid, £8,075, which I consider is not sufficient, and it is not even sufficient for the present needs of the schools already in existence. Naturally these points will be considered by the Standing Finance Committee. On the Revenue side of the Estimates we have the increased tuition fees from Indian schools, £875, and that has to be taken into consideration.

Coming to the question of the road grants to district councils, we find in these Estimates £39,579 is provided, an increase of £9,105 over the 1937 Estimates. There is one point in this connexion which is always made, and I should like to repeat it, that we are paying from general revenue £40,000 to these district councils for the maintenance of roads but on these district councils there is no Indian repre-

sentation. That point, I think, should again be considered by Government.

There was a time when Government was sympathetic to the appointment of Indians on these councils, but because of determined opposition from the councils they took no action. In view of the increased amount being given these bodies for the maintenance of the roads, I think it is only right that the people contributing to that general revenue should be given some representation.

Recently, it appears, district councils have been given authority to close roads—this was formerly done by the Public Works Department—and there have been instances in which roads have been closed without any notice to the public, which has created a great hardship on the people using the roads. In this connexion I should like to wait until the facts are known, but it shows all these difficulties, and hardships are the result of not having anyone on these councils to put up the Indian view point.

Coming to the medical vote, I should like to bring to the notice of Government the very unsatisfactory position in regard to Indian patients at Mombasa. At the present moment, only nine beds are available. For a big town like Mombasa, with an approximate population of 15,000 Indians, this number is like a drop in the ocean. We did not press the matter very hard in times of depression, but I do not think it is fair to continue on that basis when times have improved.

I should like in this connexion to ask the hon. the Director of Medical Services that, while there is great hope of the Nairobi grouped hospital coming into existence, what is the present position in regard to the Mombasa grouped hospital scheme? Up to now we have been told that the scheme will be taken in hand, so that we could carry on with the present difficulties for some time. But if I fear there is no immediate chance of having the Mombasa grouped hospital scheme ready, then I think the time has come when some additional accommodation should be provided. I hope that the Standing Finance Committee will consider this question favourably.

These few points which I have made will no doubt convey to Government that

[Mr. Pandya] what I started my remarks with, by saying that there should be very strict economy in expenditure, means that I wish to con- tinue in the strain of spending money. The point I wish to make is this: that there is a difference between essential and non-essential expenditure. When the Noble Lord started his remarks by speaking so strongly against increased expenditure, I thought that he did not qualify them by making any difference between the two. Ultimately he did, when he appealed for an increased vote for district councils for roads, and when he did not object to the increased education vote, so that I was satisfied that the policy of discrimination between essential and non-essential is accepted by him. Therefore, the views I have expressed as regards various increases being necessary for social services will, I hope, be considered as essential votes which are required for the benefit of the community.

I should like to take this opportunity to deal with some questions which affect us on the coast. It is in regard to the development of the coastal areas.

We have at the coast an experimental farm, but the activities of the farm should be very much increased to make it more useful for production. I understand that the experiment of white simsim at the coast has been extraordinarily successful, and I should like to hear from the hon. the Director of Agriculture whether he thinks this has become a commercial proposition and whether there is any possibility of increased production for export.

There is also an item of palm kernel which I understand has been successful at the coast, and encouraging reports have been received from home of this produce. I hope some steps will be taken to increase production of this item.

There is very great interest at the coast in the efforts to increase and multiply drought-resisting food crops and rice. It is very necessary because of the scarcity of rains, and I think that multiplication of seeds should be encouraged. There is also the question of growing citrus fruits in the experimental farm which should be considered by the hon. the Director of Agriculture.

These are items towards which funds should be allocated, the increased development and the constructive development of the coast. Cotton is no doubt a very important item, and at this time it is well established, so that it may be necessary to spend more money in finding out the desirability of adopting other things for the coast.

In development, roads play a very important part, and I am afraid that the coast roads are not comparable in any degree to the roads up-country. It will require a large amount to bring them to that standard (Mr. Shamsü'd-Deen: There are no roads at all), but I hope if this productive development is taken in hand, that the road development at the coast will receive the greatest sympathy from Government and that money will be allocated to make the roads passable so that they can be called roads.

I should like to submit, in regard to the policy enunciated by Your Excellency about the increased development of the country, that the coast should receive the same attention as the areas in the high-lands.

I wish to draw the attention of Government at this stage to the fact that in the scheme Your Excellency outlined, the development of the coastal area should receive its due quota and share.

There is one point which I should like to make before I conclude. That is in connexion with a point made by the Noble Lord in regard to the policy of Government to face issues in this country. He spoke at great length of the problems of income tax and understandings arrived at in the 1936 meetings of the Standing Finance Committee. One point which he made was the promise of the Secretary of State, who said that the representatives of unofficial communities would be more closely associated with Government.

The point I should like to make in this connexion is that unofficial communities do include Indians, and that, as far as Government is concerned, I could not honestly say they have actually put into practice that policy. I do not wish to go into details of what happened two days ago with regard to the question of the Co-ordination of Transport Bill.

[Mr. Pandya]

If Government are really so anxious to associate the unofficial communities in regard to the various things in this country, they should have made efforts or offered to the Indian community some sort of satisfaction as regards representation on that select committee or on the proposed board. But the attitude of Government towards such questions leads me to believe that this policy of associating the unofficial communities is at a discount as far as the Indian community is concerned, and I hope that they will reconsider this position. I beg them to consider us as part and parcel of the communities living in this country and as responsible representatives of that community.

There was another point which the Noble Lord made, and I entirely agree with him, when he said that the time has not come when we could say anything in regard to income tax. I agree with him that we should wait until we get some facts and figures about the revenue from this tax. But, being consistent with what we have always said in this Council, it is not our policy to definitely agree that income tax should be withdrawn.

It would be very foolish, after introducing the tax, that we have got to withdraw it in a year or two. I entirely agree with him that the question should be kept open until we have some facts, and that the policy which should be outlined, namely, reduction of taxation, has full support from me. (Applause.)

HIS EXCELLENCY: Does any other member wish to speak?

ARCHDEACON BURNS: Your Excellency, I hope I have not jumped anyone's claim! There are a few points in connexion with the Estimates which I should like to speak about from the point of view of the natives, although I am ploughing a lonely furrow as my colleague has left and Dr. Wilson has not yet come back to the Colony.

First of all, with regard to the revenue derived from the hut and poll tax, taking the last six years, the total amount contributed by the natives of Africa in direct taxation—and I emphasise that word very

much—is £3,273,236 or an annual average of £545,539. The expenditure on the four principal services, agriculture, medical, education and the P.W.D. has amounted to £1,532,413 or an average of £255,402 a year, leaving a balance for overhead charges and for administration from direct taxation alone of £290,054 per annum in taking the six years.

In connexion with the revenue, or as we have it in these Estimates, the actual receipts for 1936 were £537,220, while for 1937 no figures are given. I do not know why, because in connexion with other heads, customs and other things like that, the figures up to the end of September, or August or September are put down, I should like very much, if I may press the subject, to know what the contribution was say up to the end of August has been with regard to the native hut and poll tax, because it might help us, and it certainly would help me, to know them and to work this thing out from a calculated point of view. Last year, 1937, the sanctioned estimates were £515,000 but we do not know whether that has been exceeded or not. But the 1938 estimates have gone up to £529,000 and this is an increase of £14,000 on last year's sanctioned estimates.

I should like very much to know, with regard to the remarks made by the Noble Lord, the hon. Member for Rift Valley, referring to the demands made by the elected members, first of all whether the revenue from the native hut and poll tax has decreased as a result of the change in the age at which the natives were to pay their taxes, from 16 to 18 years. I have not seen it worked out anywhere what difference it would make in the revenue or how much reduction that would make in the revenue. Perhaps it is just because we have not got the accurate figures. But that to my mind is one of the most just things that possibly could be done because, after all, the European is not taxed until he is 18 and the Asian the same, and it is only justice that the African should be put on the same basis from that point of view. Then the Noble Lord stated that another cause of decrease was the reduction of the tax on plural huts. Well, that, of course, does not affect the amount of income one

[Archdeacon Burns]

way or another because I understand that the report of the committee that sat to deal with the matter has not yet been sent in.

But what I want more particularly to say is that the elected members in dealing with the income tax last year made two demands. Firstly, they would not be expected to put their hands in their pockets to contribute towards the increase in the services to the natives of this Colony. Well of course, that is perfectly true; that was one of the points, one of the demands—I hope I can call it a demand—but certainly one of the things brought forward that they should not be taxed for the native services to be increased in any one thing. I hope the Noble Lord will forgive me but I do say with all seriousness that the boot is on the other foot.

I would remind the Council, as I have done on other occasions, that the natives during the past five or six years have been paying, and I should say, paying the European employer of labour, a considerable sum towards helping the European to pay his taxes. That is in the reduction of wages that have been made with regard to natives employed in 1930 and from 1930 up to the present time. Although we have the figures given to us now that the number of native employees has increased, the wages have not increased in proportion to the number that are working. So that instead of the Europeans having to put their hand into their pockets for more taxation to help the native services, I would say, in all sincerity, that the natives have in that way helped to carry the burden—to share the burden if I may use the word—with all other sections of the community during the years of depression. I am sure the Noble Lord will not mind my bringing this before the notice of the Council.

Then there is another point which I want to bring forward. In Appendix A there is mention of the provision for a Provident Fund and a Widows and Orphans Pension Fund for the Asian Civil Servants, with which I entirely and emphatically agree. But there is no mention in the Estimates on this point. I should

like to say that earlier in the year I made representations to the then Colonial Secretary, Mr. Wade, at the time, who had given a promise that the Government, although they could not give a promise with regard to the Widows and Orphans Pension Fund, would give the Provident Fund their consideration, that is, the promise of a Provident Fund for the native civil servants. Mr. Wade then definitely said that there was no possibility of making any promise about the Widows and Orphans Fund but they would go into a scheme for a provident fund for the African civil servants in that connexion. I do not know whether it was to be in this year's estimates or not, but I know there is no mention of it made in Appendix A.

The Asians have £75,075 for their Widows and Orphans Fund, which I am very glad to see, and also a Provident Fund of £1,000, also I am glad they are getting that. But for the Africans there are few items, but they are serving their country as far as their capabilities permit them to do so, and there is no reason I think at all why they should not have some consideration given to them on that point. May I impress upon the members of the Standing Finance Committee dealing with this to give it their consideration and, if they cannot include anything in this year's estimates, they will at least give the Africans some promise or some hope that their case will be considered by the Government, and that it will be included, if not in this year's estimates, certainly in next, although I hope it will be in this year's estimates.

There are one or two other points I would like to mention upon. First of all with regard to the medical services, I am very pleased indeed to see a small increase in the medical services for this year. But I cannot but emphasise as I have done on other occasions when I have spoken on these things, that if the Colony is to progress we must have healthy people to serve the Europeans on their estates, and also to do their own work in their reserves. We must pay more attention to and be prepared to spend more money on the medical work throughout the reserves to the coast. I am sure the

[Archdeacon Burns]

Hon. Director of Medical Services deserves the thanks of the whole Council for the way he has tried to spread over the whole Colony the amount given to him year by year in the Estimates:

With regard to agriculture I am glad to see that there is a small increase in that vote for this year. I think I am entirely in agreement with the sentiments of the Noble Lord, the hon. Member for Rift Valley that what we want in the Reserves is to teach the natives a better form of production so that their products may be such as will be of a help to the Colony, to the exports of the Colony if you like, and certainly to teach them all better methods of agriculture.

It is a very difficult matter to them, but the African thinks that if he puts five crops into one bit of land he is much wiser than the European. But although he finds that after a few years the *shambias* are worked out, and that he cannot get any crops worth speaking about. If these officers appointed and for whom provision is made can help the natives in that way to put in crops that are productive to them and help the output of the whole Colony, it is money well spent and I congratulate those and the hon. member who drew up these Estimates.

With regard to education, again I see there is a small—I do emphasise this "small"—increase in the grant to the hon. the Director of Education for the work that has been entrusted to him throughout the whole Colony. There is, I know, a great difference of opinion, or divergence of opinion, with regard as to how far the Africans should be pushed forward in education or how far they should receive higher education. The African has come to the stage, to my knowledge, and I think justly so too, when he is demanding education, whether it be higher education or not. I myself feel very strongly that the African should be educated along lines that will be helpful to himself in his own reserve and in a manner that will enable him to build better houses and improve the sanitary conditions of his villages and that sort of thing. At the same time we must take into consideration that quite a

large number of Africans educated to-day ought to have ambitions, and just ambitions, that they should have a place in the sun as far as work in Kenya Colony is concerned. I think, to-day, we must be prepared to consider seriously that the Africans can be prepared for that aspect of their lives in the Colony.

I do hope I will not be misunderstood when I draw attention to the N.I.T.D. work done by that Institution I appreciate very much and I think it very, very excellent. But I do feel very much that there is from that institution and in connexion with that institution a very great waste. I hope I won't be misunderstood. They are producing year by year a certain number of trained artisans, some carpenters, blacksmiths, stone masons and all that sort of thing, and after they have spent five years in that institution they are sent out and given a few tools to carry on with.

But I would like to ask to-day, and I hope the Director of Education will be able to give a satisfactory answer to that point, where are they to-day? Where are they to be found? Are they working for the Europeans on their estates, are they working for the P.W.D. in the work they are doing, are they working for municipality, either in Nairobi, Nakuru or Mombasa? Last year I made inquiries about it and of all the natives that have been trained at the public expense and at their own expense there was one solitary man working in the Nairobi Municipality. Others were working in Pumwani and places like that.

I do not grumble at that but I do think that if we spend public money on the training of Africans it is up to those who are connected with it to see that these men are not lost sight of and that they are given work as far as they possibly can be in the Public Works Department and by the contractors in Nairobi, as far as possible. I know they are slow as compared with the Indian fundis and I do not want for one moment for them to put the Indian fundis out of their jobs.

There is one aspect I would like to stress very strongly. I feel that instead of these boys working for five years in the N.I.T.D. that if they did their theoretical

[Archdeacon Burns]

work for three years in the institution and for the two remaining years of the five, be allowed to go out with a sympathetic instructor, on European firms, or in any other way as part of their training, then they would be of more value to the Colony than they are at the present time.

I do hope I am not misunderstood in saying this. I know the officers working in this institution, I have seen some of them at work with their boys in completing the C.M.S. school at Mombasa and the patience exhibited by these officers is most praiseworthy indeed in training these boys and training them in a practical way. So, I hope in connexion with this the education authorities and those authorities having to deal with them will give serious consideration as to whether it would not be better for a three years' theoretical training in the institution and two years practical training under expert instructors to work either in Nairobi, for the farmers on their estates or wherever they are working, that such work may be found for them. I do not think there is anything else I want to draw attention to.

With regard to the Public Works Department, I see there is a small increase in the amount voted for this year's service.

But there is one aspect of this revenue surplus which I should like to draw attention of the Council to and that is the amount of money the natives themselves are assessing themselves at so that they may, under the guidance of their district officer or district commissioner, carry on work which they themselves in their reserves know to be of paramount importance. I am speaking of course of some districts where it is Sh. 2, others where it is Sh. 1 and others Sh. 1/50, and so on. The sum total of that money is very great indeed for the Africans together with the money they give in direct taxation and together with the very large amount they give in indirect taxation through the customs and other ways like that, and also what they contribute in their reserves.

Yet I am afraid there is an idea in the minds of some that the burden should be taken from the shoulders of the Government—that is that the public revenue, to

which they contribute so largely should be relieved as far as possible—and the burden of education, medical services, road-building and all that sort of thing, should be pushed on to the shoulders of the local native councils. I do hope that that will not be the case and that these people, under the direction of their officers who are in charge of the various districts, will be given every opportunity of carrying on the work which they see themselves to be needed, whether it be under the control of the local authorities in the reserves or whether it be in agriculture. I hope that the Government will not think that this is a way by which we can reduce our estimates of expenditure by pushing on to the native councils more of the work that we have been responsible for heretofore.

There are just these two points that I want to emphasise and press home. I want to ask the Finance Committee to take into consideration first of all this provident fund so as to give the African some assurance. We have heard and perfectly rightly too, that if we want to have satisfied servants and men who will do their work to the very best of their ability, we must give them some little encouragement in doing that work and in that way show that we appreciate what they are doing for us. They are very far from what we should like to see them and if we wish them to get on it is for us to encourage them. The second point is in regard to the N.I.T.D. and the boys who are being trained there.

MR. HARRAGIN: Your Excellency, as I know no one will want to speak on the budget for ten minutes, I will seize the opportunity to intervene for a minute to clear up what might be a misunderstanding with regard to choosing the select committee on the Transport Licensing Bill.

Council is well aware of the procedure followed here when a Bill is being referred to a select committee. The first thing that happens is that the hon. the Colonial Secretary and myself and the introducer of the Bill meet and decide who shall be the Government members. The Clerk of Council then inquires from the Chairman or secretary of the European Elected Members Organization

[Mr. Harragin] whom they want on the select committee, and the same procedure is followed with regard to the hon. Indian members and the hon. members representing native interests.

From the outset it was perfectly clear that the Transport Licensing Bill would have to be referred to a select committee, and the normal procedure was followed. On the day in question, I had before me a list consisting of eight names—three Government members, three European elected members, one Indian member, and one member representing native interests. I think it was during the adjournment that the hon. Member Mr. Pandya and other Indian members spoke to me on the subject, and said they wished an undertaking on two points: one, that Government would give them representation on the board mentioned in the Bill and that that should go into the Bill; secondly, that the number of Indian members on the select committee should be increased to two, if not three, and I was asked to see you, Sir, on the subject.

I did as I was requested, and as a result you asked me to convey the following message to the Indian members, to the effect that you could not give any undertaking at that stage as to members on the select committee and that you had no intention of altering the Bill with regard to the composition of the board and picking out any particular race and saying they should be represented on the board, but that I had made it quite clear in my speech that the board would consist of the best possible people. Your Excellency in Council could find irrespective of race and creed.

I came back into the Council and intimated to the hon. Indian members that if they wished further representation on the select committee they would, during the course of the debate, advance their arguments as to why they wanted to add to the number of Indian members on the committee. Later, when I moved that the Bill be referred to select committee, as members of Council are well aware, a long time before that stage was reached the hon. Indian members intimated that under no circumstances would they serve on the select committee. For that reason, and that alone, I did not move any Indian member's name to serve on the committee.

I mention the fact at this stage in order that there shall be no misunderstanding or that it should go into the Press as an alleged slight to the hon. Indian members by Government in this matter.

LORD FRANCIS SCOTT: On a point of order in connexion with that, if the hon. Indian members wished to add to that select committee they had the opportunity of moving an amendment to the hon. Attorney General's motion as to the composition of the committee.

MR. PANDYA: I should like to say that the Indian members stated quite clearly in debate that they would like to have an equal number of representatives on that committee in view of the large industry involved, and for that reason, when that was refused, no member would agree to sit on the committee.

The debate was adjourned.

ADJOURNMENT

Council adjourned to 10 a.m. on Monday, 15th November, 1937.

Monday, 15th November, 1937

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Monday, 15th November, 1937, His Excellency the Governor (Sir Robert Brooke-Popham, G.C.V.O., K.C.B., C.M.G., D.S.O., A.F.C.) presiding.

His Excellency opened the Council with prayer.

ADMINISTRATION OF OATH

The Oath was administered to—
Theodore David Wallace, Esq., Acting Solicitor General.

MINUTES

The minutes of the meeting of the 12th November, 1937, were confirmed.

ORAL ANSWERS TO QUESTIONS

No. 65—INTERNATIONAL DRIVING PERMITS

MR. MAXWELL asked:—

1. Is Government in favour of recognizing—

(a) The International Driving Permit;

(b) The International Certificate for Motor Vehicles?

2. If the answer is in the affirmative, when is it anticipated that official recognition will be given in Kenya to these two facilities?

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

Official recognition was given in 1932 by the Motor Vehicle (International Circulation) Rules of that year. Proposals for exempting from local licensing vehicles and drivers covered by these International documents under the Convention of 1926 and for the recognition of fiscal permits issued under the Convention of 1931 were put forward by this Government last year for consideration by the other East African Governments. It is hoped that finality in this matter will be reached shortly.

QUESTIONS UNANSWERED

MR. HARVEY: On a point of order, Sir, may I ask when I may expect to receive a reply to my question on the subject of the hibernating Agricultural Indebtedness Committee?

MR. HARRAGIN: The question has not been lost sight of, but I am awaiting a reply from a gentleman up-country before I can give a definite answer.

LORD FRANCIS SCOTT: Sir, I asked a very simple question a fortnight or more ago about the committee dealing with the road policy, to which I have had no answer. It seems that Government is in the habit of delaying answering questions if they do not want to answer them!

MR. PILLING: The hon. the Acting Director of Public Works will answer that question to-morrow.

DRAFT ESTIMATES, 1938

REFERENCE TO STANDING FINANCE COMMITTEE

The debate was resumed.

MAJOR CAVENDISH-BENTINCK

Your Excellency, previous speakers in this debate, and notably the hon. Member for Rift Valley (Lord Francis Scott) and the hon. member Mr. Pandya, have both commented on the increased expenditure which is provided for in this budget, and they both expressed the hope that the lessons of the last few years are not going to be lost sight of. I think I am the only member of Council left who was both a member of the Expenditure Advisory Committee in 1932 and the Economy Committee in 1934, and I feel that my opening criticisms of Government's 1938 proposals must be to voice a similar anxiety.

If I were giving an exhortation I should be tempted to take as my text the statements that appear on pages 6 and 8 of the Draft Estimates of Revenue and Expenditure, because, from these it will be seen, as was pointed out by our Chairman on Friday, that during 1938 we are proposing to meet a net local recurrent expenditure (that is, an expenditure of the type which it is most difficult to curtail if, unfortunately, one has to do so at a later stage) of not less than £136,167 more than we actually spent, including special grants, during 1936, while at the same time we are apparently only likely to obtain during 1938 revenues which will total nearly £14,000 less than the net local revenue which was actually obtained in 1936, this of course being the last year for which accurate figures are available.

[Major Cavendish-Bentinck]

"I admit that on that year's work we did show a surplus of £146,000. Since that date, certain quite important revenue extracting measures have either been lightened or done away with.

There is another factor to which I should also draw attention. That is, in 1938 Government proposes to budget for by far the heaviest gross expenditure which has ever been incurred by this Colony in any one year, whereas the net local revenue which, after all, is a very important factor, which is likely to accrue during 1938 is estimated to be considerably less than the actual net revenue which was obtained during 1927, 1928, 1929, 1930, or even 1936.

If one had brought these two facts to light, I feel that the ordinary prudent person who is going through Government's proposals would maintain that prior to discussing any item whatever, either of revenue or expenditure, in detail, some further examination of Government's 1938 proposals on the broadest lines is necessary, in order to see whether or not what would at first appear an unsound basis of framing the budget, is justified or otherwise. In order to do this, I think we should examine more closely the actual gross net figures of revenue and expenditure for the last few years.

I have before me the relative figures for the last twelve years both of net and gross. I do not propose to weary Council by a lengthy recitation of 40, 50 or 60 sets of figures, but I would just like to mention one or two turning points during this period, although they have been mentioned *ad nauseam* before, because it is so important that we should not forget what has happened in the past.

After the depression in 1921, to 1924 our expenditure and revenue increased by leaps and bounds up to 1929. That was the turning point, because in that year our actual total gross revenue was £3,333,742 and our actual gross expenditure £3,505,073; and we incurred a deficit, or excess expenditure, over revenue of £171,331. Then drastic but belated steps were taken to reduce expenditure. Since that date, our lowest figure of expenditures were in 1932 and 1933, and as a result of action taken by Government and

as a result of the Expenditure Advisory Committee's recommendations. Our lowest gross expenditure took place in 1932, and amounted to £3,119,723. The lowest net local expenditure was in the year following, the figure being £2,124,000.

As regards revenue, our lowest revenue was in 1932, when we obtained £2,056,925 net local revenue, and a gross revenue of just over £3,010,000. Since that turning point, of course both our revenue and expenditure have increased.

Our expenditure, I may say, has very remarkably increased. In the Estimates which are before us to-day we are budgeting for gross revenue amounting to £566,130 more than we actually obtained in 1932, and a gross expenditure of £412,000 more than we actually spent in 1932. If, however, you take the net local figures, we are budgeting for a net local increase of only £205,675 as against a net increase of local revenue of £307,172 as against the lowest we have ever had since 1929. I will say that our net figure of expenditure in 1938 is estimated to be less than the expenditure incurred in those two squandering years of 1929 and 1930; it is considerably less.

Against that I would again repeat that the figures of estimated net revenue for 1938 are still less than the actual net revenue we obtained in 1927, 1928, 1929, 1930, and 1936. I have not taken out the figures prior to 1927, but I am a little disturbed over this figure of local net revenue. The gross revenue figures in this budget for 1938 are so much larger than have appeared in any budget in the history of the Colony before, but we should be careful to note (and this is the point I am trying to make) that our net revenue figure is still not up to what it was in previous years when we had not got the same taxation measures that we have to-day, so that I think we may be led into difficulties and may be tempted to embark on recurrent expenditure which we cannot possibly afford, though I do not wish you to think it is unnecessary very often.

I am circulating these figures to members of the Standing Finance Committee, but I merely quote them to show that, if the whole picture is taken into considera-

[Major Cavendish-Bentinck]

tion and the comparison is not limited, as I limited it at the beginning of my remarks, to the juxtaposition of our net local revenue and expenditure figures for 1938 and 1936, the broad basis on which Government have framed this budget is probably reasonable and unavoidable under the somewhat difficult circumstances of to-day. I would add that, taking the increased expenditure into account, and more especially the type of expenditure, to which I will refer later, I do not think it is quite so reasonable to claim that this is a consolidation budget framed in the light of a definite policy, which is to build up the financial resources of the Colony.

I would ask, can you say that such a policy is reflected when we are asked to sanction expenditure £136,000 more on a lesser revenue than we had in the last balance-sheet before us?

That in a way is a warning. I would like to make another. I would like again to quote, as I have just done, from the hon. mover's speech with reference to one of his introductory remarks. He claims that the value of exports is expected to be still greater in 1938. I do not know whether he meant in value or in volume. I can only say I hope he is right. He may be right, but at the moment I think we should be a little bit cautious.

The coffee position is very uncertain, sisal is down and, as far as I know, stocks are being held by sisal growers all over the country because the price is too low to sell at a profit to sell at the moment. Why is it? Cotton is not good; in fact, it is very bad. This again may affect the revenue position next year. Furthermore, I do agree and would support our Chairman, that we must try to a certain extent to increase our excess assets over our liabilities. I hope we shall be able to do so.

It was pointed out that at the end of the year it was hoped to have half a million. I hope we have not lost sight of the fact that rather more than half of that is a completely frozen asset, and if times are bad again it will become more congealed than ever.

The gist of all this rather lengthy commencement of my remarks is to try and draw attention to the fact that the curse

of all these budgets is this ever-increasing recurrent expenditure. I know how difficult it is to avoid it, how easy to say, "We do not want any further increases in expenditure," and how we all ask for them! But the hon. mover urged us to appreciate the paramount purpose in framing the present budget, which was, I understand, to consolidate the Colony's finances by overtaking, as far as possible, arrears in maintenance and equipment votes and making provision for wasting assets of the Colony, such as roads and buildings.

That is a quite wise, sensible declaration of policy, but why the recurrent expenditure? You will find that the great bulk of this increased expenditure is recurrent. What we must try, and try our hardest to do, is, as and when circumstances improve and until the Colony goes ahead, to take time by the forelock and spend money wisely and, when times are bad, leave us in the position of being able to curtail expenditure. You can perfectly well preserve wasting assets such as roads and buildings by *ad hoc* expenditure, and I hope we shall find ways and means of doing that, and not build up this over-lasting expenditure bill, an expenditure which we can never get rid of.

The trouble is that the word consolidation which is suddenly being used now is not really a consolidation of the Colony's assets but a consolidation of the Colony's expenditure bill in a great many cases. This word is always cropping up now. The other day, speakers warned Government against coming new titles for offices held by Government servants. I agree that they are probably unnecessary in many cases, but I think we all ought to warn ourselves sitting here against a tendency which I see increasing almost daily, which is a tendency to coin meaningless phrases, often meaningless phrases and slogans. One of the objects which is always cropping up is consolidation and constructive economic development. That is a very good phrase becoming increasingly hackneyed.

It started at a time when relations between members on this side and members on the other were not too good. We came to a sort of idea that we wanted economics and not politics, and wanted to concentrate on development and so on.

[Major Cavendish-Bentinck] It was brought into Council, and these slogans were coined, but I should like to say a word or two about these very well meaning phrases.

If we spend too much time consolidating and conserving—which is what I gather we are doing this year, according to the hon. mover's speech—we shall find bad times on us again, before we have moved a step further. I should also like to say that a great deal of encouragement of economic development can be given by Government by assistance to unofficial enterprises. In fact, the bulk of economic development is being and has had to be, undertaken by private enterprise, money coming in, and so forth. How can a budget reflect this desire of Government's to encourage constructive economic development?

For one thing, if, as pointed out by the Governor of Uganda, leave as much money as possible in people's pockets. But a lot can also certainly be done not only in expenditure which we cannot possibly afford but in trying to think out ways and means for the country raising money and, although I do not suggest you can alter it this year, I do suggest that Government ought to take into very serious consideration ways and means on the basis of which it does raise a lot of its revenue to-day.

We all agree that one of the most fundamental things for a new Colony to enable it to develop is the provision of transportation and communication facilities. Do we realize that we get £220,000 out of this in revenue; that the Railway has made a profit of, I believe, half a million, or at least £400,000; that the post office, not this year because of a big expenditure, but in most years makes a profit of £50,000 to £60,000? Which means practically £700,000 out of people in services which should be given every consideration. There are taxes on raw materials required by local industries, I believe £60,000 in stamp duties which, in a way, is a tax on every conceivable form of commercial transaction; we tax traders by means of trades licences; we tax land because we demand rents, stand premia, and so on when perhaps we could help people to settle by not being quite so exacting.

There are other ways which I suggest would help this economic development. We should get down to our roads. We are taking a lot of money out of people for them, and what has happened about that? While we are all busy coining these lovely phrases, a committee was set up in July last in order that on its report we could make up our minds as to how to deal with this burning question next year, and it has still not reported. I suggest that it is of some importance to get that report, and to have the budget framed on something more tangible than by being frightfully polite to each other with these rather poetic phrases!

We have just been lucky enough, and I know you, Sir, personally take an interest in this question, to get the co-operation of private enterprise in the form of Liebig's Ltd., who have started a meat factory, and we are all scratching our heads to-day to know if they are going to get anything to put through that factory. That, Sir, I maintain is a thing that ought to have been faced up to before now.

There are questions of tourism, settlement, implementation of the Garter Commission land recommendations as regards security of tenure of land. They come up regularly, quite regularly, but still not much has been done. There is the question of labour; that is surely one of the most important questions of development of this Colony. I do not think we have faced up to that either yet.

There is the question of erosion. We were told in the hon. mover's speech that land-conservation is going to be dealt with with the help of the Colonial Development Fund.

Sir, I bring up these things because, among other things, we on this side of Council have tried to face up to the position. We did ask that there should be appointed a Standing Board of Economic Development so that, prior to a budget of this kind, certain lines of thought might at least have been before Government and possibly incorporated with other work. We asked last session that that board should sit, and it quickly sat an hour in the afternoon a day or two after the motion came up. That, as far as I know, is the only time it has sat for about seven, eight or nine months.

[Major Cavendish-Bentinck]

I know that you, Sir, suggest that your Executive Council should deal with a number of these matters. I am quite certain that when you have been here longer you will see that that is the case, but I would just give one word of warning, and that is that no Executive Council in the world can deal with it all. You do want a board like the Standing Board of Economic Development that can co-opt all sorts and kinds of people on different questions, and then put up to your Executive Council something which the Executive Council can discuss and possibly consider and adopt, or otherwise.

I have made some rather general remarks, and there is one general remark which I want to make which, to a certain extent, deals with the revenue side of the budget. That is, to follow up the remarks made on the question of income tax by our Chairman. I do not propose to go into the past. I do not propose to enter into a long personal explanation, because I did so on the 4th March when I came back to this country, and I hold by every word I uttered then.

Looking at this budget as a whole, one has got to take certain facts into consideration. One is, as I have been trying to prove, that we have got to think of how one can raise money and expend it. This Colony is a partner in some of this expenditure, it appears, with its two neighbours.

As I understand it, the idea of income tax was that it was part of an Imperial policy of bringing in reciprocal income tax throughout the British Empire and thereby we should get back from the British Treasury moneys which are at present being lost to us; that possibly, as we progress and our neighbours progress, it might be necessary to a certain extent to alter our fiscal system from one based on indirect taxation to one based on direct taxation. I have always been concerned with one thing: if they chose to thrust a tax like that on us, which we have accepted, they have got to be logical and they have got to put it on all three territories, or it has got to be taken off us.

I have always held that view, and gave expression to it in London and here. If we are going to help the development of

East Africa as a whole, we have got more and more to co-operate with our neighbours in questions of taxation, expenditure, common services, etc. I say it is impossible to do that if we are going to have one basis of taxation and our neighbours another. I hope that will be made very clear indeed.

Before leaving this subject, I had better repeat this: that we do not wish to see it thrust on our neighbours but, as it has been thrust on us, and as we asked permission to discuss the situation with our neighbours, which was refused; the Secretary of State has got to take on his shoulders the responsibility—either of putting it on all these territories as a whole or removing it from this Colony, because, it will never work if we are to bear the brunt of it ourselves.

That does not mean that I am opposing its inclusion in these Estimates; for reasons which are perfectly obvious.

As regards loans, which were also alluded to by previous speakers, again I am afraid that I am going to attack Government a little bit, because I suggest we should by now have threshed out whether or not we require loans for any specific purpose, what the amount is, and what that specific purpose is.

As far as I can see, we are no further forward.

As regards roads, there is no report to go on; as regards the hospital, I do not know what is happening—I am told Government is going ahead with part of it, I presume on land already partly built on by the King's African Rifles (I do not know if that has been threshed out yet, and hope to get an answer in this debate); land conservation—I will refer to again later; but I do suggest that before we can be quite so pleased with ourselves we ought to face up to the fact that a lot of things ought to have been done before this budget was placed before us that we have not done.

There is one more specific item I want to refer to, especially on the revenue side; that is on page 15, where the native hut and poll tax is said to amount to £529,000.

I believe that we are slipping into a very dangerous position indeed, and I think the sooner we face up to it the better. What I am referring to is this. We

[Major Cavendish-Bentinck] tax natives by means of a hut and poll tax. That is all right. The money is used by Government for proper purposes—for benefiting the natives, and the country as a whole. But, in addition, we have now created a situation whereby native authorities are allowed to tax themselves or rate themselves or assess themselves, and I can see no very clear line where Government's responsibility ends and where the sometimes not very correlated or closely controlled as a whole, not individually, expenditure of these native funds begins and ends. Worse than that, I now see a tendency that when heads of departments cannot get money for their department in the ordinary way, put some cess on this, that or other native produce and, before we know where we are, the particular department has engaged a staff on behalf of a local native council, and, in a way, that department has augmented or gets a certain amount of extra service.

That may lead to a terrible danger. You may be able to build up these services which times are good, and prices high, but you get a terrible reaction when prices come down and the natives have to pay for the extra services. The sooner Government gets down to this position the better, because we are slipping into a very bad position indeed.

Now I want to allude to one or two specific items which bring in various questions which I hope the Standing Finance Committee will go into.

First, I want just to mention a general comment which I have to make on the Labour Section on page 28, the total expenditure of which amounts to £5,717. I have no quarrel with the Labour Section at present. I think it is probably well run by very efficient officers, but there, again, they have got to be just a little bit careful where they are drifting to. I maintain that the question of the accommodation, food and so on given to labour is a question which solves itself, because in the course of the competition for obtaining labour is such that people will have to give decent conditions if they want to get decent labour.

Of course, there are certain cases of abuses which the labour authority quite rightly of course goes into and deals with, but when it comes to travelling around

the country and making a list of A, B, C and D types of buildings, and interfering—I do not know how, and it is denied—through the district commissioner with the supply of labour to certain people, I think it is a very dangerous thing indeed, and if there is any sign of that it is up to members on this side of Council to oppose that vote very strongly indeed.

For the moment, I am supporting it, but I hope that aspect will be borne in mind, that to interfere in cases of ill-treatment and boys' huts is all right, but to interfere in such things as our economic subjects is entirely wrong.

On page 41 is a new item under the agricultural vote of "Soil Conservation Services," which was alluded to the other day by our Chairman. Like him, I welcome this new subdivision. I think it is necessary to have it. I know it has been suggested that this is only going to be the beginning of a new department, but I do not see why it should be. After all, there have to be subdivisions in any big department, and the reason why it is necessary to have it is that there are signs that this soil services problem is being dealt with piecemeal throughout the country without very much co-ordination. It is necessary to have specialist officers on this particular subject.

We do not want it to grow into a new department, but we want to have a subdivision of the existing department specifically dealing with this question.

You will see there is a vote of £2,500, which is really a token vote. I suggest that that could be used very advantageously. I do not say the whole of it, but a small portion of it, by sending some of these specialist officers, two or three, to see what the other territories are doing. I know one gets booklets and pamphlets and information by writing letters, but it is not the same thing as seeing with one's own eyes, and I believe in Africa we do not have enough interchange of views and experiences. It would be very much to the profit of everybody if more were done in that way. To say it is impossible to spare a man for six weeks is, of course, ridiculous. I believe it would be money very well spent, because they could come back and avoid the mistakes which they and other people have made and know how to avoid them.

[Major Cavendish-Bentinck]

On page 43 we have a new head, "Civil Aviation." All I wish to do is to support what I believe our Chairman said, that we welcome this department, because now we can see exactly what moneys are spent on the development of this very important service.

Now I come to the Education Department, and I have two comments to make here.

To begin with, item 36, and page 21 of the Memorandum, paragraph 148. You will find there provision for an overseas scholarship scheme, which has gone from £650 last year to £1,017. The explanation given in the Memorandum is the idea of providing bursaries for boys to go to Cedara Agricultural College, Natal. I sincerely trust that that will go through. One of the most difficult problems we have got to face is trying to give the young men and women born in this country a decent chance. We have certain bursaries which enable them to go overseas, but only nine of them.

It is all very well taking a lad who wants to go in for agriculture and putting him as a pupil or apprenticing him to a local farmer. He does not really learn very much. He learns a great deal of rough practical work if he is with a good man, and he will have sound advice, but he will certainly never know any more than his master. If it is possible, we want to give the boys a better chance than that, and if this vote is agreed to we shall be able to send two boys to Cedara College next year.

I have been to this college myself, several members on the other side of Council know it, and I can assure you the boys will get a first class chance for the two years they are there. More than that when they come back, if they express any desire to go into Government service, it is up to us I think to take them fit and give them every possible chance to go right up to the top if necessary.

The other comment I wish to make on education is to follow up certain remarks made by the hon. and venerable member Archdeacon Burns about the Native Industrial Training Depot, which I imagine comes under this head.

Some of the boys trained there are comparatively good, but a very large number are very poor, and I believe that it would be very much to their advantage if some scheme could be found whereby these boys, after doing a certain training at the N.I.T.D., were apprenticed or sent out to work side by side with other boys in ordinary conditions of life outside, and went back to school for a final training of six months or a year. I believe that as a result they would be far more useful to the community as a whole. There is something lacking in their training at the moment; it is not as practical as it should be, nor is it done in competition with people working alongside.

The next item I want to mention is the Game Department, Head XII, page 54 of the Estimates. It is suggested that we vote next year £8,280 on the upkeep of this department, and I agree with other hon. members who said that from our point of view, the Kenya point of view, it is an extremely important department to keep up. But I would add that, quite frankly, unless steps are taken to reorganize the department and see where it is drifting to-day, that money will be entirely wasted.

I do not know whether the Game Warden is coming back, or what steps are being taken to see that the Game Department does not go back. I can only say that, unless some undertaking is given, just as a protest I shall oppose the net increase, because I think it is high time we faced up to the position which has arisen there.

On page 56 we come to one of the biggest increases in this year's budget, which is the increase of the K.R.N.V.R. vote. I should like to have some assurance that we are going to have an adequate number of Europeans trained under this scheme. As far as I can see, it is only for training Africans at present.

I suppose this training vessel is necessary, but it is a very large undertaking for a very small group of colonies. I am not one of those who feels that it is wrong for us to incur money on defence at the present time. I think it is very unfortunate that we have to do it, and very deplorable from the point of view of development we talk so much about, but if the British Empire is in difficulties and we have got

[Major Cavendish-Bentinck] to face up to this, I am proud enough of this little country that it has got to do its bit. But I hope we shall spend the money wisely.

The next item is on page 60, where another innovation appears, in that "Settlement Division" has been put under "Local Government, Lands and Settlement," with the Kenya Agent, and has been taken from where it used to be included, under the "Trade and Information Office." I am very glad indeed it has. I am hoping that within the next few months we shall have a real settlement scheme before us; at any rate, a possible scheme, of different types of settlement, and it is very necessary that we should keep that quite apart from any other undertaking which may be inter-territorial in character.

As regards publicity, tourism, construction of hotels, roads, and so on, for this purpose, I think that that should be inter-territorial, but I think settlement should remain in Kenya. It is for that reason that I welcome this change.

The whole of pages 68 to 76 are taken up with estimates of the military. I have only two comments to make.

I do feel that any addition to any organization which may be built up, primarily for training reserve officers for the King's African Regiment, we should, side by side with that, have at any rate a certain number of Europeans trained to fight as units with modern mechanized weapons. In addition to that, I do hope, in view of the success that has attended the calling of volunteers for the Kenya Regiment, that every possible effort will be made to provide those lads with some meeting place, and I think the sooner we can get on with drill halls, or something of the kind, the better. I think they have a right to ask for them.

The next head is "Police," pages 81 to 85. No doubt this will be alluded to by other hon. members, and it has already been alluded to, that when we spend tremendous sums on military expenditure I think it must always be remembered that in case of trouble the police are more, I was going to say useful, but it is not a waste of money to give the police a little more if they require it. And I think they require it for, among other reasons, deal-

ing with the question of traffic. I should support any extra money within reason being given to the police.

On page 106 we have the expenditure on the Secretariat and Legislative Council. Item 36 is rent of Memorial Hall. I am going to advance a plea, and that is that I am sorry the hall was not reconstructed before this session, but I hope it may be before the new Council meets here. It will be a very great convenience and also a very great improvement on anything that has been here in the past and, I hope, worthy and dignified of this Council.

But I do not see my way to providing any requisite, decent furniture for it. Whether on loan or some other way, it might be considered by Government sufficiently important, to lend a little dignity to this assembly, to provide us with some decent furniture, I leave to you, Sir, but I hope it may be found possible, because there is something in having at least a decent house of assembly for the Government of this Colony.

A thought has just occurred to me as I use that word, that it is about time we did call this in fact, what it is, a House of Assembly and not merely a Council, because it has got certain rights, and possibly, as was mentioned the other day, any sort of constitutional advance by evolution, if you think about it, is a process which might have led to that before now.

On page 107 we have the Trade and Information Office. I only mention that because we find as item 2 a suggested contribution of £2,000 to the Inter-Territorial Publicity Committee. I hope very much indeed that that scheme goes through. I was to some extent responsible for its suggestion, and the idea is, roughly, that the three territories should combine as regards publicity. It has the support, I believe, of Uganda and this Government, and to a certain extent of the Government of Zanzibar. Tanganyika is still a little uncertain, but I understand that they have asked me to go down there at the time their nominated members will be assembled in Council to explain the scheme, so that I have great hopes Tanganyika may yet come in. If so, I am sure that £2,000 will be well spent.

[Major Cavendish-Bentinck]

On page 107 we also have the Treasury and Inland Revenue Office vote. I want again to make a plea, and I bring it up under this head, because originally I suggested it should be kept under it, that we should try and build up something in the form of a statistical department. I know that at the time I was in the minority of one on the Expenditure Advisory Committee on that particular subject, but I did deplore that the existing department was done away with, for I suggested that we particularly wanted the possibility of the means of obtaining facts and figures when times were bad or economic conditions changed rapidly. However, unfortunately, the statistical section was done away with, and I suppose the idea is now too expensive to start again. Even if it started on a small scale, I believe it would pay us.

We have on the next page the Inland Revenue Office. It has a rather interesting history, which I believe is, roughly, this:

In the year 1934 it was instituted with the idea that it would be useful for collecting the non-native poll tax, and a sum of £5,563 was allocated for this purpose. I believe some of the people came from the Treasury, but at the same time that was the sum for this particular service. Later in the same year it was suggested that the office should take over as far as possible all non-native taxes, and was given another £786, which I suppose represents the salary of somebody; and the total that year was £6,349.

I would draw attention to the fact that it existed mostly for the collection of non-native poll tax, for which income tax is in a way a substitute to-day. In 1935 another £300 was added in order to collect the medical and hospital fees; and it got £6,649. The next year, as it was going to collect school fees, it was given another £300, which brings it up to £6,949. In 1937, short of any excuse for an increase, was brought up the usual thing of increments of salaries, and it got £7,753.

I see the vote is now going to £14,729, which is a big jump, especially as £5,000 was provided for non-native poll tax. I should like to ask, with reference to that, perhaps it may be answered during the

debate: in view of the fact I believe that a tremendous number of assessments are not yet sent out, returns in connexion with which have been in for months, therefore the money will not be collected this year until February, March, or April of next year, they are already short of staff in that office. I should like to know what it is imagined it will cost them next year to bring things up to date? If we cannot be given accurate figures, perhaps we can be told whether it will cost a great deal more.

I should also like to have some idea as to the proportion or approximate proportion of applications for refunds which have come in as against the total collections, and whether that can be dealt with by the existing staff. I would rather like it, for we do want a little bit to know where we are drifting in this department.

These, I think, are the only remarks which I wish to make. Possibly I have been a bit critical of what so far have been non-contentious budgetary proposals. I was a little frightened by all this talk of conservation and consolidation, because that is all very well in theory but, in my opinion, a young country like this has either got to go forward or back; we cannot stand still. At any rate, peace and harmony and concord and mutual subscriptions to well-intentioned phrases can sometimes be a little overdone, and can lead just as much to stagnation as the unfortunate position in which we have been before through too much variance and too much discussion.

As you know, Sir, you can count on all of us to help, but I do think we are here to criticize and very often it is a good thing that we do.

Council adjourned for the usual interval.

On resuming:

THE ACTING TREASURER (MR. STOOKE): Your Excellency, there are certain points which come within my province on which information has been asked and an explanation is being asked for. But, first of all, I would like to say a few words on the general financial position because that, after all, does provide

[Mr. Stooke] The background against which the Estimates must be considered and against which the financial policy generally must be considered.

The balance-sheet of the Colony, which is on page 117 of the Estimates, gives details of the position, at any rate that balance-sheet shows the position as at the 31st of December, 1936, and shows an excess of assets over liabilities of approximately £400,000. It is hoped at the end of this year the excess assets over liabilities will amount to approximately half a million pounds. I suppose in every financial statement made in this Council during the last few years reference has been made to these so-called frozen assets. First of all we have the advances of the Agricultural Advances Scheme, shown in this balance-sheet at £90,000. That is the face value of the advances made. I am sorry to say that that will have to be written off eventually very considerably, perhaps by as much as £50,000. That, I may say, is not a very firm figure, but probably it will be something like that.

Then again, we have the advances to the cereal industry of £111,000. These are repayable under certain conditions and these conditions are not yet in sight because the improvement in the world price of maize has been entirely discounted by the increase in shipping freights, so that I am afraid we cannot look for any material reductions of that advance at present.

Then there is a thing that does not appear in this balance-sheet at all. We owe £80,000 to the Colonial Development Fund on account of loans made from that fund. That is in addition to free grants. By 1941 or 1942 we shall be faced with providing something like £9,000 a year on present commitments as repayments on account of interest and amortization of the Colonial Development Fund loans. So that hon. members will realize that the balance-sheet as it stands does rather overstate the position.

Again, as my hon. friend the Colonial Secretary mentioned in his opening speech, we have not yet really got our maintenance votes up to their proper level. There are further commitments

which must be faced in that direction too. Taking the general financial outlook, I think it is generally agreed that we must assume that the cyclical movement, all considered, is going to continue. In other words, that the curve will rise and fall. That leads us to the assumption that the yield of revenue and of taxation will also rise and fall sympathetically. The question arises then: What is our policy to be?

Perhaps the simplest thing, at first sight, is to regulate expenditure, so that it more or less follows the revenue curve. That means that when revenue falls you contract your expenditure as well. That is uneconomical, because we have in our estimates quite an amount of irreducible expenditure, such as loan charges and so on, which cannot be varied. Secondly, the drop in revenue of twenty per cent would probably involve a drop in the reducible expenditure of possibly forty per cent; anyway, a much larger drop than in ordinary revenue. Also there is a further objection that a sudden contraction of services might very well be uneconomical because it involves the wastage of money already spent on those services. It also involves possibly economic retrenchment and the paying of pensions before we really ought, and increasing the pension bill out of all proportion to the real liability. So that, on the whole, I do not think it is a very good policy to follow.

It is, I think, very much better to attempt to get the expenditure on to a level which can be followed over a period of years irrespective of slump or depression. That means that in prosperous years you will have an excess of revenue over expenditure which will be put away in reserve and can then be drawn upon in times of depression, when the revenue curve has fallen below the expenditure straight line.

Then the question arises of another possibility, that is of flattening out the revenue curve by reducing taxation in prosperous times and increasing it in hard times. Again I do not think that is a very good idea, because it involves increasing taxation at the very time when the taxpayer is least able to afford it. Then another possibility is, as I said, in prosperous times the building up of a reserve

[Mr. Stooke] which can be drawn upon in less prosperous times in such a way as to avoid putting on increased taxation then.

"On the question of surplus balances generally, I have been asked what we want them for. I think I have answered that point. Again the question of the actual amount we want has been raised, and the figure of a million pounds has been mentioned. That is not entirely a shot in the dark. That represents approximately fifty per cent of a year's net revenue or a little bit less. But in round figures that is recognized as being a reasonable reserve for an agricultural community such as ours.

We are subject not only to these cycles and cyclical movements of world prices of our primary commodities, but there are also other things to think of. In an agricultural community such as ours we are subject to climatic troubles, drought and so on; we are liable to be infested by locusts. It is, I think, essential that we must have adequate reserves to avoid undue and unnecessary constant contractions of expenditure.

That, of course, means that at the same time we must get our expenditure down to that level which we have reasonable hope of maintaining throughout a period of years. Reference was made to a speech by His Excellency the Governor of Uganda in which he stated that money should, as far as possible, be left in the pockets of the taxpayer. With that sentiment I naturally entirely agree, but I do think it must be taken more or less in its context, and the Protectorate of Uganda is in, at the moment, a very much happier position of having reserves, if I am not mistaken, of rather more than a whole year's net revenue, whereas we have only a quarter. Therefore, if we had in this Colony a reserve totalling about £2,000,000 we might be able to give expression to that sentiment. But as it is I am afraid we must do all we can to build up that reserve which, in my opinion, is so essential.

On the question of surplus balances, too, I was asked to explain how it is nowadays that we want a quarter of a million pounds for a working balance. In 1929 the Select Committee on the Estimates went into this question of surplus

balances and they recommended that the liquid working balance should be £50,000. But I notice then, if I may quote from the report of the Committee, that "The Treasurer made it clear that he could only agree to the reservation from the surplus balances of so comparatively small a sum as £50,000 if the purpose of a working balance current revenue, month by month, continued to exceed current expenditure. The surplus of revenue over current expenditure during the course of a year provides in itself an operative working balance which lessens the reliance which would otherwise have to be placed on surplus balances to provide an adequate working balance."

Conditions have changed a good deal since 1928 when that report was written. To-day it is a practical impossibility in the Treasury to separate out surplus balances from excess revenue over expenditure in any particular month. The excess revenue over expenditure in any particular month goes at once to surplus balances, and I want to make it quite clear that the figure of £250,000 relates to surplus balances including excess revenue over expenditure. Later on, I forget the exact year, that £50,000 became £100,000 and nowadays I suppose we could work, if necessary, if we were forced to do so, with a balance of £100,000, but it would not be economical. In the Financial Report and Statement there is an Appendix which shows the actual distribution of cash balances. At the end of December, 1935, that figure was £373,000. That was an unduly large amount because it occurred at the end of the month, and in the Treasury we adjust our balances in the first four or five days of the month and not at the end of the month. So that represents the end of the month figure. If hon. members study that list I think they will see that £100,000 will be uneconomical. In the Nairobi District Treasury the end of the month payments amount approximately to £80,000, and there are months when the Crown Agents must have £130,000 with them in order to meet the interest on loans and so on. Then we have out-station balances. If we were to work down to the figure of £100,000 it would mean a constant overdraft, which is expensive, and moving about quite a lot between out-station and

[Mr. Stooke] out-station, and out-station and Nairobi. That is an expensive business. It would mean that the District Commissioner at Kisii might have two or three thousand pounds more than he needed at the time. If I told him to do so, he would send that to Kisumu for remittance to Nairobi so that I could dispose of it. But I know very well that he would probably want that money back again in four or five months' time, and the cost of the transport from Kisii to Kisumu and back again and the cost of the insurance on that money is heavy. And these costs wipe out any interest I might get by having the money in Nairobi for a few months.

It would be uneconomical, and the general working balance, I think, of £250,000 is a reasonable figure, taking that into account and the fact that the Treasury turnover, which includes revenue and expenditure, loan advances and deposits and everything, was last year, in 1936, 18½ million pounds.

Turning to the revenue estimates, they have been described as conservative. Well, they were conservative to start with when they were drafted for the end of August. At that time they were definitely conservative. Before studying the Treasury statistics I made a special point of consulting the prominent men in the business world here in Kenya, both in Mombasa and in Nairobi, in order to get what I might call a general outlook. And the general outlook at that time, so far as I could assess it from what I was told, rather indicated a degree of caution in regard to 1938. I should at this stage like to acknowledge publicly the very valuable assistance I received from the unofficial members of the community and from the members of firms who gave me all sorts of information, and they were very generous about it too. Anyhow, having got that general outlook, we then proceeded to study the actual and latest figures available in the Treasury, and the revenue estimates now before us are the result.

But since then the position has, if anything, deteriorated rather than improved, and I think these Estimates, so far from being conservative, now are very, very close at the most optimistic point of view. However, what latest information and

details we have available are being compiled now and will be available for the Standing Finance Committee, and the whole of the Revenue Estimates will of course be submitted to their review in the usual way. The estimates of revenue as they stand now do show an increase of about £64,000 over the revised estimates for 1937, if you cut out things like the Colonial Development Fund, reimbursements, and the Parliamentary Grant, and so on.

Of that, £25,000 is from Customs and excise, and the rest is from other votes. That, I think, is as high as we ought to go at the moment. We may find, in Standing Finance Committee, that we may possibly have to reduce it. I cannot say at the moment, because the latest figures are in the process of compilation, and I have not yet seen them myself.

The Noble Lord the hon. Member for the Rift Valley has pointed out an apparent discrepancy between the figures on page 12 and on page 119. The explanation is that the figures on page 12 represent the original estimates and the figures on page 119 represent the revised estimates. I cannot explain why it is done in that way, but it has been done so for a number of years. I do not think there will be any difficulty in the Standing Finance Committee putting that straight and making the two pages give the same result.

The question of loan expenditure has been raised. That is not an immediate issue before us at the moment, but I would like to put this point of view forward when considering the question of raising loans, and that is that I think we must remember that our loans are all external loans. We only have a very small proportion raised locally, but the external loans must inevitably lead to charges borne by exports. It does not matter whether the money is borrowed by the Government of the Colony, the Railway or the municipalities, or even by private individuals and companies, that same factor holds good. The interest and amortization of loans must be paid for out of exports, and I would advise hon. members, when thinking of loan expenditure and the raising of loans, just to bear that point in mind, because I think that in comparison with other dominions and

[Mr. Stooke] colonies we shall find that we are heavily committed and that the scope for further loans is possibly not very large.

The hon. Mr. Pabhya asked about agricultural advances and advances to the cereal industries, but I think I have replied to those points. He also referred to the question of the reduction of taxation. As I think I have already mentioned the question of surplus balances, I feel that the present is hardly the time for any material reduction in taxation, until we have built up the necessary reserve. In other words, we do not want in a period when economic affairs are deflationary to be in a position of having to take further deflationary action on the part of Government. We should be in a position, if possible, of taking inflationary action. But I must hasten to add, for the information of the hon. Member for the Coast, that one does not commit oneself to any particular form of inflation.

The hon. and venerable member representing native interests asked how much native hut and poll tax was collected up to the end of August. The reply is, £438,356. He also asked what the prospects of exceeding the estimates for 1937 were. And the reply is that the prospects are, at the present, favourable. We hope that the estimates will be exceeded by £10,000. He also asked if we could work out the actual financial effect of the reduction in the age limit of natives from 16 to 18. That is practically impossible, because after all the natives do not walk about with birth certificates because they haven't got any. It is very difficult indeed, and would put the District Commissioners to a tremendous amount of trouble to get that information and as we know, without documentary evidence it would be most unreliable. We can only judge that by the yield of the taxes from year to year. Further, I would point out to the hon. and venerable member that in 1930 the yield of the native hut and poll tax was just under £600,000, so that the present figure is still considerably below that.

The hon. Member for Nairobi North asked one or two questions about the Inland Revenue Department, and I have also noticed to-day in the *East African Standard* an advertisement by the Tax-

payers' Protection League which gives some figures on the question too. The position is this. It was originally stated that the additional cost of the collection of income tax would be £2,000. I understand that at a later stage that was withdrawn on account of some alterations in the Bill. In round figures the actual additional expenditure due to the introduction of income tax is approximately £4,000. I was asked about the assessments for 1937, and whether it would not mean additional staff to cope with the work.

The reason the assessments were not up to date was because we started so late this year. The Income Tax Commissioner arrived in July, and then had to organize his department, and at that time certain forms and rules had to be decided upon and promulgated. Consequently we had a very late start this year, but I hope to be able to catch up and get ahead of the work next year without any additional staff. The cost of the work next year will go up because of the normal increments of salary and so on. The Estimates make no estimate for passages because no member of the Income Tax Branch is due for passages next year, but in the course of time passages will be required, and there will be an increase in expenditure for that reason and other reasons. But we do not expect any actual increase in the staff.

Similarly, on the question of refunds, it is not possible yet to state what that proportion is. But it is not anticipated that that will require any additional staff.

I mentioned the increase of £4,000 because in this advertisement, which is given some prominence in the local paper, the additional cost is calculated at £9,000. The first mistake is that the £3,000 shown last year in Miscellaneous Services is added to the increase this year, whereas it is of course included in it. The £3,000 does not reappear under Miscellaneous Services. Secondly, the £6,019 given as further additional expenditure this year takes into account other factors, fully explained in the Memorandum. It happens to know that these figures given prominence in to-day's paper are the result of a genuine misapprehension. I know there was no intention to misrepresent the position. I would like to make that clear; I am not accusing anybody of doing that.

[Mr. Stooke]

I think that deals with all the points that have been raised up to date and which I can be expected to reply to.

MR. BEMISTER: As I only speak on parochial matters, I did not intend to break in at this point, but I think this is now the eighth or ninth time I have complained that the Estimates do not include Appendix O, which deals with the working of the water supplies of the Colony. This time I was told to make inquiries as to why it was not included, and I was told that it was not included because the figures were not exact, or something of that sort.

Now these are estimates, and there are no exact figures given in estimates at any time: If you will turn to the latest Appendix O, it was in the last, the 1937 Estimates, as passed by the Legislative Council on the 18th of December, you will find that the 1936 figure therein was not the actual figure, it was still merely an estimate, because the 1936 figures were not completed until nearly March, 1937. However, what I want to point out is this: the one and only time that we can get at these figures is after the estimates have been passed, and in consequence there is no possibility of criticizing the allocations.

In this Appendix O you will find that £47,708 has been taken from the revenue as loaned to Mombasa for the Mombasa waterworks at a cost of 5 per cent, and yet, at the bottom of the summary of profit and loss on the 31st of December, there is £78,945 already supposed to be subscribed to the general revenue. It does seem slightly unfair that the Mombasa waterworks, for which the ratepayers pay, is charged with the interest on money they have already subscribed to the general revenue. Therefore they should certainly be allowed a bit of grace, of the nominal figure of 1 per cent or something of that sort, for the cost of transport of the money.

Again there is an item of administration, charges of 18.5 per cent on the expenditure of £1,349, and I would like to ask the Director of Public Works what that really means.

If you will look at the revenue and expenditure account you will find every possible charge in expenditure debited to the operation. Yet this item of £1,349 is charged outside that for something which one really cannot understand. In fact, it leads me to the query of how the cost of everything in the Public Works Department is added to, and thus makes general operations difficult if they are undertaken by that department.

You will find also in the capital account two items, totalling £258,000 odd, on which we are still paying interest, one 6.6 and the other 5.7, and yet it is acknowledged by everybody that the public line has had to be re-laid in the last few years, and the pipes already laid had so corroded that they were no use, and nothing has been written off against them; they are obsolete—I was going to say an asset—and they should not appear in that figure. The Government have taken it upon themselves to consider this a national asset, therefore they must in their general revenue allow for the obsolescence of these decaying assets. That is only fair and just.

But if the Mombasa Municipality wish to take over the waterworks to-day they would have to take over the whole of that line and pay interest until payment for the whole of the line is finished, knowing full well that the Government has taken £80,000 out of revenue and £60,000 net out of the Renewals Fund, so that the Mombasa ratepayers have subscribed £60,000 to renewals, £78,000 to extra revenue, and are still paying the interest on £250,000, plus £47,000 for their water. I think there is not a parallel case in the whole world. It is contended that if Mombasa were to receive fair treatment in this water question, the same as Nairobi, they would then be called upon to pay interest on the loan, on the improvements on the Princess Marie Louise Street, and I have not the slightest doubt that Mombasa would be willing, if they got the full revenue for which they pay, to stand up to the whole of their loss in that connexion, though it would not be just to charge them with it because that amount was spent before it was made a municipality. It was spent at a time when they had no representatives to say "Yes" or "No", and the work was taken on by

[Mr. Bemister]

the Government, carried through by the Government, and compensation was paid by the Government with no interest of the people of Mombasa. In consequence they were landed with at least 30 or 40 per cent extra cost in that operation.

There is a very serious matter on which I would admit, as an Englishman, I feel very strongly. That is the position of an Englishman at Mombasa. When I say English, I mean also a Scotsman, Jersey or Guernsey man, and all those people. I contend that the action of the Commissioner of Lands in denying to the Europeans in Mombasa similar rights to those enjoyed by the Indians is a disgrace. To-day the Indians have the right to elect all their members and the Europeans have the right to elect half. Now I will say something very controversial. I contend that the Indians have never any right on the electoral roll at all.

I know most of the better class Indians in Mombasa, and they are a very fine set of men, but they will have nothing to do with the elections for the Municipal Council, for the simple reason they have to bow to the illiterate gang who call for the same rights as a man who has built up his business and served this country as well as any white man, any day. In fact, if you had kept it to a nomination of all parties there would have been no controversy, but to have granted to one side the franchise and kept it away from the ruling caste of this country is—well, I won't say what I was going to say, because I think it is very rude. (Laughter.)

It will be argued that a referendum was circulated to the people and they were against it. I will tell you also that at the time that referendum was being circulated and voted on a petition was sent to the Governor asking him that whatever happened with the referendum he would not allow the Englishman to vote. That referendum was not only signed by most of the employees, the head employees of prominent firms, the Electric Light Company, Smith Mackenzie's, Wardle's, and one or two more, but it was also signed by a German. They must have been hard up if they had to go to a German to get a signature, because owing to the action

of the present Indian members a German will not be allowed to vote with an Englishman.

There is supposed to be an inquiry undertaken sometime in connexion with the wards. I have not seen the gentleman who is going to inquire into these, but I suggest he should at the same time inquire into the by-laws of Mombasa, of which I have one or two very good instances. Mind you, these by-laws are supported and have been passed by the experts of the Government; I do not blame the Commissioner of Lands, he knows nothing about it, but merely draws a salary (laughter), and refers the matter to his technical advisers, one of whom, I presume, is the Director of Public Works. In "Prohibited Materials, Building," article 16, pages 68 and 69, the prohibited materials include limestone, magnesium limestone, marbles and other calcium carbonate. I do not know if this Council knows what they are; but I can assure them that coral is a limestone.

A MEMBER: Sometimes!

MR. BEMISTER: And there are practically no other buildings in Mombasa than coral.

Article 49 on page 71 is really most amusing. It gives instructions on how to build in cold weather. (Laughter.) I do not say that the Commissioner of Lands has anything to do with this—these are expert matters—and it says that concrete shall not be laid when the temperature is below 4 degrees Centigrade or 39 degrees Fahrenheit, and shall be protected when necessary. I have only lived there for 23 years, and I have never known it down to 39 degrees Fahrenheit. I have known it at 73 but never down to 39, and I suggest that as soon as the investigation into the working of the Municipality does take place—it cannot take place before the present Commissioner of Lands leaves the country, but still, when it does take place, I do hope that they will look into one or two of these matters.

Again, this deals with the Medical Department, under Building, Subdivision. By-laws, 3/2/IV.

MR. PILLING: Your Excellency, on a point of order, it is customary for the Council to allow very great latitude in

[Mr. Pilling]

connexion with the budget debate, but I cannot follow what connexion municipal by-laws have with the present Estimates.

MR. BEMISTER: Sir, when all these things cost money, I would say that they have a direct relation to the Estimates.

MR. LOGAN: Your Excellency, on a point of order, as all by-laws are framed and drafted by the municipal authorities themselves and these by-laws were framed and drafted by the Mombasa Municipal Board, of which, at one time or another, the hon. member has been a member himself, I suggest that his representations should be made to the Municipality and not to the Colony's Estimates. (Applause.)

MR. BEMISTER: When the applause has subsided I will say that these by-laws signed and passed by the Municipality cannot be authorized until the Commissioner for Lands and Settlement and everyone else has seen them, so therefore while it is true they are suggested by the Mombasa Municipal members, they are definitely passed by the Commissioner of Local Government. If you like, I will move a reduction of the Medical vote to get down to it. But the handicap with people building in this country is the regulations and by-laws, and the Medical one deals with these. If I wish to cut up a piece of land into small plots, I have to state in Mombasa what I am going to do with the drainage, how I am going to give access, and what type of building I am going to put up.

Now, I may not intend to build on it. As there is no drainage system in Mombasa, I merely plot it for sale. The medical authorities should insist on these details only when the building is going to be erected.

While speaking on the Medical vote, we have had a very great scare this year of malaria and yellow fever. Yet I see nothing in these Estimates of the suggestion of procuring or finding money in order to carry out a malarial survey on the Island. Surely, if we are all going to die because of yellow fever arriving in an airship with mosquitoes, and because we have run out of flit-guns, surely there must be some data to go on which should protect the forty or fifty thousand inhabitants of Mombasa.

On the Medical vote again, it has been queried that there is no proper policy laid down in allowing for a programme of hospitals in Mombasa. I think you, Sir, have investigated the position of the native hospital—there is no Indian hospital, but there is a fair type of European hospital. There is no mention whatever in these Estimates, and yet years and years ago I remember that a large sum of money was voted for hospitals and something like £74,000 or £75,000 was left over to start a Mombasa scheme. Subsequently that money was frittered away in other buildings, all up country, which the Director of Public Works justified by saying that he had power to transfer from one vote to another so long as it was under "Building". In consequence, Mombasa stands to-day where it was twenty years ago, except that you have altered the kitchen arrangements at the European hospital and have made it reasonably comfortable.

On page 92 you have an item for £9,900 for a telephone exchange. Now I know a great deal about the Mombasa telephone exchange, and I am always very sorry when I hear people in the Chamber of Commerce and other places querying the service, as I do not know one of them who has ever been to see the dilapidated state of the present one.

This item of £9,900 is about the most urgent that could possibly be imagined for Mombasa. You must remember the number of businesses working in Mombasa, and it is up to the Government to provide a proper telephone exchange. But do you really think that £9,900 is going to pay for an efficient exchange in an important island like Mombasa? What it really means—you take the money at 6 per cent—is practically £600 a year for depreciation, amortization, interest, etc. on a place that you must get £5,000 a year from at the very least. And the extensions which this exchange would bring are incalculable.

I would like to pay a compliment to the present Postmaster General in bringing in private telephones at a sum of Sh. 80. I should like to hear from him the extension that has occurred during the last few months in applications for private telephones. I can assure him that

[Mr. Bemister]

there is one more which is on tap there, and that is mine. But why is this telephone exchange cut down to £9,900? Is there any justification for it? Can you have anything in the shape of a telephone exchange for that money? What money has it cost you to build the Nairobi telephone exchange? I grant you that it is much bigger, but what figure did it cost Nairobi? Why is it we cannot get at least half that figure expended in that regard?

Now here is a very interesting question relating to the police, and it also relates to the motion of the hon. Member for Nairobi North in advocating settlement. I would like to know what in the world is the good of advocating a settlement scheme when the police have the power and have instructions to obtain bonds, or return to their own countries people who hold first class return tickets. Now I speak with knowledge because a lady who came to this country with the intention of looking around was not allowed off the boat until I could sign a bond. Yet she had a first class ticket, a return ticket, which would have taken her back, and there was no possible expense for the Government to be made liable for.

On page 17 you will find an item of revenue which says "Coast Ferries". And the item of revenue is £850. Last year it was £450, and I would like to ask the Director of Public Works if he has ever had a tender for £450 for any year for the coast ferries, and if last year it was not well over £850. The reason why I ask this is because of the recent regrettable accident when the actual figure of the tender was made public. I have never known it on other occasions, but I do know that an Englishman put in for the tender last year, 1937, a tender of over £800, yet the estimate here for the year was £450. Now, why are these hidden emoluments kept back from the public?

What we want to know in this Council is a fair and just estimate of your liabilities and assets, or rather, revenue and expenditure; and why it is that figures are produced to us, who are fairly responsible men, which do not reflect anything near the actual which they know,

they are going to receive and actually they have received in previous years. This Public Works Department should be very strictly investigated. They have a heap of money to spend, but in all cases where there is an expenditure it goes over the estimate.

Some years ago this Council appointed a Committee to investigate the cost of building Government houses in Mombasa, and we found that small houses built with about one-third of the accommodation of the Railway houses—and both under the same conditions—cost something like 30 per cent more. And to-day we have a sample of one noted building in Mombasa which is falling down—it is nearly time if did, for the inconvenience of the old place is appalling—and the Government or the Loan Works Committee or somebody comes to the Public Works Department to get an estimate, and I understand that the estimate is for 3,000. Now within one mile of where that house is to be built—and remember you do not pay Customs duty, the P.W.D. does not pay Customs duty, of course—a house is being built within one mile, with a similar situation on the sea front, with sea breeze and frost-bite and all that sort of thing, giving better accommodation than this house, is being built for £3,500.

I do think it is only fair to the taxpayers of this Colony that when any of these works are taken on a public tender should be made and allowances in that tender made for a reduction in Customs duty. I think you will find that a private contractor would build any building that the Public Works Department have taken on for at least 40 per cent less than their estimate.

The hon. Treasurer dealt with the assets and liabilities scheduled. I am sorry—perhaps he will get somebody else to answer for him—there are two items I want to know something about.

Last year the hon. Treasurer said that an allocation of money was going to be made, and was made, from the revenue of the Colony in order to put the Provident Fund of the Widows and Orphans into a proper condition. But to-day I see that the Asian Widows and Orphans Fund is about £100 or £200—nothing

[Mr. Bemister] much—in deficit, the Asian Civil Servants about £4,000 in deficit, and the European Civil Servants is about £4,000.

Now you will remember that the other day I raised the same question on the Public Trustee Funds. On that occasion I was referred to the cash in hand, and I will admit that it was the most remarkable calculation; I should say, ever revealed with the Public Trustee's funds, with cash in hand amounting to within three pounds, in fact it was a £3 surplus, notwithstanding the fact that we had to ask this Council to take over £15,000 doubtful assets. Now I do not think you can include cash assets in this, unless it is in making adjustments. If you would include that—the point is, you have not made proper provision for the liquid assets for these liabilities and it is a very serious position, because if anything does happen this Council will be asked again to give some other allocation out of public funds. Certainly it seems, I say it only seems, I do not allege anything against anybody, that these assets which are collected for the liquidation of your liabilities are either not invested properly or not invested wisely. There must be something queer in the whole system, and whilst on this—it is my last point—I want to know something about the Civil Servants Building Scheme. The Civil Servants Building Scheme was floated years ago in order to enable civil servants to build houses and get them on very good terms in competition with the ordinary landlords and ordinary builders. I remember that one very large house was built for a civil servant who is now dead, and that house has been taken over by the Government and another highly placed civil servant has taken it over. What I would like to know is if the present occupant is paying the same terms as the original designer of builder, or is this one of these things which are taken over and put into the Buildings Account and we hear no more about?

I do think that the whole of this budget should be very carefully examined, unfortunately, by a Committee in which I have no trust. At the same time, they are the only committee we have, and I am afraid we shall have to make the best of a bad job.

MR. HOSKING: Your Excellency, in previous budget debates Government officers have been rebuked for taking part too early in the debate and not being in a position to answer questions that might arise later. In the present debate there seems to be a certain diffidence on the opposite side of Council; it may be the reticence of strong, silent men, or the more effeminate modesty of waiting to have the last word!

But a few points have been raised on native affairs.

The hon. and venerable member Archdeacon Burns raised the question of juveniles. I am very glad he did so. I think he is aware that I have already asked his assistance in preparing a scheme for Government which will enable us to keep track of such juveniles in search of work. The work on these estates is very largely carried out by juveniles, who are better at picking tea than their larger brothers.

The hon. Member for Nairobi North raised a question as to the Settlement Committee and the labour officers. As he is well aware, there is a very adequate committee dealing with the question of settlement, and I know that he and I will do our part in seeing that committee through to a definite conclusion, and we hope to make a report based on something tangible for which the hon. member asked at a previous session.

I vote with regret a certain stricture on labour officers. He said that labour conditions are apt to solve themselves. I wish they did. At the present moment we know there is a shortage in the labour supply, and we are doing all in our power to ease that shortage. There are two ways of dealing with that shortage.

One is to increase the flow and the other is to stop the leaks. I think that during the present session we have done something which should stop these leaks in the labour shortage in the provisions of the Employment of Servants Bill which was before Council and the Native Registration (Amendment) Bill, and if we have the co-operation of employers of labour behind us it will help to ease the situation.

There is bound to be a seasonal shortage when an agricultural community

[Mr. Hosking]

for its labour supply. Under the Masters and Servants Ordinance one of the biggest leaks has been indefinite leave, and that we have dealt with adequately in the Employment of Natives Ordinance, which will bring about a readjustment of labour and perhaps make the supply available where it is most wanted.

I believe I am to have an opportunity of getting around a table with elected members and discussing this problem in more detail.

The hon. Member for Nairobi North also brought up the question of undue interference by labour officers. I enter the lists on their behalf! Some years ago, there was a labour shortage in a certain area, and it was suggested as a remedy that the labour officer should be asked to "come in and help." The immediate reply was, "Better the devil himself!" Well, he came, and six months later there was a complaint from some farmers that the labour officer was spending an undue part of his time in other areas, and that it was about time he came and helped them!

The point I wish to make is that the work of a labour officer is constructive and not destructive. There are people who spoil conditions for employers. The great majority are good employers, and it is up to the labour officers to see that the good name of the good employers is not spoilt by the bad name of the bad employers.

The hon. member also mentioned this very vexed question of the relationship of Government with local native council finances. He is aware that I am submitting a scheme to Government to deal with this all-important problem. Next to the question of soil erosion, I consider it the most important question that we have to face at the present time. In fact, I must accuse the hon. member rather of being a willing horse, because he knows that some of the problems he has mentioned are being dealt with at the present moment, and I only ask him that, instead of applying his whip to the horse, he will lend his shoulder to the wheel, and, in spite of a certain amount of mud that will land on him, he will help us progress along the road.

MR. HOEY: Your Excellency, in supporting the motion before Council, the first thing I wish to do is to closely associate myself with the speech made by the Noble Lord (Lord Francis Scott). That speech, I think, correctly interpreted the views of a number of us on this side of Council concerning the budget proposals.

In his opening remarks the Noble Lord drew attention to the necessity for caution and maintaining the tightest hold on expenditure. I wish to associate myself very strongly with those views, and to rather emphasize them.

To-day, on all sides, we hear of returning prosperity. That prosperity to me is not so apparent as I would like to see it, and I want to speak here this morning as a primary producer. Now, what is the position of the primary producer to-day? He has passed through an extremely difficult period during the last year or two, and during that period in order to keep things going he has built up for himself a certain amount of indebtedness. Most primary producers to-day are still struggling to clear themselves of that burden of indebtedness, and it will not be until that position is clear that we can turn round and say that prosperity has really arrived.

When one considers the general economic position of this Colony, there are certain factors which give cause for a good deal of uneasiness, and those factors mainly concern the markets for two of the most important commodities, namely the coffee market and the sisal market. It is too early yet to know what reactions will be felt as regards the recent action of Brazil in the coffee market. I personally hope it will have but little effect as regards the higher grades, and I believe that is the opinion of the responsible authorities in the coffee industry. Unfortunately, this country does not only produce high grade but also low grade coffee, and I cannot help thinking that the position of the low grade coffee is going to be very adversely affected. It is well to sound a note of warning here, because that must closely affect the coffee which is grown by natives in this country.

[Mr. Hoey]

As regards sisal, the position to-day is that there is a very great deal of sisal unsold. Sisal is facing a stagnant market, which is showing little signs of recovery. I hope very much that it will not be long before it shows signs of recovery, but we have got to take facts as they are.

There are two other very important and vital factors which enter into the present situation. First of all, there is the shortage of labour which is being felt in many parts of the Colony and it was only a reference to those difficulties which made me get up at this moment.

First of all, as regards the shortage of labour. Many reasons, or a number of reasons have been put forward as to why there is a shortage of labour. One of the reasons put forward is the question of low wages. I personally think there is much too loose talk about this question of raising wages. It was mentioned here the other day by the hon. and venerable member Archdeacon Burns. If anyone really went into this position, I am perfectly convinced, they would find that wages have risen on an average by at least 20 per cent during the last twelve months, and I make that statement very definitely. All this loose talk about raising wages is doing no good to the employer, and is likely to do a good deal of harm to the native himself and to give him a false impression of his value in the labour market.

When we come to deal with the shortage of labour, I believe there is one big factor, and that is a closer adherence on the part of Government to the dual policy laid down for this country. I do not believe the dual policy is fully recognized, and I say so quite frankly, especially by administrative officers in this country. They are apt to think their responsibilities start and end in the native reserves, and they do not think they cover a larger field. It is for these reasons mainly, I think, that caution is very necessary and that the tightest hold should be kept of the finances.

I do not want to be considered a pessimist. I am not; I am an optimist by nature! And optimism is a very necessary quality when trying to develop this

country. I do hope that it will not be long before we can really look forward to a revival of our markets, but at the present time it is useless to blink at these bald facts which face us to-day.

To turn to various items of revenue and expenditure. I am not going to embark on a lot of figures, because figures have been very fully dealt with on this side of Council by previous speakers, and one first when we start to get down to the balance-sheet, that it is a difficult thing, because you can adjust the balance-sheet to suggest any picture you really require! (Laughter.)

The first head I wish to refer to is the Agricultural Department. The Noble Lord drew attention in his speech on Friday to page 37 of the Estimates, where it says, under Agricultural Department, "Non-native Services." Of course, it really is ridiculous that the total administrative and general charges should be debited to non-native services, because if that is so I can only say that some of the gentlemen appearing at the top of the list are grossly overpaid.

I believe the expenditure in this department is far too large. Generally speaking, representing as I do a large agricultural community in this country, what we really require is that research shall be kept up to the highest standard of efficiency, and that includes the plant breeding establishment. The more people who can be taken out of the head office the better, and it seems to me that this head office expenditure is far too great.

The total of the administrative and general cost is £17,811, and I do ask that the Standing Finance Committee go carefully into this when they go through the Estimates in detail.

There are one or two items I should like to touch on.

First of all, item 26, "Contribution to Imperial Economic and Imperial Shipping Committees." A question on this particular item was raised a few days ago by the Noble Lord, it was raised last year, and in this connexion I wish to again bring before Council the position of shipping lines which call themselves Conference Lines. They are continually

[Mr. Hoey]

raising the rates without any warning whatever. Last year, Government undertook to communicate with the Board of Trade on this subject, to see if something could not be done to protect the shippers or primary producers and commercial community. I should like very much to ask whether any action at all was taken, and, if so, what?

The next item is No. 27, "Expenses of Board of Agriculture." I personally do not believe this board is functioning at all. I understand there is some idea of reconstructing it on the basis of representatives of industries, and I should like to know what has happened? I notice in the Report of the Department of Agriculture for last year that the board held three meetings. I do not exactly know what amount was spent on the board last year, but if it was £450 it seems to me to be very excessive for what has been accomplished.

I should also like to ask for information under item 29, "Colonial Agricultural Scholarship Scheme." What actually happened during this year? I have looked in the Memorandum, but can find no information there.

I also wish to refer to item 33, "Local Transport and Travelling, £2,150." I thought perhaps that I might get some information by turning to the Memorandum, and when I looked at it it merely says "Local Transport and Travelling, £2,150." What is the use of putting that in the Memorandum at all? (Laughter.)

I next want to refer to the plant breeding services. This is a very, very important item in the activities of the Agricultural Department. I understand that the present gentleman who is in charge of this section is shortly going on leave. I do not know who is going to replace him. I understand the gentleman who was largely responsible for this section is now transferred to another, and I would like some assurance from the hon. the Director of Agriculture that there is going to be some real continuity about this.

A few years ago, owing to lack of continuity, all research work on wheat went by the board because the varieties got mixed up and had to be thrown away

and the work started again. I should like to be certain that that is not going to happen this time.

There is another very small point, and I hope you will forgive me for bringing up these small points. But on page 41 of the Agricultural Estimates Extraordinary is the item, "Njoro Agricultural Station." I looked up the Memorandum on this, and it says:—

"A cattle dip is required at the Njoro Agricultural Station to prevent losses from East Coast fever and other tick-borne diseases. It is proposed to build a small dip at a cost of £100."

Will the hon. the Director of Agriculture tell me what he means by a "small dip"? There is only one design for a dip (Laughter.) I cannot help thinking that they put it in this way as a sort of apology to get it inserted in the Estimates at all. There is only one sort of dip for which specifications are laid down, and £100 should be ample to cover the cost of it.

The next point I want to touch on is under "Local Government," the basic road grant. It is proposed to restore half of that basic road grant. It is well realized that this basic grant arises from a direct agreement between Government and the local authorities, and it was a specific amount of money which Government had to pay them in order that local authorities should take over certain services which Government had been providing. That amount of money was paid regularly until the financial position of the Colony got very bad, and Government came to the local authorities and asked them to make a cut in the basic grant in order to help economy.

The district councils were the first to do everything in their power to meet the Government point of view. They agreed to considerable reductions, and at that time there was also a levy on official salaries, and reductions were made in many directions. But, Sir, times have improved and all cuts have been restored, and I do urge that instead of restoring the 50 per cent cut you should restore the whole amount. It is a legal and moral obligation on the part of Government which I maintain must be honoured, and

[Mr. Hoey]

the district councils have been unanimous in asking that that amount should be restored in full. I do trust that Government will not seize upon this as an opportunity to withhold from the district councils what they are rightly entitled to.

The matter of roads has been mentioned in Council this morning, and you, Sir, mentioned it in your address from the chair this session as well as last session, namely the appointment of a sub-committee to go into the matter of a road policy and road programme and to render a Report to the Central Roads and Traffic Board. I find myself in rather a difficult position in a way, because I happen to be a member of that sub-committee, but I must formally protest to Government on what I consider has been undue delay in rendering that report.

That sub-committee was appointed on the 13th July, and many months have now gone by. I find as a matter of fact write to the Acting Director of Public Works some months ago urging upon him that we should complete this report in order that it could be considered at this session and its financial implications also considered. It is a matter of regret to all of us that the report is not on the table now. (Hear, hear.)

The next thing I want to touch on is a very parochial affair and concerns my own constituency. That is a matter known as the Kipkanen Farm. When the soldier settlement scheme was evolved, a number of very small farms of 160 acres in extent were demarcated for the purpose of residential settlement, and it was indicated that it would be a suitable area for growing coffee. Quite a number of farms were taken up, and experience has shown that they were entirely unsuitable for the purpose. A number of people have left the farms, but a few remain. They hung on and continued to spend their capital until eventually they turned to Government and said, "Cannot you help us, because it is quite evident that the purpose for which these farms were given out has proved quite unsuitable."

Government then instructed one of its agricultural officers, I think Mr. Burton,

to make a report on these farms. He reported that they were quite unsuitable in small acreages as 160 acres, and urged that they should be increased to 700 acres each, which he thought was an economical unit. A good deal of correspondence and interviews have taken place between the few people remaining, and I do hope Government will do everything possible to assist them to enlarge their holdings or, where necessary, to exchange land. It is not easy to urge settlement on the one hand and, on the other, to leave those who really have fought a hard battle high and dry.

There are only two items left for me to refer to, and they come under Revenue.

The first item is the question of wireless licences, which I think comes under the "Post Office, Miscellaneous," or something like that. At any rate, one has to pay Sh. 30 for a licence, and I think the service is given by Cable and Wireless Ltd. After all, they hold a complete monopoly, but the service is simply disgraceful. Up country we have to use the short wave length services, and it gets worse and worse, and to-day it is so bad that I appeal to the Postmaster General to do something about this, and make a reduction in the fee, because if no improvement can be given in this service I consider that beyond a fifty-mile radius from Nairobi one should be exempt from taking out a licence. I draw attention to this in the public interest, because there is no doubt that the present service is highly unsatisfactory.

The last and final item to which I shall refer is the question of income tax.

I have never wobbled on this issue; I remain one who still has to be satisfied that this is an unsuitable tax for this country. I stand by every word of the agreement we made with the Secretary of State. I want to make one point clear. In the speech of the hon. Member for Nairobi North he referred to the necessity of imposing income tax simultaneously on the adjoining territories. I wish to make this quite clear: that that was never an actual condition of the agreement with the Secretary of State, and I think that point wants clearing up.

[Mr. Hoey]

On all sides we read in the newspapers of terrific drawbacks to income tax, but I think when you analyse them 90 per cent really come down to a frontal attack on the principle of income tax. I agree with the Noble Lord when he said, "Let us give this a trial, and then after a year's working, all the statistics and all the data should be referred to the Standing Finance Committee for examination." If it can be found on examination that income tax is detrimental to the interests of this country, let me say quite frankly that I would be the first to support its repeal. But let us have the facts in front of us first. There is too much guesswork, too many obstructions, which I maintain are put forward from one point of view only, to completely attack the principle and not the application. Surely anyone must realize that a new tax-like this is not going to be a perfect tax. It will undoubtedly have to be amended in many respects, but only after experience can we get that data clearly before us. Meanwhile, I support the tax.

I do not think I have anything more to say. I have tried to summarize more or less my views on the budget, and hope that some of the points will be given earnest consideration by the Standing Finance Committee.

I support the motion.

The debate was adjourned.

ADJOURNMENT

Council adjourned till 10 a.m. on Tuesday, the 16th November, 1937.

Tuesday, 16th November, 1937

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Tuesday, 16th November, 1937. His Excellency the Governor (Sir Robert Brooke-Popham, G.C.V.O., K.C.B., C.M.G., D.S.O., A.F.C.) presiding.

His Excellency opened the Council with prayer.

MINUTES

The minutes of the meeting of the 15th November, 1937, were confirmed.

ORAL ANSWERS TO QUESTIONS

No. 64—ROAD PROGRAMME

LORD FRANCIS SCOTT asked—
Whether the sub-committee of the Central Roads and Traffic Board, appointed on the 13th July, 1937, has issued a Report?

If the answer is in the negative, could information be given as to when the Report may be expected?

THE ACTING DIRECTOR OF PUBLIC WORKS (MR. WALMSLEY)

The sub-committee of the Central Roads and Traffic Board appointed on the 13th July, 1937, has furnished a Report in respect of expenditure on flood damage which occurred during 1937, a matter which was referred to it as one of urgency and which formed the subject of a notice of motion on the Order paper on the 12th November.

The sub-committee is actively engaged in considering the general problem of a road programme referred to it by the Central Roads and Traffic Board and will render its report as soon as possible, but it is not feasible at present to give any date for its completion.

LORD FRANCIS SCOTT: Arising out of that answer, Sir, could we be told the reasons why there is this very long delay in this committee appointed several months ago?

MR. WALMSLEY: In the first place, the first few meetings were entirely monopolized by the question of the flood damage which had been referred to the sub-committee. Subsequent meetings were difficult to arrange owing to members not being available and a re-arrangement of

[Mr. Walmley] dates, and the data on which the committee has to work is not automatically available but requires preparation. My staff has suffered drastic retrenchment in recent years, and is not able to do the work. The scope of the inquiry was enlarged by the idea that people should give evidence to the committee, but the report follows shortly the examination of two memoranda and is now in course of preparation.

DRAFT ESTIMATES, 1938
REFERENCE TO STANDING FINANCE
COMMITTEE

The debate was resumed.

MAJOR RIDDELL: Your Excellency, at the Budget debate last year, I prefaced my remarks by saying that I was glad to be able to say that the Noble Lord, the hon. Member for the Rift Valley, as our chairman, had said practically all that there was to say with regard to the Budget, that for my own part I considered that reiteration was unnecessary. It would be great satisfaction to me if I could say that again this time. But there are certain statements in the Noble Lord's speech with which I do not agree and which I intend to traverse.

The Noble Lord, in tracing the history of income tax from the year 1936 to the present day went more fully into it than I intend to go and probably what he said is still within your recollection. In the course of his remarks he said, *inter alia*, that the question that faced us unofficial members on this side of the Council, was not the question of income tax or no income tax, but the question of a big income tax or a small income tax. And three or four sentences on in his speech he said that he was glad, or words to that effect, that the Governor of Uganda, Sir Philip Mitchell, in his resistance to the imposition of income tax, had been able to get his own way.

LORD FRANCIS SCOTT: Sir, on a point of explanation I never said anything of the sort.

MAJOR RIDDELL: I understood the Noble Lord said or to have said, in

effect, that—and I maintain he did in fact say that; it is in Hansard and can be examined.

At any rate whether that is the exact meaning or not of what was said that is the truth; and that is, Sir Philip Mitchell had successfully resisted income tax. Therefore, it seems to me that the question was actually (although I did not know it at the time) the question of income tax or no income tax as proved by the action of Uganda.

Further on in his speech he read (of course accurately) the terms on which we elected members should allow income tax to go forward and up to a certain point accept it. And the first condition to be put forward was that we should be allowed to be associated far more closely with the Government of Kenya. I hope I have not misunderstood him again but I understood him to say or to imply that that demand of ours had been honoured in terms of the Executive Council. Because if this is so I join issue with him. The Executive Council as he described it had been revised in the way which you know and your Excellency in announcing the way in which it had been revised, first of all told us that you had removed from the Executive Council three technical heads of departments, and you went on to say that your Executive Council would then consist of four official and four unofficial members. You then proceeded to take us into your confidence. I think those were your exact words, by telling us what you yourself, who of course held the right of nomination, would do. What you visualized was this; this is what you would give to the unofficial members: two would be elected members of this Council and one would be representing, not actually a representative, but one conversant with native affairs not only in this country, but, if possible, in the Colonial Empire as a whole; and the fourth member would practically be representing, or at any rate, be one of the Indian community.

I cannot visualize that myself as associating us, who are the European elected members, more closely with the function of government than it was before. It is true there is the limitation of the three technical heads of departments—for what it is worth. But if you analyse the un-

[Major Riddell]

official representation I can only say that as regards the nominated member representing native interests in this Colony, since the time I have had the honour of being a member of Council, they have never once voted with us when the elected members have voted in unison and have had the steam roller used against us. On all occasions the representative of native interests seemed to think that it was their duty to vote against us. Why I do not know, I merely record facts.

As regards the Indian members, the same thing applies. There is no instance I know of when all the eleven elected members have taken a stand on any question that the representatives of the Indian community have come over and voted for us. Whether that is a racial thing, I don't know, I merely state a fact.

I cannot say, and I reiterate it quite definitely, that that can be claimed to be a constitutional advance in any shape or form, and it brings me to the conclusion, and I say here that with all sincerity, and I have never meant anything more than what I am going to say—we call this a compromise. I do not call it a compromise. As far as I am concerned I call it a surrender. It was a surrender to income tax and by that surrender there is no question in my mind that we have achieved a mild income tax instead of a severe income tax. Whether that will satisfy the constituencies remains to be seen in the forthcoming election. And there is no doubt in my mind that the action that I and others took in this surrender prevented the steam roller being used in the first place, and allowed us to have a more benign form of income tax.

Before I leave this subject of income tax—I have said all I have to say on this controversial question between ourselves—I should like to repeat what I said at the close of the last income tax debate. I asked for assurance from the Government that their intention will remain, as already announced, the same. That is to say, they mean to apply this income tax to all races. That is to say, to ourselves, the Indian community and the natives. And I received that assurance. All I have to say on that subject now, that is of course so far as I can say, the £3,000 which I

understand has now been raised to £4,000 by the Treasury, is completely inadequate for Government to do it properly.

If you are going to tax, shall we say, the Masai, you cannot put an arbitrary tax on them in the same way as you can on a long suffering British community, or you will have the Exeter Hall people of the *Manchester Guardian* and all sorts of people like that on you if you arbitrarily assess people who know nothing about it at all. You have got to go very carefully about it, indeed with each individual claim and it will cost you more than £3,000 and £4,000 to do that properly, equitably and fairly to the Masai alone without taking the European community into any sort of account at all.

Turning to the Indian community, there is one thing that has always interested me—and I am going to try and get an answer to-day in the course of this debate—why is it, I ask myself, and I hope I get an answer from the Indian community, that the income tax in this country is a good thing for them in Kenya, whereas in Uganda it is a pernicious thing. What is the difference between income tax on one side of the lake and on the other? I think, myself, I will answer that question. I think it is a racial issue. The Indian community in this country make no secret of the fact that if it had its own way this country would be colonized from India. Any stick is good enough to beat the dog with and therefore if they can vote against us they will do so. I am not trying to attack their character in any way, but you must remember the history of income tax as applied to the Indian community in their own native land of India.

When income tax was introduced in India 290,000 people were assessed as liable to pay income tax. Of these 77,000 disputed the assessment and it required about 36,000 convictions in order to enforce it. If you apply these figures proportionately and agree that what happened in India will happen in this country, you will find again that before you have got and extracted a fair portion of income tax from the Indian community you are facing an outlay of more than £3,000 or £4,000 without considering the European community at all.

[Major Riddell]

The Noble Lord, the Hon. Member for the Rift Valley, said, and quite rightly said, that that is a question which we shall have to wait for facts and figures to see. I myself am in agreement that this is the only thing we can do at the present time. And with that part of his remarks on income tax I agree.

But I very much regret that the hon. Member for Uasin Gishu thought it necessary to go further than that. And talking to that point, he said that income tax after all is a new tax and we must be given time to get these figures. I hope I have not misunderstood him. I distinctly heard him say that it is a new tax and that is quite correct, because the hon. Member for Uasin Gishu was in the country in 1921 and he knows as well as I do that when income tax was introduced at the request and with the concurrence of the then elected members—one of the elected members here to-day stood against it then (he was standing for a Naliofb constituency) and got well and truly beaten—after a year, or a year and a half's trial of income tax it was then found to be unworkable. And after a commission had sat on it, of officials and tinofficials, it was actually unanimously decided that it was unworkable and it was taken off. As far as I can see we are aiming to repeat the dose. Surely, it is not good for this country that we should be at sixes and sevens over a question of this sort. Personally I think that is the worst thing that possibly could happen.

The question as it actually stands now is only supposed to bring in a revenue of £45,000. We have tremendously more important things to discuss. We have lost to a large degree our sense of proportion by this folly which always happens in a small country by setting brother against brother. What for? It seems to me madness. Here we have soil erosion, constructive long range development and settlement and we have got into a mess of figures with regard to income tax. It seems to me a most scandalously wrong thing to do.

MR. HOEV: Your Excellency, on a point of order, the hon. member has quoted me as having made a definite statement here, and it seems to me it is

the only opportunity I shall have of refuting that statement. I would like to say here—I stand with no sense of apology at all of surrendering anything. I was in agreement with this compromise made by the Secretary of State and I hope I made my position perfectly clear yesterday when speaking on it. I said that I stood by the compromise and only after the tax had been working for a year, when statistics and data could be collected and referred to an authority such as the Standing Finance Committee, then, and then only, would the true result be obtainable. If it were shown to be acting detrimentally to the country I would be the first to advocate repealing it. My position, I think, I have made perfectly clear.

MAJOR RIDDELL: I have nothing to say in despite of that, but the hon. member has not attempted to answer, because he cannot, the statement I made.

MR. HOEV: I don't understand it.

MAJOR RIDDELL: He said it was a new tax. It is not new; we have already had it before. That is the point I was making and no other.

I have finished as regards that part of my speech and I am going to talk of things I think are infinitely more important. First of all I should like to talk about the Game Department. (Laughter.) The hon. Member for Nairobi North has said that he advocates a complete re-organization of this department and with that I am completely at one with him. We are in a fine position as regards the Game Department or, not, as you may look at it. Actually by the luck of the cards we are left at the end of this year, or the beginning of next, without any game rangers at all because our senior game ranger has not yet answered whether he will be coming back to us or not, and in passing, I sincerely hope he does. And the three assistant game rangers are left in a position of retiring on pension in the almost immediate future. As the whole permanent staff of the department look like going, three of the game wardens out of four and that will leave only that one gentleman behind who deals with fish, you are in a pretty fine position as regards the re-organization of that department.

[Major Riddell]

I have one suggestion to make in the way that department should be re-organized and if you will turn to the relative page in the estimates you will see that the total figure on the expenditure of the Game Department is £8,281. Now, I am not going to advocate that that should be reduced. In fact, if it were not that I agreed with what has been said on the subject of economy I should recommend that that be increased. As it is I am quite content to leave that figure as it is. I hope you realize, all members of Council, that that figure represents the pay and emoluments of one senior game warden and four subsidiary gentlemen, assistant game wardens, and one or two small people, odd clerks, who are really not to be counted. I myself believe that that is entirely the wrong way of looking at the duties of game preservation as done by these gentlemen. You do not want highly paid people here for what in the home country is called a "watcher". A watcher is not actually as high as a game-keeper at home because a game-keeper is expected to know how to rear pheasants and in my own land of Scotland how to burn heather scientifically and those sort of things whereas as an assistant game-keeper you are only required to prevent people from poaching—and that is what is called in England a watcher.

I suggest if you leave your head man alone and his emoluments untouched, whoever it may be, and I hope we get our man back after he has finished trying to preserve game in Malaya, where, incidentally, there is none to be preserved, the rest of the money, we will put him at £1,000, or not very far off, the remaining £7,000 will be left to play with for making new appointments. Before I actually make my suggestion, I would like you just to look over this country and agree with me that the game is one of the greatest assets we have and in the constructive development Your Excellency has talked about one of the important features we ought to take into account is the preservation and exploitation of game.

Can three men cover the whole area? Can one man cover the Northern Frontier, another the whole of the coast and another the whole of the Masai Reserve,

and see adequately what the natives are doing, because it is the natives who are killing the game? Ninety per cent of the damage is done by the natives. Of course they cannot! But if you put them into the position of a watcher and you get local people to understand the natives and speak the language and pay them £300 a-year, and add no hidden emoluments—in other words, you would have 21 instead of the three men who cannot possibly cover the Colony at present—you are being much better served if you scatter them all over the country where the terrible massacre of game which is taking place in the teeth of this £8,000 will be to a certain extent eliminated—and it not wholly eliminated it will be checked.

As I said before, it is a very important subject and I claim to be an expert by many years of professional hunting in this country. In the days I first went to Abyssinia, before any Government official at any rate to speak of, the whole of the country across the North Uasin Nyero was alive with rhino. They were not killed by the visiting sportsman but by the Somalis, who came up from the British or Italian Somaliland for the trade in rhino horn to supply the demand for aphrodisiacs by the Chinamen.

The rhino, which is one of the hardest animals to preserve, for it is a slow breeding animal, could have been preserved in that country because it is not a country for white settlement. This is one instance, and it is a very bad instance. Another instance is on the coast. In the days when we used to go hunting down on the coast, I could take my parties and practically guarantee that they got a sable, one of the finest and, as regards Kenya, one of the finest of our indigenous antelopes. But to-day they are entirely killed out by natives, for pooh! At the same time we spend £8,000 on the preservation of game. I suggest that there is a case for the re-consideration, or the re-organization of this Game Department. You will bear in mind that it can be done. This thing can be done very much cheaper, than by paying men £600, £700 or £800 a year plus hidden emoluments and all that sort of thing.

While on the subject of game I would like once again, it is a hardy annual with

[Major-Riddell] me; to press for the Nairobi commonage being turned into a game park. I do not think it is necessary for me to say very much about that because I am pretty nearly sure that every member of the Council is convinced in his own mind that this would be quite an asset to the Colony.

Why it is hanging fire I do not actually know. I am quite satisfied in my own mind that it has nothing to do with native rights, those could be safely disregarded. I should like Council to remember that if this was a game park it would require money to develop it and a park ranger, I hope not an expensive gentleman, but none-the-less, it would require one and that would have to be kept in mind when dealing with this gross figure of £8,281. Now I will leave that subject.

The next subject I wish to speak about is the Veterinary Department. If you look at the appropriate head again in the Estimates, you will find that the whole of the headquarters staff of this new department is shown as a non-native service. Now the attention of the Council was called to this fact by the Noble Lord the hon. Member for the Rift Valley and one or two other members. I only call attention to it again because I have called attention to it in the past, and during the time I have been on the Council, every single year it goes into Hansard and that is the end of it. It apparently just goes into Hansard and remains moribund until the next council, which is not at all an uncommon thing for recommendations from elected members. In any case I will give one concrete instance in order to illustrate this question, together with the request, that this anomaly should be removed.

When I was criticising the education of the Masai in the last budget debate I said, *inter alia*, that in my opinion I thought that the right way to educate the Masai, or the first way, was that they should be educated or taught to preserve the fodder crop which was burnt off every year on the Ngong Hills. The reply I got from the Director of Agriculture was this: he said "My Chief Veterinary Officer (he was his Chief Veterinary Officer then and I am sorry he is not now) has written me a long report on the subject of the Masai and when I heard the hon. Member for

Kiambu speak I might almost have thought it was the report of the Chief Veterinary Officer." If the Chief Veterinary Officer is entirely concerned with non-native services what the devil is he doing making those reports about the Masai? Because these reports are not made for nothing but as the result of careful study. Or were they made altruistically or after regular hours are over, or what was he doing? It seems to me that it is not necessary for the non-native services. I think it is quite wrong that he should report on the Masai at all as Chief Veterinary Officer. His job is to look after rich stock and not the population of the native reserves. Still, he was employed for that last year and of course it is a complete answer to anybody who says that these are non-native services, as you can see for yourself.

Before I leave the Veterinary Department, last year in the budget debate I called attention to a remark made by Your Excellency's predecessor in that debate. I criticised very adversely the remarks then made. He was referring to Leibig's Ltd., and said this:—

"The present prices which it is proposed to pay for cattle are, I feel sure, sufficiently remunerative to ensure that once the initial difficulties have been overcome, the native will readily bring forward his stock to the factory."

I have had long experience as a stockman and as a trader in the Masai Reserve, and I do not think that was a fair statement. The hon. the Director of the Veterinary Service poured ridicule on my remarks and accused me of psychosis, etc. I would like to ask him now if this statement was true or false. He has time to answer. I will leave it to his good sense as to whether I was right or he was right, to his good sense and honesty.

Bound up with this question of the supply of cattle to Leibig's is the question of soil erosion as we know it when dealing with the stock tribes of this country as distinct from the agricultural tribes. If you allow in the teeth of the recommendations of Sir Daniel Hall and in the teeth of the recommendations of the Carter Commission, in the teeth of anything we can say, and I was very insistent on what I said in the Carter Commission debate,

[Major Riddell] you will allow once again natives to overstock in this country you will be running straight to the break up of a very large part of this Protectorate. Again I warn you. In the Carter Commission debate I said that anybody who is dealing with the question of overstocking who does not recognize that at the present time, whatever it may be in the future, that the question is bound up completely with the question of compulsion, and that one word compulsion alone, is talking round the question instead of seizing and tackling it. I say that again now and I am sure I am right.

Now, I have got and am going to quote one or two figures in connexion with the tribe I myself know intimately and well from long association as a trader among them, and that is the Masai. I have been given these figures and propose to quote them. I propose also, although I may not wholly agree with them, to accept them. I am told—Your Excellency has in your hands or the Government has a statement to the effect that before the last drought the Masai were carrying in round figures 750,000 head of stock, and that after the drought the same tribe carried 450,000 head of stock. That is to say they lost the difference between these two figures in the drought in 1933. If that is not sufficiently appalling and not a sufficient indictment on the Government I do not know what is. But it is no use crying over stinking fish.

Let us take the lower figure of 450,000 with which the Masai was left at the end of the drought. And do not forget in your calculations that it was at the end of the drought, because I speak to stockmen, who should know, on this side of the Council. I think that at the end of the drought you will find that all the really useless animals had succumbed to the conditions and therefore you had at the end of the drought in the stock country a very much finer collection of animals with which to breed up stock than before. Is it too much to say if you accept the figure of 450,000 head of stock in the Masai alone as a zero figure, they should be able under the normal conditions of rainfall and grazing they have had in two or three years to show an increase for sale of 10 per cent. Of course it is a fantastic figure

to any stockman because they can produce a great deal more, but we will call it 10 per cent and that gives you a surplus for sale of 45,000.

Leibig's immediate requirements, I am told, are 30,000 head per year, which can therefore be supplied by the Masai alone, plus 15,000 for local markets. I have not said a word about the Samburu, the Suk, the Turkana or the whole of the white settlement, or of the local agricultural tribes that have live stock. I am not going to say now whether Leibig's requirements will be fulfilled or not. I very much hope they will be but this I do say, if they are not fulfilled fully the fault does not lie with the elected members—it is a matter that rests entirely with the Agricultural and Veterinary Departments or their officers who deal with this question—we take no responsibility whatever. On the other hand we do say, and I am sure I speak for the elected members, we cannot allow this concern to be let down.

I have touched soil erosion in connexion with this overstocking question. I am going to say something now which is more than controversial. I warn Government so far as I myself am concerned, that I am no believer in raising large sums of capital to deal with the question of soil erosion until certain things have been done. First, I believe that the question of soil erosion as it applies to the Masai and other stock tribes will be solved and completely solved by two factors. One is the provision of adequate water, and the other is the limitation of the stock that is carried in relation to the country and the requirements and capacity of their grass and their water. If this is done not one single sixpence will be required, so far as we know from those best competent to judge, to be spent in the countries that deal with stock alone.

Of course, the position is very different when it comes to agricultural tribes. Here again, I submit to Government, it is my own opinion, I have not asked any of my colleagues for confirmation, the proper way of dealing with soil erosion in the agricultural tribes is to prevent the agricultural natives from murdering the land. What actually happens now and what has always happened in the Kikuyu country alongside of which I have lived for some years, is that they increase in numbers

[Major Riddell] and keep on doing so. Thanks to the Director of Medical Services and the K.A.R. preventing raiding and so on, as these people grow in numbers so they require more land. And they get that by going into the countries which were before no-man's land. That is history, and what has happened then? First of all, they clear the land from forest, and the next thing they do is to cultivate the land and go on cultivating it until it is worked completely out, without putting anything back. They take all and give no return, with the result that a large part of the land after five or six years, after such treatment becomes incapable of growing further crops after 5 or 6 years. What happens then? The Government come along in the effort of getting more and more land from white settlement to give to these people as what they call compensation in order that they may develop that in turn.

The first solution, obviously, to me of the soil erosion question in the agricultural tribes is intensive education and, if necessary, compulsion, to try and force on the native agriculturists that they are not going to be allowed any longer to destroy land, because if they are allowed to go on doing it the whole of Africa will not be big enough in another 50 years to hold them. After you have done that, and not before, then send the experts down to South Africa and try to get actual data from their experience of what should be done. Our friends in South Africa are perfectly capable of giving that experience and are only too ready and willing to do so. But the first step is the really difficult one. It requires courage and definite action on the part of the Government to deal with the control of the use of the land by agricultural tribes and the control of the stock held by the pastoral tribes. And at that I leave it.

I have only one thing more to say and that is on the subject of labour. It is with great pleasure that I record that I am in complete agreement with my hon. friend the Member for Uasin Gishu in everything he has said on that subject, but I would like to elaborate it a little if I may. At the same time it seems to me in this country that there is a superabundance of legislation in regard to the relations of

employer and employee. I was very glad to hear the Chief Native Commissioner, who said that the labour officer was a man who was not an enemy to us, and I know that is actually a fact. But the question of the rate of pay which you pay a native is a private contract between employer and employer and the less interference you have between these two the better.

What do you want a labour officer for? It seems to me that where the employer is bad, and ten per cent of the employers are, run him in and deal with him in the ordinary course of the law. If, on the other hand, he is good, leave him alone. But when it comes to making a contract between the employee and the employer, I should like to make it clear to this Council, and I have employed thousands and thousands of natives myself, that it is a private contract. And so far as the people who have the welfare of the native at heart and actually represent their affairs, may I point out to the Rev. Archdeacon Burns that the native has a complete safeguard for himself against a bad employer in the terms of his contract. If an employer does not play the game by his contract he can deal with him through a magistrate, while if the conditions under which a native accepts a month's contract are odorous or unpleasant or the native thinks he can do better elsewhere, then at the end of the month he can go elsewhere. This is his safeguard so why interfere between employer and employer. There is no necessity for it, nor is there any necessity for a labour officer at all; he is usurping the functions of a magistrate.

MR. HOSKING: Your Excellency, on a point of explanation, the duty of the labour officer is to do the running in and take the native's case to court.

MAJOR RIDDELL: We are living in the year 1937, and in my opinion the native is capable of doing the running in himself. I know that in the case of trouble with a cook boy the next thing that happens is that a complaint is issued against you at the local District Commissioner's office. We all know it and none better than the Chief Native Commissioner. (Laughter.) Sir, I implore your Government not to interfere between the

[Major Riddell] employer and the employee in any unnecessary manner. But of course if the employer is a bad employer he has no sympathy of any sort from me, and the same applies to the bad native.

MR. MAXWELL: Your Excellency, the two salient points in the Estimates as presented are those already touched on by previous speakers, namely, that this year we are budgeting for an increase of expenditure of over £130,000 as against 1936 with a decrease in revenue of about £17,000, and that we are budgeting for a surplus of only £33,000 which, as already admitted, is likely to be reduced.

After listening to the able speech of the hon. Treasurer yesterday, I cannot help feeling that when Government drew up the Estimates they felt inwardly that these would be considerably exceeded. If this is so, I think that considerable caution should be exercised. While not being a pessimist, and I yield to nobody in my faith in Kenya progressing rapidly under a wise Government, yet I believe we must be prepared to face a flattening out or temporary setback in the rising curve of revenue.

I think it is only a temporary setback, as many factors are operating throughout the world which will tend at a later date to make the curve carry on upwards, unless the political situation in Europe gets completely out of hand. Six months ago I would have agreed that this budget was probably framed on a conservative basis, but to-day I think the economic situation throughout the world has worsened considerably. Commodity prices have suffered a severe setback, stock exchanges have slumped all over the world and especially in America, where almost depression level has been reached, and there is no doubt that stock exchanges have a very serious effect when they slump on commodity levels.

Locally, as you know, commodities which we produce in this country have within the last few months slumped very severely. The values of some of our biggest exports such as sisal have dropped 20 to 25 per cent. I cannot really associate myself with the depressing picture which has been drawn by two hon. members of

the depressed condition of the sisal industry, because recently considerable clearances of stocks have taken place and now they are not heavy, but the price is still low and sisal difficult to sell. The prices of other local commodities are similarly suffering, notably cotton, which has an effect on the trade of the country, and generally throughout East Africa. As you will have noticed, America has produced the largest cotton crop it has ever had, and they are evidently preparing for a further slump since they are making arrangements to subsidise their cotton farmers.

Another serious matter which affects next year's revenue is the vast overstocking of trade goods that has taken place in this country during this year, owing to a fear of rising prices. I should like to read an extract from a letter I have just received on this subject from a big importer:

Considerable imports took place in Kenya in the early months of this year, and to-day for the limited market stocks are very considerable. There is little doubt that a quantity of indents and forward shipments have been cancelled. One of the largest importers in Kenya has been instructed by his London owners that his stocks are excessive and no more orders are to be placed for some time to come.

I have taken the opportunity to talk to many importers about one item of the budget, namely, the estimated customs revenue for next year, and without exception all those importers with whom I have been able to talk have expressed their opinion that this year's revised revenue estimated at £875,000 is unlikely to be exceeded next year.

Another factor already touched on which has militated against our revenue is the labour shortage, which to-day is definitely retarding development and, in certain cases, definitely holding up production.

For these various reasons, I therefore feel it will be very imprudent to expect a larger revenue than has been estimated for and, in fact, we may have on further reconsideration, to put this estimate down.

On the other hand, among the various methods by which we raise revenue are

[Mr. Maxwell]

some which I consider to be unsound, as they act against development and trade. I think one or two of these were mentioned yesterday by the hon. Member for Nairobi North, but I should like to touch on them again.

Among the customs duties we all know certain anomalies exist which must be rectified, and I only need mention one. Raw materials have to bear a tax of 10 per cent, while certain imported articles against which our local manufacturers have to compete and for which they are using these raw materials, come in duty free. Another item is that of stamp duties, and I specially refer to stamp duty on bills of exchange. There is no doubt in my mind that these high stamp duties are leading to an unhealthy state of trade, for this reason: that the small trader today refuses to pay these high stamp duties, and the importer, owing to the large amount of goods in the country, is not in the position to force the small traders to accept bills of exchange which are really the only safeguard to the importer, since any small trader, once he has accepted a bill of exchange, is very loth to dishonour it after it has been discounted by a bank.

I therefore strongly urge that consideration be given to reducing the stamp duties I have mentioned to the scale that is in force in Northern Rhodesia on bills up to 90 days. This scale is approximately half the scale in force in this country, and the loss to revenue would be approximately £5,000, always provided that bills of exchange are not used in ever increasing quantities, but the reduction ought to be made. In my opinion, more bills of exchange would be used and the loss would be kept down.

The next item I have to refer to is traders' licences, and I am certain that this Council is aware that the Association of Chambers and other Chambers of Commerce throughout East Africa and various traders' associations have all pressed most strongly for these licences to be reduced until they are just sufficient to pay for the different protective services which traders require, such as the Shop Hours Act, weights and measurements, police, and other forms of protection. I understand that this would involve halving the present

traders' licences. Traders state that in their opinion it is inequitable that one section of the community should be taxed for the right to earn its living, and with this I have much sympathy.

Now I come to the vexed question of income tax which, if it has done no other good, has enabled us to get rid of those ghastly taxes, so-called temporary, which were so grossly unfair in their incidence. I sincerely hope the country will never be forced again to consider the reimposition of taxes of such a nature.

But, to return to income tax, I find it impossible to believe that in such a country as this, where it is most important to keep on with development, that a tax of this nature can be good. It is a tax which takes away from industries which, in many instances, can only develop from their earnings; a considerable portion of such earnings; a tax which puts our industries at a considerable disadvantage vis-à-vis similar industries in neighbouring territories where there is no such tax and which export the same produce that we do and sell it in the same markets. I further believe that in these three countries, tied together as these three countries are, unless their main system of taxation is carried out on the same basis, constant difficulties are bound to arise.

One difficulty I see is that when we wish to alter our fiscal system, it will be found extremely difficult to do so because income tax is not in force in the other two territories. I suggest that the time has come when we should reconsider our fiscal system in entirety, and I hope that during the coming year the opportunity will be taken to do this.

For these reasons, and because I consider that development is most important and the prime necessity for this country, it is with considerable misgivings that I see a suggested increase in expenditure.

I realize that of this increase, a considerable proportion is due to non-recurrent expenditure, with which I have no quarrel, and 10 various normal increments, but the fact still remains that there is a big general increase in expenditure. I would urge that every possible economy still be practised, and that services be expanded only so slowly as is absolutely necessary until such time as increased

[Mr. Maxwell]

production and development have taken place and, on its taking place, can then furnish the necessary funds to increase those services as we all would wish. I would say that until there is further increased production and development and no taxes inimical to development, can the increases of such services be paid for.

Coming to details, I much regret that no mention has been made on the Government side of the necessity of inducing tourists to come to this country and the necessity of opening up the country to attract them. I feel myself that this is one of the most important ways by which Kenya can progress. To me it seems almost a legitimate activity of the Railway.

With regard to the Game Department, I will say no more than to associate myself with the remarks of the hon. Member for Nairobi North.

I very much welcome the statement that matters are proceeding energetically with the question of the joint hospital. I think that while it is necessary, of course, to know exactly what we want to do before we start, considerable delay must not take place as has happened with regard to the new water scheme for Nairobi.

I further welcome the settlement at last made in connexion with the grants for trunk roads in the Municipality, because it was almost a crying scandal that the council has not been able to make up those roads, which are in a very bad condition.

With regard to education, I find myself not altogether happy as to native education, because it always seemed necessary to relate the education to the type of student so as to fit him for the job he is likely to fill afterwards. To-day I find myself inundated with boys who want jobs as *Karinis* and, try as I can, I can find no decent artisans, yet I require many of them.

I therefore welcome the remarks made by the ven. and hon. Member Archdeacon Burns and the hon. Member for Nairobi North in connexion with the N.I.T.D. The trouble with boys turned out by this institution is, while they may be excellent craftsmen, yet they have never been trained from the commercial point of

view, and they never realize how important it is to stick to and complete a job in a reasonable time. I have taken considerable interest in this matter and have spoken to many employers, and I gather that employers would definitely welcome a scheme whereby the boys, after doing a three years' course at the institution, should be apprenticed to them under the supervision of the institution for the next two years. At the end of the five years they will be turned out as sound commercial artisans. At the same time, the N.I.T.D. will be able to handle more boys than they can today. I agree there are difficulties, there are not large numbers of employers who can take on such boys, but I hope that steps will be taken to bring some scheme like this into force.

Regarding erosion, I need say very little, but I should like to say that in my opinion, important as it is to recondition badly eroded areas, yet prevention of further erosion is far more important and, in my opinion again, the only way erosion can be prevented, whether it is due to agriculture or overstocking, is by strong administrative action backed up by a strong Soil Conservation Ordinance. I would therefore like to ask, what is the position to-day of the suggested bill?

Another point already touched on is that of shipping rates. To-day the position is that shipping rates have been raised until they are considerably higher than the rates were in 1929, while the commodities which bear the rates are probably 20 or 40 per cent lower in value than then. I understand Government have taken some action in the matter, and I hope it will be followed up most energetically.

The last point I wish to touch on is the grant to the Sisal Industry Committee.

The Noble Lord has asked Government for some explanation as to how the funds are used, and quite rightly so. My hon. friend the Acting Colonial Secretary has suggested to me that I should reply since, as he alleges, I am the cause of the enormous increase of £500 in the grant! Whether that is true or not, perhaps I am the person to reply, because I have been connected with the scheme for more years than I like to think of.

In 1933 when the sisal industry carried out as large a re-organization scheme as

[Mr. Maxwell] it could then and achieved all the economies possible, it was decided that a stock-taking of the position must be made. From that stock-taking arose the realization that research was absolutely necessary if the industry was to be put on a sound foundation.

It was agreed that research should be under the following four heads: 1, new uses for sisal; 2, agronomic research; 3, research into methods of reclaiming and recovering fibre; and 4, improvement of machinery. The sisal industry did realize that they could not ask Government to meet the whole cost of this research, but it did feel it was up to Government to put down pound for pound of any moneys the industry raised by means of a cess. Since times were extremely bad then, the industry did agree to limit Government's contribution then to £1,000 per annum as a start. A Bill was therefore brought in on those lines, but there was a provision in it that the Government contribution, with the consent of Executive Council, could be increased. The sisal industry only stipulated that the Sisal Industry Committee which was to operate under the Bill and collect all the proceeds of the cess and the Government contribution, should provide an annual sum of £500 towards the expenses of the Sisal Growers Association and for research and to encourage small improvements in machinery (which are carried out locally).

With regard to the various headings of research, in conjunction with the Tanganyika sisal industry a 5-year scheme was worked out of research into new uses for sisal, and £3,000 was devoted to this scheme, of which Kenya contributes £900 on the basis of tonnage export. This scheme, carried out at Lambeg in North Ireland, has been going on for fully two years and it shows every prospect of producing extremely valuable results.

It is quite obvious that in the case of a plant like sisal, about which nothing is known, that the first year or two are bound to be devoted to fundamental research, but we are beginning to see very good results about to emerge shortly. With regard to agronomic research, the Tanganyika sisal industry decided to start a research station near Tanga on the

coast. The industry in this country, while realizing that a similar station was necessary at a high level, agreed to hold their hand for several years, so that there would be no overlapping between the two. Kenya subscribes annually £200 to the Tanganyika station because it is benefiting to a certain extent from the basic principles that may be discovered there, while there are a certain number of estates on the coast in this country.

However, the time has come now when the sisal industry should start its agronomic station at a high level to confirm the results found in Tanganyika and work out its own problems. Here the problem is not quite so simple, for Kenya has all types of soil on which sisal is grown. Therefore the industry has worked out a scheme whereby a small central agronomic station will be established and trial plots will also be installed on various sisal estates under the control of a central research officer to check results at the station.

This scheme has the full support of Sir Francis Stockdale and other people at the Colonial Office. It was originally intended to start the whole scheme this year but, because we are not yet satisfied that there will be no overlapping with Tanganyika, we only propose to start the trial plots at the moment and the station next year.

Regarding research into new methods of recovery of waste, a most interesting set of experiments has been carried out in Kenya. This involved designing new machinery and using chemical and biological processes, and we believe to-day that we are on the eve of achieving a very big advance.

Regarding methods of improving existing machinery, a certain number of local experiments have been carried out and financed by the fund held by the Sisal Growers Association.

This year we are embarking on this agronomic research, and it has been necessary for us to ask Government to increase their grant by £500. Apart from research, the Sisal Industry Committee does devote a small amount of money to paying its own secretarial and office expenses in this country and the Kenya share of the expenses of the joint committee set up in London to deal with all East African sisal

[Mr. Maxwell] problems. But, without going into details, 75 to 80 per cent of the moneys which the Sisal Committee receives go to research.

I should like to emphasise that the sisal industry, which exports over three quarters of a million pounds of produce, only receives this grant, which I hope will be £1,500 next year, and no other special assistance from Government. There has been a certain misunderstanding in the past, because in previous budgets there have appeared items of £10,000 and £3,000 devoted to sisal softening processes. These sums, I would make clear, were given from the Colonial Development Fund to an individual and not to the sisal industry.

Finally, I think all hon. members will agree with me that the granting of this money so devoted to the Sisal Industry Committee is an outstanding example of the principle of encouraging sound economic development.

Council adjourned for the usual interval.

On resuming.

MAJOR GROGAN: Your Excellency, I must express my thanks to my colleague the hon. Isher Dass for giving me the right of way on account of a slight illness.

I want in advance to express my apologies to my hon. friend the Acting Colonial Secretary for having interrupted his essay the other day. It was not, I am sure he will realize, the result of any lack of appreciation of himself or any desire to be a nuisance, but it was based on what I believe to be a perfectly sound principle. There is always necessarily a material measure of unreality in the debates of this Chamber, and therefore it is very important to get as near to reality as we can, and when the budget, which is the most important matter that comes before the Council, is under discussion, I believe it will be adopted in future, that the budget should properly be opened by the Treasurer of the country and not by the Colonial Secretary.

Also, there are the principles of debate. The theory of a discussion is that it provides an opportunity for debate. A debate can only be based on speeches and not

on essays, and when an essay is prepared at an enormous Secretariat to provide a large amount of matter and there is preparation going on for days to forestall any possible discussion or criticism—and sometimes, one may even say, obscure the issue—it is, I think, very essential that anybody who does make an essential and important statement in this Council should make it, out of his own head, knowing that if he is an entirely ingenuous and honest person, as we know the present Colonial Secretary to be, that he is liable to trip-up in his statement and give us the right and proper openings on this side of Council!

In this particular case, however, skillfully the essay may have been compiled; he has in fact given himself away, as I shall point out later on.

I will say that there is an unnatural and inevitable air of unreality about this Council and the discussions therein, because everybody knows that everything that really happens here is merely "His Master's Voice" and that our part in the discussions is that of the well-known picture of that pathetic bow-wow, with its ear cocked on one side, listening to the ultimate decisions of Sir Cecil Bottomley or some other great dignitary in Downing Street!

During this discussion there have been several references to history. I do not read history fortunately, that is why I am so clear minded on many matters! But history is a much more lying jade than rumour; therefore it is the duty of everybody who is living in a particular time, when relatively important things are happening, to take every precaution, so that those who come along later and try and dissect the history of the country to find motives for the actual results should have the easiest possible access to the unquestionable factors of the time. For that reason, and for no other reason, I am afraid that I am going to impose on Council to a very considerable extent this morning by reading a considerable number of essential documents, so that they will go on the permanent records of the Council and be readily accessible to anybody at a later time who may be interested in this period and wonder why

[Major Grogan] the country became a Japanese country or whatever its ultimate destination may be.

You will not remember, of course, Sir, because you were not here, and are therefore an entirely dispassionate observer, faced with the very great difficulties of understanding us, of finding out from this vast mass of material what were the factors that led up to the present position. I am not going back into the ancient history of the controversy of income tax, because I had occasion to do that in the last session, and that is already on record. But I only want to point out clearly that income tax was in operation in the country before at the suggestion of the elected members, was tried out for two years; it was doubled in the second year, if I remember rightly, and eventually by common consent rejected as a form of taxation destructive to the best interests of the country and totally unsuited to its conditions.

Afterwards, a various number of gentlemen came here, naturally not conversant with the past history of the country and with inadequate opportunities of ascertaining the essential facts, and came to a more or less hasty conclusion. The last of these gentlemen, named Sir Alan Pim, having enumerated first of all the very grave difficulties of the equitable application of income tax in a country such as this with diverse races and so on, could suggest no other method whereby the anomalies in the existing taxes known as the emergency taxes could be eliminated and at the same time the budget could be balanced. That led to the recommendation of this system of direct taxation.

The community in general, of course, was violently opposed to any attempt to convert what was by common consent at one time and universally recognized by us all at the time as having been emergency taxes, was unanimously opposed to any crystallization of these emergency taxes in the form of a substitute tax such as income tax. There was complete agreement on that point, and on that basis we went to the country seeking the country's support in offering determined resistance to His Master's Voice.

The first round in this great battle was fired in the letter to the *East African Standard*, the latter portion of which I think is worthy of record, because it is very terse and a complete summary of the attitude of the general public at that time. It reads:—

"It is an open boast in Government circles that European opinion on the subject of income tax is split and that there should be no difficulty in forcing the present proposals through, but I decline to believe that the citizens of this Colony will be so easily hoodwinked and I am sanguine enough to feel confident that every man and woman who understands the true implications of the present proposals will, whether he favours the theory of direct or indirect taxation stand solid in opposition to this most bare faced attempt to saddle an impoverished country with a permanent additional burden of taxation, which is neither justified nor required."

That was good, solid stuff, and it was signed by Captain H. E. Schwarz, the substantive member for Nairobi South. It was the beginning of a struggle throughout the country, the beginning of the campaign.

I merely quote that because it is a classic example of the express determination at that time on the part of the community to resist this proposal.

I now come to what is much more important, because they are to a certain extent State papers not easily accessible to the ordinary citizen, with the possible exception of the first one, which was the enunciation of the general policy of the European elected members as expressed by their chairman. It is headed No. 1, dated the 17th September, 1936, and addressed to the Editor of the *East African Standard*, Nairobi. It reads:—

"Sir,

The European elected members have carefully considered the principles involved in the taxation proposals suggested by Sir Alan Pim, and I have been asked to put before the country the general result of such consideration.

In the first place, European elected members as a body are not opposed in principle to income tax, but they are in

[Major Grogan] unanimous opposition to the present proposals for the following reasons:—

1. If the proposals are adopted, it will have the effect of consolidating permanently revenue measures which were definitely introduced as temporary measures to bridge a temporary gulf. In 1931, when the proposal to double the non-native poll tax was before the Council, and again in 1933, when the graduated non-native poll tax was introduced, together with the amended Licensing Ordinance and the package tax (since repealed), elected members made it perfectly clear that they only accepted the measures to assist Government in its belated attempt to deal with the financial crisis, which Government had refused to recognize despite the continuous warnings of elected members. That these measures were, in fact, temporary, was not at the time challenged by the Attorney General speaking on behalf of Government.

2. The present proposals, which are permanent in intention, would in effect alter the ratio of revenue collected by direct and indirect taxation by increasing the gross amount of direct taxation, without reducing the gross amount of indirect taxation. The most ardent supporter of income tax as a principle could hardly have anticipated such a proposal.

3. The suggestion that the proposed new taxation should eliminate the levy on official salaries would, in fact, transfer a burden of approximately £40,000 from that section of the community least affected by the slump to that most affected.

Elected members believe that there is a case for careful consideration of the desirability or otherwise of varying the ratio of direct and indirect revenue, but they are unanimous in opposing the enforcement upon the Colony of a tax which, in substantive effect, can only be a super-tax upon the European unofficial community, unless and until its range and application can be controlled by the representatives of the community affected. It is inevitable that with an uncontrolled arbitrary Government, an income tax must result in increased ex-

penditure which can always be met by raising the scales of income tax to meet such increasing expenditure.

Whilst these are the main reasons for our united opposition to the proposals, I would add that we are not prepared to consider any piece-meal implementation of the Report at the whim of Government, nor are we prepared to be rushed into effecting only such proposals as may commend themselves to Government, leaving the balance of the recommendations to be implemented or not, in the dim and distant future, and in this respect it is significant that as far as can be gathered the only major recommendations of the Report, which it is proposed to implement forthwith are those arising from that portion of the Terms of Reference relating to taxation which was never agreed to by the unofficial community who, at the time, protested against any extension of the Terms of Reference originally asked for, and who dissociated themselves from such extended Terms the moment they were made known.

Elected members are confident that these views will commend themselves to their constituents, and feel sure that they will have the country's support in opposing any proposals on Government's part to increase the fiscal burden of the unofficial community.

Yours, etc.
Francis Scott"

This was the general programme upon which the elected members went to the country.

The campaign then began, and during that campaign as it developed various communications were made direct to the Secretary of State. The first one, 26th September, 1936, addressed to him reads:—

"Sir,

I have the honour to inform you that I have been requested by the European elected members of the Kenya Legislative Council to place before you their views on certain aspects of Sir Alan Pim's Report.

They, first of all, wish me to remind you that European unofficial community asked for Sir Alan Pim to re-

[Major Grogan] port on the re-organization of the machinery of Government on the lines proposed in Chapter 9 of the Report of the Select Committee on Economy.

I, as their representative, when first advised of the extension of Sir Alan Pim's terms of reference to include taxation, did in a letter to His Excellency the Governor, repudiate any consequential responsibility for his conclusions in respect of such extended terms.

The elected members appreciate, however, the value of Sir Alan Pim's extended inquiry and are prepared to give the most careful consideration to his arguments and recommendations.

The elected members agree with Sir Alan Pim that it is necessary to maintain budgetary equilibrium and that there are certain inequitable features in the emergency taxation measures which are now in force. They wish, however, to point out that the budgetary position which was presented to Sir Alan Pim and which was the basis of the urgency element in his fiscal recommendations has, since his departure from the Colony, materially altered for the better, in that, whereas the estimated surplus for 1936 is shown in the Budget as approximately £10,000 (the figure upon which Sir Alan Pim relied), the Treasurer of the Colony informed the Standing Finance Committee at their last meeting that the actual surplus would, in his opinion, be at least £100,000. In addition, the rapidly accumulating Railway net surplus, reflecting an increase in bulk and an improvement in the price of local products, assures a still further increase in revenue in the coming year.

In view of the above, the elected members genuinely believe that budgetary equilibrium combined with the immediate remedy of anomalies and the cautious elimination of all emergency taxes without substitution can be achieved by increasing revenue from normal as distinct from emergency sources. They submit, with confidence, that they have shown that no justification exists for the hurried enforcement of the most controversial item of his

general recommendations in isolation from other related items thereof, bearing in mind that the implementation of such a recommendation may not only prove unnecessary but will create serious difficulties which have been fully recognized by Sir Alan Pim himself.

The elected members agree that Sir Alan Pim has made a case for the most careful investigation as to the advisability or otherwise of a change in the ratio of direct to indirect taxation and as to the measures required, and they are prepared to give every assistance in such an investigation, but most seriously urge that this investigation be conducted under the aegis of the incoming Governor, who will be responsible for the effectual carrying out of the recommendations resulting therefrom.

Finally, the elected members are insistent that the rehabilitation of the agrarian and interwoven interests must take precedence over the accumulation of large surplus balances.

I have the honour to be

Sir,

Your humble and obedient servant

Francis Scott,

Chairman.

Elected Members Organization.

The battle then went on, and general agreement to the attitude adopted by the elected members was found in the practically unanimous resolutions passed all over the country.

When the battle was at its height, a rather mysterious meeting took place at one of the clubs, as a result of which some sort of a temporary agreement was reached between certain members and the gentleman then representing your Government. Following on that comes letter No. 3, addressed also to the Rt. Hon. the Secretary of State and signed by Lord Francis Scott.

I am sorry that these letters are long and take an awful lot of time to read, but it is absolutely essential that all the facts constituting the history should be available for easy reference.

The letter reads:—

"October 31st, 1936.

Sir,

I have the honour to inform you that I have been requested by the European

[Major Grogan]

elector members of the Kenya Legislative Council to amplify their views (as expressed in my letter of September 26th) in the light of subsequent political developments.

2. We have been informed by His Excellency the Governor that you are of the opinion that Sir Alan Pim's recommendations are generally acceptable and ought to be adopted as a whole, but that 'his opinion is necessarily based on information at present available to you, and is subject to such reconsideration as discussions in Legislative Council and further examination may indicate to be necessary'.

3. The procedure originally indicated was the laying of draft estimates for 1937 based upon the contemporaneous introduction of legislation purporting to convert certain additional temporary taxes (accepted by the community to cope with a budgetary emergency) into a permanent additional system of direct taxation on the passing of the emergency. Practically unanimous opposition to this procedure has been expressed by resolutions passed at public meetings throughout the Colony.

May I take this letter as read, Sir, and that they will be put on record, or is it necessary for me to read them in extenso?

MR. HARRAGIN: It might be laid as a paper. I suggest that the hon. member should lay these letters as a paper on the table.

MAJOR GROGAN: I am determined to have them recorded, though I am sorry to waste the time of the Council more than is necessary. If I am allowed to read out the relevant parts that bear on my subsequent arguments it may be taken that the whole will be incorporated in extenso in Hansard, because the publication of these papers will save the country a lot of distress.

HIS EXCELLENCY: I do not think one can incorporate a thing in Hansard unless it is actually spoken. I think it would be out of order otherwise. If a paper has once been published, surely reference to it would be sufficient for historical purposes?

MAJOR GROGAN: No, Sir, with all due deference Hansard is a much more

permanent record of happenings than the *East African Standard*!

MR. ISHER DASS: It is very interesting, I can assure the hon. Member for the Coast, who I hope will read them all.

HIS EXCELLENCY: I am afraid that only actually words as read or spoken by hon. members can go into Hansard.

MAJOR GROGAN: I must apologise to Council and trust they will forgive me! I will continue:—

4. On the welcome initiative of the Colonial Secretary, an agreement was reached whereby the intention of Government was restricted to the submission of the Draft Estimates to investigation by the Standing Finance Committee without prejudice to the method whereby the estimated expenditure could be covered, and it was agreed that the whole question of the revenue measures necessary to balance the budget should be considered as *sub judice*.

5. There are therefore two distinct issues before the country:—

(a) To what extent and in what direction, if any, can existing taxes be reduced without risk to 1937 budgetary stability?

(b) Whether or no the normal ratio of direct to indirect taxation should be modified and if so by what method?

6. In respect of issue (a) elected members reiterate that they are insistent that the rehabilitation of the agrarian and interwoven interests must take precedence over the accumulation of large surplus balances. They believe that the levy on Civil Servants salaries and the more onerous features of the other emergency direct taxes should be eliminated *pari passu*. They submit that the Revenue Estimates for 1937 (£3,436,322) compared with the actual Revenue for 1935 (£3,304,026) and the Revised Estimates for 1936 (£3,453,376), even allowing for the abolition of the Civil Service levy (£47,000), is more than excessively conservative, and does not conform with the heartening citation of spectacular progress elaborated in His Excellency's address to Legislative Council or the positive indication provided by the rapidly accumulating

[Major Grogan]

Railway surplus. They suggest, therefore, that the levy and the more onerous features of the emergency direct taxes could now be removed in the belief that increasing revenue from normal sources stimulated by the relief from these direct taxes will assure budgetary equilibrium, more especially as there are substantial sums defined as expenditure which are in fact capital accumulations.

7. In respect of issue (b) elected members recall the following general principles laid down by Lord Swinton when Secretary of State for the Colonies upon which they rely and which were as follows:—

'In forming an opinion between one system of taxation and another it is seldom useful or practical to compare them in the abstract. It may be claimed for income tax that assuming it could be applied effectively to all income tax payers, it is the most scientifically and equitably adjusted form of direct taxation. But the operation of any system of taxation can in fact only be tested by experience. And this is particularly true when a new system is being applied in a field hitherto untried.

Even that shows that the Secretary of State was unaware of the previous history of this country!

"When, therefore, a decision has to be taken as between two fresh systems, the test of experience is denied to us except in so far as a comparison is possible with similar systems working under similar conditions. In such circumstances the practical course is to try to find the system which appears most likely to conform to the following practical tests. The system must yield an adequate revenue; that revenue must become available at the earliest possible moment; and when the choice lies between alternative means of taxing, particular sections of the community that method is to be preferred which is the more acceptable to those upon whom the tax is to be levied."

8. They are unanimous in their conviction that a system of income tax

could not be effective unless it is applied to the entire economic area which comprises Uganda, Kenya, Tanganyika and Zanzibar, and wish to stress their belief that any territorial implementation of income tax would tend to re-establish Zanzibar, or to establish any exempted territory, as the headquarters of commercial houses operating throughout the East African zone and intending to evade the incidence of income tax.

Sir Alan Pim, in Section 383 of his Report, points out the many local difficulties in framing a practical law more especially a law that will not become a tax on capital or a serious obstacle to development, and in Section 301 of his Report on the financial position of Zanzibar, writes:—

'I have considered the alternative of a general income tax but do not consider it practical in the circumstances of Zanzibar. In the first place agricultural income would have to be excluded as already subject to the very heavy clove duty and moreover exceedingly difficult to ascertain. In the second place a large proportion of the tax would fall on the Indian commercial community. An income tax can be imposed on them as Indian practice has shown, but even after the long experience of the working of the tax in India, evasion is extensive and Zanzibar has no officials with the special qualifications and knowledge required for dealing with Indian accounts. The income tax levied in Kenya in 1921 had to be abolished within two years though its administration was under the direction of an officer seconded from the Inland Revenue Department in England. The Tanganyika Government has also taken the view that an income tax is unworkable.'

This is formidable support to a strong body of opinion which genuinely believes that the difficulties in framing a law which will yield material net revenue without prejudicing capital restoration and development and involving inequitable incidence is more difficult than is generally realized.

[Major Grogan]

Effectuated members therefore earnestly request that an Inter-Territorial Commission be appointed without delay to consider and report upon the proper ratio of direct to indirect taxation, and the measures whereby such ratio should be effected with special reference to the applicability of a system of income tax to the peculiar circumstances of the territories concerned; and that the particular sections of the community upon whom the tax is to be levied should be adequately represented by members from the four territories.

The conclusions of such a Commission would bring finally to this recurrent issue without sense of duress and elected members engage themselves to work in every possible way towards a final agreement.

Elected members are earnest in their desire to bring the current political strife, dissatisfaction and suspicion to an amicable conclusion. They are anxious that the whole energies of the community should be concentrated upon a co-operative attempt to solve the urgent national problems of agrarian reconstruction and defence. They believe that acceptance of the principles which inspire the above suggestions would immediately achieve the desired result.

I have the honour to be,

Sir,

Your obedient servant,

Francis Scott,

Chairman.

This was followed by a letter from the Secretary of State dated the 22nd October, 1936, addressed to the Governor, which reads as follows:—

"Sir,

I have the honour to inform you that my attention has been called to certain reports appearing in the Kenya Press which appear to indicate that the opinion is held in some quarters that a principle has been laid down to the effect that the methods of taxation to be adopted in Kenya should be chosen by the unofficial members. This opinion appears to be based upon the despatch from Sir Philip Cunliffe-Lister (now Viscount Swinton) No. 397 of the 7th of

June, 1933, in the ninth paragraph of which he pointed out that the question then before him was to decide upon two alternative proposals for raising revenue in Kenya and said that 'where the choice lies between alternative means of taxing particular sections of the community that method is to be preferred which is the more acceptable to those upon whom the tax is to be levied'. Further, in the course of debate in the House of Commons, after explaining the proposals and expressing the hope that they would be successful, he went on to state 'I was asked the other day whether the fact that the Government here had accepted these alternative proposals and had authorized their being given a thorough trial was any derogation from the power of the Government here to exercise control. Of course, it was nothing of the sort—I really do not see how that question can arise. I think it is a self-evident proposition that if certain sections of the community are to find a certain amount of money by taxation it is not unreasonable that they should find it in the way that the majority of them prefer to find it rather than in another way which we may perhaps think a better way.'

2. It must be obvious to anyone reading the despatch and the speech which I have quoted that my predecessor had no intention of formulating any new constitutional principle. He was stating what appears to be an obvious fact, that of two alternative and equally possible courses it is usually preferable to choose the one which will most readily be accepted, and beyond that he had no intention of going. His despatch and speech do not lay down any new principle of new doctrine in regard to methods of taxation and there is in my opinion no justification for the view which has been expressed that the Secretary of State accepted the principle that the unofficial community should decide how any agreed amount of revenue is to be raised. The decision as to the manner in which revenue is to be raised rests with the Government of the Colony working through its Legislative Council and it is that Council which enacts taxation measures, subject

[Major Grogan]

to the power of disallowance and to the power of His Majesty in the United Kingdom to exercise control which, as Lord Swinton made clear, is no way modified.

That is again elaborated by another one dated the 20th November, 1936, from the Secretary of State, who wrote:—

"I have the honour to acknowledge receipt of your Despatch No. 375 of the 31st October in which you enclosed, for my consideration, a letter addressed to me by Lord Francis Scott, writing on behalf of the European elected members, together with a covering letter from the Earl of Erroll.

2. I request that you will cause Lord Francis Scott to be informed that I have received and considered the letter; that I have already stated that I am in general agreement with the recommendations of Sir Alan Pim's report, though I have no desire whatever to enter discussion or to seek to make it appear that I had given final and detailed decisions on matters so closely affecting the Colony and Protectorate of Kenya, without waiting for the views of the Government. I understand that the procedure which is being followed in connexion with the Estimates for 1937 is the ordinary procedure—"

interpreted, I believe, by us as a great constitutional advance—

"which is invariably followed under the Standing Orders of Council by which the Estimates will be considered by the Standing Finance Committee. As regards the proposed income tax legislation, I understand that, in accordance with the usual procedure, it is your intention that this legislation, if the proposal to introduce it is endorsed by the Standing Finance Committee, shall proceed in the ordinary way and after passing its second reading be referred to a Committee of Council in accordance with the normal procedure. I further understand that you have never stated it was Government's intention merely to have the Estimates discussed by the Standing Finance Committee without taking any action in regard to the draft legislation which has been published in the Gazette for information.

3. It is happily the case that the financial position of Kenya shows some signs of improvement, but it is necessary to be cautious in the preparation of the Estimates, especially on the revenue side, and I cannot think that excessive caution has been shown in this regard. It will be within your recollection that on previous occasions Government has been accused of framing the revenue estimates in an unduly favourable light in order to disguise the real financial position. I see no more reason to assume that the Estimates for 1937 have been deliberately understated as regards revenue, than to assume that the Estimates a few years ago were deliberately inflated. If the financial position does improve substantially, then Government will be in a position to set aside funds from which the development of the country may be hereafter financed and which will provide a source from which to draw in the event of any setback, due to a fall in agricultural prices, or depressions by locusts, or other unforeseeable causes.

4. I have already, in my despatch No. 837 of the 22nd of October, dealt with the suggestion that my predecessor in 1933 was intending to lay down a general constitutional principle to the effect that the unofficial European community had the right to select the taxation which it should pay, and I do not wish to enlarge further on that topic. I think it well—

and this is important—

"however, to point out that it is quite incorrect to refer to the taxation which was introduced in substitution for income tax as 'emergency taxation.' It must be remembered always that those taxes were a substitute for income tax. When the income tax proposals were submitted to Council and were under consideration, there was no suggestion that income tax was in any way a temporary or emergency measure. It accordingly follows that the alternative taxation which replaced it could not properly be described as 'emergency' or 'temporary'. Indeed I am personally convinced that the introduction of income tax is necessary and desirable in the interests of the Colony."

[Major Grogan]

I would just intervene to say that it was well known here that the proposal to introduce income tax at that time was an emergency measure as a result of the beginning of the crisis, and on the recommendation of Lord Moyne, who was specially sent out here to investigate.

"5. With regard to the suggestion that income tax will fail in its purpose if it is applied in Kenya alone and not in the adjoining territories, I have already been in communication with you. I understand that the territories of Uganda and Tanganyika, as well as Zanzibar, will be fully prepared to take whatever action may be necessary to prevent any evasion of the tax by persons or companies resident in Kenya. I am corresponding with you separately on this point and it is not necessary for me to say any more in this despatch.

6. The appointment of an inter-territorial commission to report upon the proper ratio of direct to indirect taxation could only delay matters without producing any useful result. It cannot be contended that conditions are identical in the various territories in East Africa which are affected; and it must be obvious that the proper ratio of direct to indirect taxation is not a matter which can be settled for different communities, or indeed for the same community in different circumstances, in the same way. I do not see that such an inquiry could serve any useful purpose."

That was so far as that went, and then a whole lot of additional history takes place.

Arising out of that, we have been described as gentlemen who stood pat, and then as a lot of bolsheviks, irreconcilable and impossible people. I do not mind being called that, because it is a most improper term to apply to me, for, as I understand it, bolshevism is simply a system under which an extravagant bureaucracy assisted by alien mercenaries seize authority and proceed at once to exhaust all the people connected with the land, usually to the point at which a large number die of starvation, for the multiplication of urban swarms with not very clearly ascertainable functions. That is bolshevism in practice, and being one of

the destroyed businesses I do not think the term can be applied to me or associated with me.

In dissecting the perfectly sound principles laid down in that correspondence I have just read, what are the principles? What was it we unitedly agreed to stand by in the programme we fought in the country? They were: One, that there should be no arbitrary, inescapable tax without control; secondly, that there was no budgetary need for any such tax; thirdly, that it was entirely unsuitable to local conditions; fourthly, that it was impossible of equitable, successful application without general application to all the territories of the same economic basin; fifthly, that it was improper to introduce such a controversial form of tax on the departure of a Governor known to be a monarchist on the subject and before the incoming new Governor, who would be faced with all the hates, strifes, and furies inevitably derived from a distortion of the pre-existing fiscal system; sixthly, that there was no justification whatever in budgeting for the purpose of building up reserves until the rehabilitation of the agrarian interests had been carried out.

Those were six clear principles which stand out in the despatches sent by us to the Secretary of State and which, I suggest, are a record of good sound statesmanship. All we bolsheviks had done was that we had persisted in our maintenance of those six principles.

I have heard it said that the departure from those principles was statesmanship, great statesmanship. That may be because the interpretation of statesmanship varies with the age. But I do insist that if that is statesmanship on the part of both sides because more desperate discussions, more pitiful discussions viewed as a whole are difficult to imagine—but if that is indeed statesmanship I contend that it is neostatesmanship, and has nothing in common whatsoever with the statesmanship I was taught in my youth, to believe was the special attribute of British people not only in the United Kingdom but more especially functioned in the new world and that consistency consists of holding your honest, genuinely evolved principles against all assault except that of argument.

[Major Grogan]

We then pass on—I am afraid I shall have to take up a lot more time, but I cannot help it—to another phase. That was what led up to Council and discussions here on various transactions that took place in respect of last year's budget. I am afraid that I have got to bore you again, because I was personally attacked by no less a person than the then Colonial Secretary, and it is up to me to justify myself, which I propose to do. When I was personally attacked—I do not mean it in any offensive way, because the Colonial Secretary, at that time Mr. Wade, is incapable of being offensive to anybody or even intending to be—but in his budget speech—I beg your pardon, budget essay—looked at me when he made the following statement: "He obviously intended to refer to me, and I have not the slightest desire to suggest in any way whatsoever that it was not quite properly referring to me. He said—"

"It is a new departure to charge the Government, as it has been charged, with deliberately under-estimating customs revenue so as to manufacture a case for the introduction of income tax. An impeachment of this character calls for no comment from me other than that I am surprised at the facility with which such a charge of wilful misrepresentation can apparently be made, and that it has not the slightest justification."

That was based upon the statements made by me, and by other people; and my colleague made a slight reference to the same thing, and other members made similarly slight references. I said frankly and clearly that my opinion was that the budget had been deliberately faked for the purpose of making a case for income tax. I said it then, and believe it now, and I say without the slightest hesitation that all subsequent facts have proved the complete justice of that extraordinary contention on my part.

The next phase is very interesting and I want to produce it.

After a large number of these meetings in different parts of the country, they culminated in a meeting at Mombasa, always held to be the stronghold of Government, the last refuge for sane police and so on of all those erratic lunatics who

wandered about Mount Kenya, and nothing could possibly be more distressing than if the staunch old bulwark of the coast failed, and so on. Therefore, particular attention was concentrated on the meeting being held, and it is a very curious thing that the day before that meeting, when I was on my way to the coast to address it, that Government established an entirely new precedent as far as I know in the procedure of all British colonies all over the world from the year one.

They produced a special supplement of the Official Gazette which they distributed free, as I understand, with the assistance of police patrols, to all and sundry all over the country. I begged everybody to get a copy of this document, especially as it cost nothing! and put it among their heirlooms and treasure it, because, I venture to suggest, that in due course it will become a historical document. I have the document here: I will not quote it in whole, because its contents are easily ascertainable to anybody, but I will give the reference—Supplement to Official Gazette No. 51 of 13th October, 1936.

It was very carefully calculated out, it may be by intent or accident, but in the ordinary course of events this document would have appeared on the table of every business man in Mombasa on the morning of the particular meeting I was to address. Not being a businesslike person and, not having an office and seldom reading the Gazette, it may reasonably be supposed that I should not see it, and therefore in anything I might say I was obviously going to take some line at the meeting which would be heavily discounted by the contents of this official document.

It so happened that a friend of mine got advance information and procured a copy of this supplement and put it on the plane, with the result that it arrived in Mombasa an hour after I did so that I had two days in which to consider it. On careful consideration I came to the conclusion which every thinking gentleman or anybody else knowing figures would come to, that it was a deliberate fake, because it was—and it is there for everybody to study—a complete misrepresenta-

[Major Grogan]

tion of all factors then known that went to make up the budgetary condition of the country.

There is only one important part that I propose to read:—

"5. The draft Estimates for 1937 which will be laid on the table of the Legislative Council will show:—"

mark you, it was a peculiar thing to publish the essential details of a budget in advance, it is not the usual procedure—

"a net increase in expenditure of some £50,000 and a decrease in revenue of £47,000 consequent on the abolition of the levy on official salaries. Against this adverse balance of approximately £100,000 a sum of £57,000 is estimated to accrue from increased customs revenue. Even if, on the existing basis of taxation, full account is taken of increases in other directions the budget will not balance. On the other hand, if Sir Allan Pim's proposals in regard to non-native taxation are approved a surplus can be shown. The additional revenue will be obtained to a very large extent from absentee shareholders and others who have hitherto not contributed towards the revenue of the Colony."

It starts off by saying—and I want special attention paid to this:—

"With a view to the removal of certain misapprehensions which appear to be current, the following particulars in regard to the financial position of the Colony are published for general information."

That pre-cast of the budget and the figures given worked out wrong to the extent of £47,000.

This misapprehension could only have referred to statements made by those of us who went up and down the country pointing out what the intention of Government was. The very first of these meetings to which I had the honour of being invited was by my hon. friend the Member for Ukamba (Sir Robert Shaw), who is not here today. I was invited by him to address a meeting of his constituents, and this is what I said, referred to afterwards as misapprehension. I think everybody agreed it was a very proper

thing for me to have said; and entirely justified by subsequent events:—

"Major Grogan pointed out that the fall in customs receipts as between 1929 and 1936 was nearly £300,000 and the increasing mass of exports coupled with the rising price level would soon recover that amount. He had no hesitation in asserting that the Government did in the early '30s, despite the warnings of the elected members deliberately over-budget to retain their position and were now deliberately under-budgetting in order to make a case for the conversion of temporary emergency taxation into permanent and easily extensible taxation. Without hesitation he would remit the whole of the emergency taxation including the levy amounting in all to £150,000. A remission of £150,000 of direct taxation would certainly induce an increase of at least £75,000 in indirect revenue, because (even if the great ones did not realize the fact) the left hand and the right hand trousers pockets drew their inspiration from a common banking account. This coupled with the £100,000 surplus already assured, would balance the budget and provide a surplus over and above the assured increase of revenue from normal indirect sources."

I submit that that was not a very offensive statement; a statement entirely substantiated by everything that has happened since.

That is how things went at that time and, realizing it, I talked some pretty harsh stuff at Mombasa I can tell you! I do not want to quote that, but I do want to give Government the impression that I am a rather kindly person really, although it is not generally realized (laughter), and I hate to believe this Government does things dishonestly, and I do not believe it is the usual procedure. Therefore, when I have every possible ground for believing that kind of thing I can be proportionately indignant.

Fortunately a year has passed away, and all signs of indignation and bitterness have passed away, and I can refer to these things quite dispassionately. At the same time, having had a statement made by no less an authority than the Colonial

[Major Grogan]

Secretary, I contend I am entitled to justify here to the full my reasons and actions on that occasion:

In order to give Government an opportunity of withdrawing from the impossible position they had created for themselves by this very, very improper misuse of the Official Gazette, I asked the following question (which appears on page 337 of Part I of Volume II of Hansard, 1936):—

"With reference to the Supplement to Official Gazette No. 51 of the 13th October, 1936:—

(1) What were the 'certain misapprehensions' which it attempted to remove?

(2) Upon what precedent did Government or any member of Government responsible for the proper use of the Official Gazette rely on prematurely disclosing essential items of the budget for the avowed purpose of influencing public opinion, whereas in ordinary practice the draft Estimates are not even submitted to Executive Council? (vide Fin Report, section 135).

(3) Whereas the net increase in Expenditure of £50,000 and the estimated increase in Customs Revenue of £57,000 (disclosed in paragraph 5) related to the revised estimates (disclosed in paragraph 2) indicate a gross surplus of £94,500 which, after deduction of £47,000 consequent on the proposed abolition of the levy on official salaries, leaves a net surplus of £47,500, by whom, on what authority, and how, was the conclusion that 'even if on the existing basis of taxation full account is taken of increases in other directions the Budget will not balance' reached?"

Instead of the Colonial Secretary taking my opening and saying "Sorry, we were a bit behind in keeping pace with the happenings in the world, of stocks going up in this direction and production going down, instead of that we produce this document and have been a lot of damned fools," if they had said that there would have been nothing more to be said, but this was the answer:—

"(1) From the reports of meetings and other publications in the press of the Colony, Government was satisfied that certain misapprehensions as to the financial position of the Colony were current.

(2) The Official Gazette is a Government issue and Government reserves the right to publish any matter which it considers to be in the public interest. In the present instance it was used to acquaint the public with the true financial position of the Colony.

(3) The statement that 'Even if, on the existing basis of taxation, full account is taken of increases in other directions the Budget will not balance' was made by Government as an authoritative statement of fact, which was arrived at by ordinary arithmetical methods.

The hon. member will be able to analyse the figures by reference to the draft Estimates for 1937 which have been laid on the table."

My original statement was a perfectly simple one: we contended that all emergency taxes should be removed without any substitution for them whatever, and a substantial surplus was assured.

Well, Sir, on the same day in the debate that took place on the budget, I suggested as follows:—

"I know that our powers of recuperation after a long period of stress are extraordinary—and I have no hesitation whatsoever in asserting that there will be without question on these figures a surplus of at least £100,000 and probably £200,000."

That shortly is our justification and my justification, and the justification of course is complete for this reason. We now have the figures. There is no suggestion that it is not the right amount, it is already accepted.

To that estimated net surplus of £129,000 you have got to add an estimated increased expenditure of £60,000, which brings the total surplus over and above the estimates of £190,000, which is within £10,000 of my prediction at that time.

The lesson remaining in my mind is that after that debate, which did not last very long, the Council went into special

[Major Grogan]

and within a very few days of the Colonial Secretary's answer which I have just read out it was agreed that the estimates had been materially underestimated, the revenue, and that there would undoubtedly be a surplus of at least £100,000. Nothing could have possibly happened in that week, so that I say it was entirely improper that that procedure should have been adopted, and I say without hesitation that all subsequent events proved it, because even after the £100,000 was found and the ordinary citizen had imagined that the controversy had blown away, they again faked it by re-introducing the native taxation question, which swept away the surplus available for the elimination of income tax. It may be coincidence, but the present budget repeats the same procedure, but I will absolve our hon. friends of any similar intention. I think it is probably merely a coincidence.

The arguments went on again, and in order to come to a conclusion—after all what we want to find out was, what was the purpose of Government in trying to force the measure on this country? We were entitled to know, and no satisfactory answer or reasons were given at the time. To give Government every possible opportunity, I had the temerity to move a motion in this Council to the effect:—

"That income tax as a method of taxation is not equitably applicable to the present conditions and circumstances of Kenya."

That provoked an interesting debate in which I had the opportunity of detailing an enormous number of the reasons why it is not a suitable tax for this country. I wanted to give Government the opportunity of stating their reasons for enforcing this programme on the country. The only thing I succeeded in doing was in attracting one or two ornithological observations from the present, Attorney General which were not very relevant to the main issue, and if you have occasion to read that debate you will agree that not one single one of the points was answered or a single point made for the introduction of income tax into such a country as this. And that was the sole purpose in moving that motion.

When you come to the question of income tax itself, it was stated by me at that time, and I had the best possible authority, that I did not believe it was suitable to this country, and the reason that led to that belief was not only my own knowledge and experience but I was also supported by the testimony of a revenue officer out here in the early days when we had income tax. I said then that in my opinion it would cost at least £30,000 to apply any income tax equitable to the special conditions of this country. Then the Treasurer in debate—and this is where I have got my hon. friend the Colonial Secretary—stated that this figure that was put down at £3,000 was the estimated cost of the collection of income tax, which of course was an entirely improper figure to have put down, because there ought to have been put down not £3,000 but all the cost as well of collecting the other taxes for which income tax was the substitute.

I do not know if it was a deliberate misrepresentation, but it misled a great many people, though not me. I think these things ought to be carefully prepared, and it was an entirely improper figure to put in, and it was put in in the introduction of the first Income Tax Bill. My hon. friend the Colonial Secretary tried to get out of that the other day, or the gentleman who wrote these things for him, by saying that this increased cost as shown in the present budget was because of the change in the Bill itself. I should have thought that the more people who were cut out of the Bill the cheaper it would be to collect the tax. However, I will not stress that argument, but will refute him completely with a quotation from the Treasurer in the last debate.

If you look at page 995 of Hansard (Part 2 of Volume II, 1936), you will see in connexion with the last debate that ever took place on this income tax; after the arrangement had been reached whereby the application of it was going to be reduced to a relatively small number of people, and in reply to my speech on the subject in which I said that £30,000 was the proper figure, he said:—

"As regards the cost of administration of income tax I know the figure of £30,000 is fantastic, as not more than

[Major Grogan]

1,000 to 1,500 people will pay the tax and a very large proportion of them will be salaried people whose chargeable income can be very easily ascertained. I believe the figure of £3,000 which appears in the Estimates is a very proper figure, particularly having regard to the fact that the Revenue Office is already in existence."

My hon. friend the Colonial Secretary excused and gave an apology for that, but I absolve him from any desire to mislead or confuse the community.

I want to pursue that matter of the cost, because I have been studying the budget and comparing it with the proper comparison, the cost of the Treasury and the Revenue Department last year and now and before the introduction of any of these emergency taxes. All these figures are pretty skillfully disguised, and it is difficult for simpletons like myself to analyse them satisfactorily.

Take the year 1931, the year before the introduction of the emergency taxes, the cost of the Treasury and Revenue Department—I am quoting Sir Alan Pim's appendix—was £26,407; in 1936 the actual was £28,915, and the estimate before us for 1938 is £36,928.

I suggest that the proper basis of comparison is between now and 1931, where you will see there has been an increase of £10,500.

It may be argued on the other side that that is not a proper comparison because the country is now much bigger and the revenue greater and it costs more to collect, and so on. But that argument is cut from under your feet, for I have selected a comparable period, and a properly comparable period, because if you look at 1931 you will find the estimated gross revenue to be collected then was £3,515,000 and the estimated gross revenue in 1938 is £1,576,000. So that to all intents and purposes they are the same figures. And if it only cost £26,000 to collect that amount then and it is now estimated to cost £37,000 to collect this now, I am entitled to assume that since it is the only differentiating factor income tax is the responsible factor.

If you look at the stationery amount, which is disguised all through the

picture, there is a rise of £4,000, and not even the present Colonial Secretary can persuade me or any business man in the country that it is due to any increase in the price of paper!

However, roughly speaking I get at this: that the increase in the cost of these two heads, only attributable to income tax, because no other new factor has intervened, amounts to £14,500, which is roughly 35 per cent of the estimated amount to be collected, whereas customs duty is to be collected on a basis of 4 per cent. I have no means of estimating what the cost will be to the community paying it or not, as the case may be, but I have no doubt whatever from my own experience and knowledge of business affairs that it will cost the country at the very least another £15,000 to produce their accounts, so that nobody can pretend it is a highly profitable investment and a suitable tax on this country nor that our strictures on the last occasion were not justified.

In the matter of income tax and its principles we were told that it was a matter of Imperial policy. The present Secretary of State said it was part of Imperial policy, the previous Secretary of State told me quite emphatically in the presence of a large number of witnesses it was not so at all, but it will be extremely interesting for us to find out whether it is in fact Imperial policy by watching carefully what procedure the Imperial Government propose to take in respect of Palestine. They did propose this standard Colonial Office income tax to Palestine, but it was rejected promptly as it was here, and if it is in fact Imperial policy it will be very interesting to see whether, having successfully imposed it on us, being reasonable gentlemen who do not walk about with guns, they can impose it as an essential part of Imperial policy on those extremely unreasonable people who do walk about with guns. I shall watch with great interest to see.

I say without the slightest hesitation and with some knowledge of the business affairs of the country, that already the effect of income tax has put up the rate on which people can borrow money in this country by 1 and 1½ per cent. It was contended, of course, that large sums of

[Major Grogan]

money would be paid by absentee shareholders. There was a notice in the Official Gazette the other day absolving all holders of Government loan from paying income tax in Kenya. Everybody conversant with the tax knew that would happen. It is entirely improper, but it has been done for the reason which I have not verified but which I think I am correct in saying, that the loans current in Kenya to-day, or two or three of them, contained a specific clause in the prospectuses exempting the interest from local income tax, I believe, I have been informed by reliable parties, that the two main loans had no such condition, and therefore, if it is the practice in the London market to put in that exemption it can hardly be maintained under prospectuses in which that clause did not appear, and is not thus the prevalent and universal system.

The simple fact is that when it comes to the question of issuing stock in this country for the benefit of London all is well, full speed ahead, but why a great trust company which lends money with the absolute security of the Government of the country should be exempt from the tax and some simple citizen who lends at a low rate of interest in this country to develop a farm has to pay the tax passes the wit of man to understand.

As far as absentee shareholders are concerned, to my knowledge an important concern in this country which has already lost colossal sums of money, has a debenture issue of nearly half a million of money. The interest on that payable in London is exempt from income tax in this country, and I know they have refused to pay, and I am perfectly convinced they are right in refusing to pay. What that means, of course, is that this is a slapdash, haphazard bit of legislation which will have to be revised and revised *ad infinitum* in principle before ever it will fit all the complicated positions in this country. I have already pointed out two cases of inequity in its effect and it is perfectly obvious that it raises the old difficulty of who are residents and who are not. Of course, quite a considerable number of people who are in fact or would be residents are readjusting their movements to fit in with the fiscal circum-

stances of the country, by which this country not only gets no income tax but loses the indirect taxation that they would pay in the period they are here.

The budget does not really show the real position of the country, and probably it is not intended to, because it is a very curious form of keeping accounts. I am not making any suggestion, for I realize this is the standard method, probably evolved in that great centre of wisdom, the Colonial Office, of budgeting which is supposed to disclose the real position of the country. It does nothing of the kind, and everybody knows that. The only point I want to raise on that in this budget, as in all our budgets, there is a large amount of disguised revenue which never appears at all, and no credit is taken for that, and people are told the budget does not balance when in fact it does.

I have worked out several factors to show the money paid to sinking fund as expenditure, is ludicrous; it is not expenditure, it is investment. The figures make up a very large amount, £172,000. Set off against that are substantial reimbursements, but the net amount which is shown on the expenditure side of the budget in respect of colonial sinking fund is a sum of £39,387, or £40,000. It is not shown on the revenue side of the picture at all, only on the expenditure side. Therefore it creates an entirely false impression. If we want to know whether we are solvent or not you should show it, and take it into account on the revenue side.

What we do is we allow our citizens to be plundered by that model gentleman opposite who represents the Uganda Railway of fantastic amounts of money. We cannot help ourselves, and it is nothing to do with him; it is the system of imposing sinking fund on capital funds, and these funds, paid by this community, amounting to £172,000 in all, are entrusted to the General Manager to invest on our behalf, presumably in the City of London in some low-rated thing, with a deflationary effect on this country. But it is the revenue of the country; and that should be made perfectly clear. The other is not shown at all.

In addition, if you examine the Public Works Department and Post Office Extraordinary, totalling £70,000. It is difficult

[Major Grogan]

to analyse the items, but you can take it as quite certain that out of that £70,000 for extraordinary expenditure at least £35,000 represents capital investments in new and permanent assets. Merely dealing with the colonial sinking fund and those assets, there is a total of £75,000 which ought really to be shown on the revenue side if you want to get the idea that the country is solvent.

It has been suggested that this matter of income tax ought to be given a run, that is the current phrase I believe, and that after having been given a run there should be some sort of inquiry to see how far it has run and what has happened. I suggest for the consideration of Council that there is a pathological condition of individuals, and incidentally of countries, known as "General Paralysis of the Insane." The initial stages are very difficult to diagnose. The origin of it, I believe, is well known, but in the initial stages it is difficult to detect. If it is allowed to proceed to the point where it becomes obvious, it is difficult to cure. The natives of Africa, curiously enough, did evolve a cure. They took the paralytic insane individual and threw him into a swamp to be bitten by mosquitoes! That procedure is, I believe, recently copied by our learned friend the Director of Medical Services and his confreres in the medical profession. It looks to me as if we were liable to be subjected to the same treatment!

I am going to be a very long time, Sir, and am rather determined in this because certain matters must go on record. Now I am compelled to go back to this lamentable obligation of reading a lot of documents.

As a result of all that enormous discussion, the final action was a letter addressed to the Colonial Secretary by Lord Francis Scott, which reads as follows. This is a very important document, because it is quite peculiar. I should think, in the history of the British people. This is in respect of the so-called compromise agreement, whatever it may be.

"Sir,

I have the honour to confirm here-with the following cable which I handed

to you personally on the morning of the 16th of December, 1936, for transmission to the Right Hon'ble the Secretary of State for the Colonies:—

"After the most careful consideration and because of their earnest desire to bring finality to political strife, majority of European Elected Members are prepared to accept the compromise terms agreed to by the Kenya Government and will not oppose the proposed fiscal change provided that assurances on two points are given by the Secretary of State. Firstly they request he give an assurance that the new Governor will be instructed to explore the possibility of changes in the constitution which would result in the unofficial community being far more closely associated in the responsibilities of Government. Secondly, that some safeguard be forthcoming so as to ensure no further departure from the Moyne formula resulting in increased non-native direct taxation to support increased Native Services. Lastly, they stress, most strongly their conviction that unless an income tax is imposed on the adjoining territories this measure must necessarily bear unfairly on and to the detriment of Kenya.

I have also to inform you that I have been requested by the European Elected Members to amplify their views contained in this cable, with the request that these be forwarded to the Secretary of State.

European Elected Members must protest most emphatically against the manner in which the Secretary of State appears to have prejudged the whole position in spite of his assurance that he would await the report of the Standing Finance Committee. Their attitude has been brought about by the fact that they have been informed by you that he has stated his intention of implementing the recommendations of Sir Alan Pim in reference to native taxation in full. Such implementation entails the consequent imposition of an income tax, the burden of which will fall almost exclusively on the Europeans who are either resident in the Colony or who

[Major Grogan]

have invested money here for the development of the country. In brief, Native Services are to be continued and even increased, whereas Native Taxation is to be reduced, and the resulting difference is to be borne by the non-native population. The Moyne formula being thereby rendered entirely inoperative. They hold that as a result of the deliberations of the Standing Finance Committee no case can now possibly be made out from a financial point of view for the imposition of an income tax in view of the fact that the revenue from such a source is unnecessary for budgetary equilibrium. The revenue accruing therefrom can only be regarded as a gratuitous gift to the native population in spite of the fact that the most experienced officers of Government have given their carefully considered opinion in the Report on Native Taxation that the natives are not over-taxed and can reasonably and fairly produce the amount of taxation estimated for in the 1937 Budget. Should the Moyne formula be continued, and any departure from it has never yet been suggested, and should the Pim recommendations be implemented, the corollary must necessarily be a considerable reduction in Native Services. If, however, this policy is not adhered to, the European Elected Members are most apprehensive as to the ultimate results, should Native Services be increased indefinitely, native taxation reduced and the balance found by increased taxation on the non-native community. They maintain that they have adequately proved their case, that they have put up a soundly reasoned proposition, and they are still prepared to have the whole question of the proportion between direct and indirect taxation thoroughly examined at the earliest opportunity. It appears, however, that logic and reasoned arguments no longer prevail. Elected Members are therefore reluctantly prepared to go as far as possible to meet the difficulties of the local Government in an earnest attempt to bring this ever present political controversy to finality. They insist, however, that some measure of security for the people they represent

must be forthcoming. They state that they are prepared to accept the compromise terms agreed to by the local Government which may be summarized as follows:—

1. That Native Taxation be reduced by £25,000.
2. That the Non-Native basic Poll Tax be reduced by Sh. 40 per head (i.e. basic Poll Tax for Europeans to be Sh. 40 and that for Indians to be Sh. 30), thereby reducing the estimated revenue from this tax by approximately £12,000.
3. The reduction of 10 cents per gallon on petrol, and
4. The imposition of an Income Tax to produce £42,000 per annum, with a proviso that they receive assurances from the Secretary of State on two points: Firstly, that the new Governor will receive instructions to explore alterations in the present Constitution in such a way as to associate the unofficial community far more closely in the responsibilities of the Government of the country. Secondly, that some assurances be given with regard to the question of Native Services and taxation in relation to Non-Native Taxation. Whilst being desirous of assisting in every way towards the betterment of native welfare, they insist that some safeguard is necessary to prevent the non-native community from bearing an undue proportion of taxation for the purposes of supporting increased Native Services, and urge that there be no further departure from the Moyne formula in this respect.

In conclusion, they feel most strongly that unless an income tax is imposed simultaneously on the adjoining territories it must necessarily, for the reasons contained in my Despatch dated the 31st October, 1936, to the Secretary of State for the Colonies, bear unfairly on, and to the detriment of, Kenya. Should such assurances not be forthcoming, I regret that the European Elected Members will have no alternative but to oppose the Government's proposals, and I trust that in view of the reasonable attitude set out in this letter, their proposals will receive your sympathetic support.

[Major Grogan]

Major the hon. E. S. Grogan, the hon. E. H. Wright and the hon. F. A. Bemister, wish to have their dissent recorded to the cable cited in this letter and to the conclusions on the following grounds:—

1. That no finality in political controversy can be achieved by agreeing to inequitable proposals because 'logic and reasoned arguments no longer prevail against the dictating party.

2. No 'assurance' from a Secretary of State has any permanent validity as exemplified by the present Secretary of State's repudiation of (a) the agreed Moyné formula, (b) Lord Swinton's statement "when the choice lies between alternative means of taxing particular sections of the community that method is to be preferred which is the more acceptable to those upon whom the tax is to be levied" in his Despatch of June 7th, 1933, (c) the fact that the Graduated Poll Tax was agreed to as a substitute for income tax on the grounds that the imposition of such additional taxation was temporary and only for the purpose of meeting the then emergency.

3. The proposal to superimpose income tax on the existing system and incidentally the proposal to reduce the tax on petrol and the basic poll tax are not in conformity with Sir Alan Pim's proposals and arguments in paragraphs 382, 383, 384 and 385.

4. The suggested compromise represents a complete stultification of the local Government, of the attitude hitherto adopted by the Elected Members and, incidentally, of Sir Alan Pim."

I suggest that this is a document that should go on the permanent records of the country. It is a lamentable document, and an insult to both parties, called a "gentleman's agreement", but I suggest that it is very difficult to find the gentleman in the vicinity (laughter).

There is the Secretariat's reply to this. The Noble Lord, the Member for Rift Valley, informs me that the despatch of the 30th December was read out the other day.

LORD FRANCIS SCOTT: One paragraph was not read.

MR. ISHER DASS: It is a quarter past one, Your Excellency, and if the hon. member wishes to continue perhaps he can go on tomorrow?

HIS EXCELLENCY: I think that in view of the slowness with which the debate is proceeding, we must continue, otherwise we shall never get through the work of Government at all. I wish the hon. Member for the Coast to continue.

MAJOR GROGAN: This is addressed to the Chairman, Elected Members Organization, by the Acting Colonial Secretary, and reads:—

"With reference to your telegram of 15th December to the Secretary of State, I have the honour to inform Your Lordship that the Secretary of State has replied to the effect that—

(a) He has agreed to the settlement recommended by the Standing Finance Committee;

(b) In connexion with native taxation he recognises that revision of the age minimum is an important step, but regrets that the Committee have not found it possible to propose the acceptance of Sir Alan Pim's recommendation regarding multiple huts, and stipulates that the matter must not be lost sight of and must be taken up again and fully considered in 1937 with a view to the reforms being brought into operation a year hence if the general overhaul of native taxation advised by Pim cannot be carried out by then;

(c) He had already intended that the new Governor should be asked to consider how Executive Council could be made more convenient in working and more useful as a means of association with unofficial opinion. It should be understood, however, that the responsibility of the Government of Kenya must be through the Secretary of State to the Imperial Parliament and he is not prepared, and indeed is unable, to agree to anything which would be inconsistent with that responsibility. He does not propose to make any changes in the composition or powers of Legislative Council.

(d) In regard to the Elected Members' representations on the subject of Lord Moyné's formula, they may be

[Major Grogan]

assured that their point of view will be borne in mind as the question arises regarding provision for native services, but he trusts that they will not press for a new hard and fast limitation on this subject. They will recognise that circumstances might well arise, such as an increase in prosperity leading to a large increase in the yield from native taxation, which would make such a limitation of native services both unreasonable and unnecessary.

(e) He will not fail to give weight to the Elected Members' views that income tax in Kenya should be followed by income tax in the adjoining territories. No change, however, can now be made which would affect the budgets of those territories for 1937; moreover, the enactment of income tax in those territories must depend on local conditions. Their Governments have undertaken to take such steps as may be necessary to prevent evasion of Kenya income tax.

In ordinary vulgar parlance that would be described in gardening circles as a lemon!

Turning to more pleasant matters, it was with much relief that I heard the remarks of the hon. the Treasurer, because they were certainly wise remarks. If I may venture to say so, in method, manner and matter they were a welcome change to those of last year. But I beg him to remember one thing when he talks about equalization and getting on to an even keel, all of which is within reaching distance: we have got to decide what is the keel, and to bear in mind the outstanding fact from all these last disastrous years, that Government, plus the Railway, which is a taxing medium, have extracted no less than five millions of money from the pockets of the taxpayers of the country, from the capital development of the country, over and above the fact that the country, out of its resources, has met further taxation for recurrent charges through all those desperate days. That is an astounding financial record, and we never defaulted one farthing.

He must not imagine for one moment that that has not had a remarkable result, at the cost of intolerable suffering on the

part of a very large number of people. If he has not read it, I would refer him to the report of the Indebtedness Committee, which shows what a desperate plight a large proportion of the agrarian element in this country were in and still are.

My own opinion about this budget is that it is a pitiful effort, it is an unimaginative budget, containing nothing to stimulate anybody. I recognise that it would be unreasonable to expect from you, Sir, any clear indication of policy, constructive policy, because it would be absolutely useless for anybody to come here and get a clear grasp of all the complicated history and tissue of problems with which the country is faced, and extract from them some clear cut vision of what should be done on any very large scale. But what I am confiding in this, and I am not casting any reflections whatever on you, Sir, or any of your servants who assist in formulating the budget, that the most remarkable thing in view of the international position this country has found itself forced into, is that no intelligent interest has been taken by the Imperial Government in the affairs of this country which ordinarily should have transpired in the present budget.

Everybody who takes an interest in these matters has some idea that something quite elaborate is going on in the Northern Frontier. I had the opportunity a day or two ago of discussing what was going on there with an important Italian gentleman who had come back from that part. He assures me that his government is building something in the vicinity of 1,500 miles of tar-metalled roads with a double track to take 10-ton lorries, and are spending up to £10,000 per kilometre on some sections of that road policy, because they have a railway system, which does not carry a very large amount, so that they rely on the road traffic, and have put in enormous units. That is the essential foundation before they start on large scale settlement.

There is no question whatsoever that we are now faced with the actual preparation of the first stages of the most gigantic effort at constructive and effective settlement that the world has ever seen, and as against that, in view of the general international position, I expected to find

[Major Grogan] in this budget some item of at least five million pounds from Imperial sources in order to do something comparable to pave the way for the proper development of this country. Instead, what do we find? merely, the same old blood-sucking process going on, of the Railway sucking another £300,000 out of us, the country haggling over a £45,000 tax, and not a single constructive suggestion in the whole thing.

It is called a consolidating budget. What does it consolidate? It consolidates a system whereunder the people who provide the foundations of the country are to-day debt-logged almost beyond escape, overtaxed beyond all sort of relief and, generally speaking, in a very very insecure position, and there is nothing to remedy it. I know that it is not within the resources of the Colony itself to do anything dramatic, but one did imagine that at least the Imperial Government had woken up to the fact, or the local Government had drawn their attention to the fact that this country had assumed a strategic importance not conceivable in the past, and that unless something was done on a large scale to consolidate and extend while settlement in this country they would fall in their obligations to one of the vital outposts of the Empire.

There is, we all feel, a lack of sympathy for us and our efforts in this country. I do not say among the gentlemen opposite, because that has largely disappeared, but there is assuredly in the Colonial Office. I will only make one more quotation before, with general relief, I sit down, and that is a quotation from a despatch, also from the present Secretary of State, of the 26th July, 1936 referring to the bond scheme sent home from here with the idea of consolidating the debt position of the agrarian interests of the country in conformity with what had been done by practically every other country in the world. This is the extract from the despatch, which shows the measure of sympathy in the Colonial Office for the people who have made this country and have maintained this country and its occupants all through these last perilous times. It is unbelievable, but there it is in cold print:—

"So far as the farmer community is concerned I would observe that the main concern of Government is in the existing estates being maintained in cultivation, rather than in their remaining in the present hands."

I submit that that is one of the most bitter things ever written in a public despatch. If anybody had any sort of conception of the tribulations, sufferings, misery and despair the people of the country have gone through in the last 10 years to carry on with terrific overheads and fighting against fantastic odds, it is this very Colonial Office, and we are entitled to mistrust that institution; I do profoundly. I say that if that institution is not exposed and these facts not brought to the general knowledge of the world, if it is not subjected to superior interference on the part of greater authorities, it will destroy, and it would like to destroy, the only possible chance this country has got of becoming a vital, important outpost of the Empire which depends entirely on the measure and strength of its white occupants.

I believe we have emerged from a period when logic and reasoned argument have ceased to prevail and are passing into a new era under your aegis, Sir, when logic and reasoned argument will be of great significance.

I am going to suggest that it is high time—referring to income tax for one moment—when it is absolutely essential that we should reconsider here and now the case not only of income tax but of its contained capital tax. It is true you have got to budget for an ostensible surplus, and the object is to consolidate the finances of the country; in other words to take out of profits and put into reserves and the reduction of debt. That is good and sound policy for the country. Is it not good and sound for the individual? and everything possible should be done to enable the individual to do that because the whole country is still debt-logged. The foundation policy surely is to consolidate the position of the individual as distinct from general trade. There must be allowance made for depreciation, and of you are wise you will introduce an allowance and remit all payments of income tax if they are allocated to the

[Major Grogan] reduction of debt. That is all I have got to say on that.

I lament very much and regret these continual references to Uganda and Tanganyika Territory and income tax. I trust sincerely that nothing will be done in this country or by anybody in it to attempt to inflict this beastly disease upon those unfortunate people. It was laid down by no less an authority than Mr. Calder of the Colonial Office before the League of Nations that it was entirely unsuitable for Tanganyika; it was laid down by the present Treasurer for Uganda that it was entirely unsuitable there. Why should we try and compel or force or take any steps whatsoever to induce the Colonial Office to inflict on them a policy which they have inflicted on us for spite, and for no other reason in the world. If there was any other reason they had ample opportunity of disclosing it in this Council, but no other reason was disclosed.

That is all I have to say, and I am sorry that I have kept you a very long time, but I did think it essential that these vital ingredients in the history of the country should go on permanent record. I can only repeat what I said in my peroration on the last occasion: I am an Irishman, and I believe that logic and reasoned argument do in the long run prevail, and I am perfectly convinced that under your aegis they will do so.

The debate was adjourned.

ADJOURNMENT

Council adjourned till 10 a.m. on Wednesday, 17th November, 1937.

Wednesday, 17th November, 1937

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Wednesday, 17th November, 1937, His Excellency the Governor (Sir Robert Brooke-Popham, G.C.V.O., K.C.B., C.M.G., D.S.O., A.F.C.) presiding.

His Excellency opened the Council with prayer.

MINUTES

The minutes of the 16th of November, 1937, were confirmed.

DRAFT ESTIMATES, 1938

REFERENCE TO STANDING FINANCE COMMITTEE

The debate was resumed.

MR. ISHER-DASS: Your Excellency, I cannot help but offer my sincerest congratulations to the hon. Member for the Coast (Major Grogan) for his most interesting, forceful and eloquent speech which he delivered yesterday. I can assure him it was not boring at all but most interesting and however much I may differ from him I can assure him I would protect his right of saying what he wants to say.

In my opinion, he has said a lot, but nothing new which was not said in 1936 and which has not been answered from this side of Council. I very respectfully, as he is an older man than I am, do suggest to him that he should now leave this question of income tax and devaluation of currency to future historians to decide which attitude, anti-income-tax or pro-income-tax, is right. No amount of agitation would do any good to the country as a whole.

As to the hon. member's attitude to his colleagues, I suggest that it does no harm to anyone to face the music.

I have one word to say about the hon. Member for Kiambu (Major Riddell). I have no intention of causing him any excitement, because I am glad to see him back in this Council after his serious illness. All I would say is that he is absolutely wrong in suggesting that the Indian members have never thought of voting on certain things with the European members. We have on different occasions—

MAJOR RIDDELL: On a point of order, I did not say that. To the best of my belief, the Indian members have never voted with us when we voted *solidly* on anything.

MR. ISHER DASS: I wish to tell the hon. member that as he has been in India he would have known our traditions. We are always willing to co-operate as much as we expect other people to do the same. We believe in reciprocity, and if he or his colleagues suffer from a superiority complex and expect us on this side of Council to bow to their decisions, then he lives in a fool's paradise.

Let us forget for one moment the most impressive essay delivered by the hon. the Acting Colonial Secretary, and let us face the facts as practical and business men, so far as the whole situation is concerned. Instead of treating it as the subject of a mere essay, let us for one moment take it that the Government of Kenya is run like a business concern, run by a board of directors consisting of 20 members with yourself, Sir, as chairman of that board, with three millions of Africans, 40,000 Indians, 18,000 Europeans, and 3,000 others as the shareholders who are represented here by the unofficial elected and nominated members on this side of Council.

As business people, the first thing in all ordinary businesses is that the directors are as a rule responsible to the shareholders, but in this case the position is very different; they are not responsible to the shareholders at all, and, in fact, they are a class of their own. At most times many of them behave as if they were super-human beings, and not as if they were public servants, which they ought to be.

I have had the honour of attending this Legislative Council for the past three years, and this is the fourth occasion upon which the hon. the Colonial Secretary has presented his annual report to the shareholders, and we have as business people to treat the whole matter in that light.

To begin with, he has given us to understand about the so-called prosperity of Kenya. I wish to inform him here and now that it is all very well to talk about the prosperity of Kenya, but this is not

the truth, and I wish to tell him that you can always fool some people all the time and all the people for some time, but you can never fool all the people for all the time.

He tells us that the country has improved a lot. If he only confend himself to the words "will be improved and things will probably be better" it would have been all right, but when we hear from him "prosperity" it means that our financial troubles are quite over and that we have entered into a new era. With 17 million pounds of debts hanging over the heads of the shareholders in this country bearing interest that no other country can ever afford to pay, you cannot call the situation anything more than "will be improved," for you cannot call it prosperity.

No business concern would pay that interest and still talk of being prosperous. If you paid off your debts and still left a little in your purse, then only can you think we have entered into prosperity. But we have recently passed through a very serious period of depression. What happened? The members of the board of directors showed their attitude by not agreeing to any suggestion of any sacrifice of the wages they received. In 1934 and 1935 I appealed to Government that the wages paid to heads of departments were out of all proportion to the wages paid to heads of departments in other countries, where they actually had to bear more responsibility than the heads of departments in this country.

I went so far as to suggest that even the Governor of this Colony was paid £5,000 as against £3,500 paid to the Prime Minister of the Union of South Africa, and in addition received £2,500 as a duty allowance, which includes £1,000 as High Commissioner for Transport. Under no circumstances could this country afford to pay such an amount of expenditure, and I appealed to Government that it was high time that they should point out to the Colonial Office the desirability of reducing this amount of expenditure, for it was out of all proportion. But no action seems to have been taken, everything was ignored by the board of directors, because they are not responsible to the shareholders.

(Mr. Isher Dass)

Considering the budget itself, the draft Estimates for 1938, on page 14, under the heading "Customs and Excise," item 5, tobacco, we see increased revenue anticipated to the extent of £10,000. Under class 3, "Articles wholly of mainly manufactured," item 7, cotton yarns and manufactures, you expect an increase to the extent of £17,000; under 8, other textile manufactures, an increase of £6,500; under 10, vehicles, you expect an increase of £14,500; under 12, miscellaneous goods, you have budgeted for a £30,000 increase in revenue. On page 15, under native hut and poll tax, you expect to get £14,000 more in revenue.

On page 16, you expect to have an increase of £1,500 from the European school boarding fees, and £1,750 under item 19, boarding fees, Arab and African schools; under item 25, registration of domestic servants, you expect £1,150 more; on page 17, item 2, Prison Industries, you expect £2,500 increase, and on page 18, Head VI, item 1, Rents of Lands, you expect £7,250.

That means, taking the total revenue that you expect under these few heads to get £106,150. This imaginary increase, if deducted from the net increase, will leave only £48,395, against which your Government and the hon. the Colonial Secretary have definitely told us that they are budgeting for an extra expenditure of £155,805.

I ask in all earnestness, is this the way this business is supposed to be carried on, with an imaginary revenue of £106,000? If I could take it for granted that you could realize 60 per cent plus the £48,000, it does not come to the extra expenditure you have budgeted for in excess of this year. If I were so optimistic as to expect that 80 per cent of this revenue would be realized, we would be near to the total expenditure for 1938, but these figures are placed before Council and we are told it is prosperity.

On the other hand, as the Noble Lord and other members have suggested, the Government should have thought fit to reduce expenditure and not increase it against the imaginary increase in revenue, who knows whether it would be realized or not. But you are having certainties against uncertainties.

A good deal has been said about these complicated figures, and it is no use repeating it, but I will refer to two items only, and say it is very strange that, in the presentation of the report by the board of directors, the mover thinks fit not to explain certain facts and leaves it entirely to the shareholders because he thinks they can never get to the bottom of the truth. Here I will refer to page 27.

On page 27, under personal emoluments, item 12, in 1937 there were 115 Asian clerks, and in 1938 there is still the same number; no increase or decrease, and this includes pensionable posts, ordinary increments, and everything, but the funniest thing that there is shown against this item a decrease of £613. Despite the fact that the same number of people are shown for 1938, it is a very strange coincidence that there is to be a decrease in expenditure of £613. I think the hon. mover probably knows that this is a trick which can be performed by a magician!

On page 106, em-35, under the head "Secretariat," the sum of £6,000 is shown as "Allowances, etc., to unofficial members of Executive and Legislative Councils." May I suggest that Government can save £1,000 on this item? Hon. members may be surprised to hear such a thing, but the fact is that if there are twenty unofficial nominated and elected members paid at the rate of £250 each a year, instead of a daily allowance, Government would only pay £5,000 in all instead of £6,000, and so save the £1,000. A lot can be said in favour of it, and a lot against. I will not go into details, but I suggest this equal distribution of wealth would encourage some deserving people outside Council to seek election and devote their whole time to serving the community in the Council, and I think it is high time some action should be taken in this matter.

There is one more item, No. 36, £250 grant for the Memorial Hall. I entirely agree with every word which has been said by the hon. Member for Nairobi North (Major Cavendish-Bentinck), and I hope sincerely that when we reassemble in three or four months' time that we shall find the atmosphere of this hall improved and the room, decorated with a class of furniture suitable to the dignity of the Colony of Kenya.

[Mr. Isher Dass]

On page 107, under Head XXXV, Treasury and Inland Revenue Office, I draw attention to item 14. In 1937 there were 30 Asian clerks, and in 1938 there are going to be 27. Three will disappear; they may have been promoted, though I do not find it said so anywhere on this page. On page 108, under the same head, item 28, we find that instead of 12 European clerks provided in 1937 there will be 26 provided for in 1938, an increase of 14 at a stretch, against a disappearance of three Asians.

I will quote some more of the items so that hon. members on this side of Council can judge exactly as regards the attitude of Government towards Indians in general.

Under item 29, this year the establishment was only nine Asian clerks, and now it is to be 14, an increase of five, with a decrease of three on page 107. That actually gives an increase of two. In the same department the services are being efficiently carried out by Indian clerks, yet when it comes to increasing the staff and employing local Indian youths there is this marked distinction— an increase of 14 in Europeans and two in Asians, which cannot be justified by any head of a department. I say that this sort of thing gives one the impression that Government is not sympathetic and is definitely opposed to anything Indian and is not prepared to take into consideration the future of the Indian youths in the Colony.

Now I will deal with some of the remarks made in the meeting of this business concern by the shareholders and their representatives.

The Noble Lord, the hon. Member for Rift Valley, in his speech read some papers, and he gave us definitely to understand that in this compromise—to which the Indian members were no party at all, we were never consulted at any stage; Government deliberately and definitely took that attitude—he agreed on behalf of his colleagues to the introduction of income tax into Kenya on two definite conditions: one, the reorganization of Executive Council, and the second, that the unofficial community would be closely associated with Government in the administration of this Colony.

With regard to the first, everything is satisfactorily decided, and an announcement has been made in this Council and probably within a few months time the new Instructions will come into force. During my stay in England I was quite satisfied that, under the circumstances, the fears which were entertained by my community have been removed, and the Colonial Office gave us the assurance that at no time would the ratio be increased by any implementation, directly or indirectly, and that the control of Government would be left in the hands of the unofficial European members.

The second question, as to the unofficial community being closely associated with Government, I do not think for a moment that the Noble Lord thought that the unofficials consisted of elected Indian or the Arab elected members. He may say that he only used the word unofficial, but when it comes to the actual meaning of the word he knows perfectly well that it does not mean, in the least, association of the Indians. In proof of that, only the other day on the Transport Licensing Bill I think he spoke more than he should have done.

We have recently noticed the close association of the unofficial European members with your Government, and we have reason to fear, though we hope we are not right in assuming it, but as far as circumstances indicate we have also reason to believe that the attitude of your Government is exactly the same attitude as that of the European unofficial members, as you are terribly afraid of the agitations carried on by the Noble Lord in England or by the European community or by the European elected members on this side of Council, because it has been shown by your attitude that you have gone beyond a certain limit to agree to every suggestion from them. Time will not only show that we are telling the truth, but that we shall in time have to take some measures to protect our interests more zealously against the methods employed by Government and the European unofficial members.

In regard to income tax, the Noble Lord suggested that after the tax had had a fair trial or run, Government should place before Council the details as to the sections of the community which paid the

[Mr. Isher Dass]

tax and the amounts. I could not understand what he actually meant. If he meant that these details are to be given under different headings, amounts paid by the Europeans, Indians, Arabs, and other communities, Goans and so on, one could imagine—

LORD FRANCIS SCOTT: On a point of explanation, I did not use the word "community". I used sections of the population. I was not talking of communities only. I only meant different sections such as professional, farming, and every other sort of section.

MR. ISHER DASS: I am glad the hon. member has said that he does not mean anything racially. Had he made this clear when he spoke he would have saved a lot of bother, but since he has made it clear now I take for granted what he says. But if your Government are to keep record of all sections of the community and your advisers come in a year's time and tell us how many advocates in Nairobi have paid and so much, how many doctors have paid and so much, that 2,000 European farmers in Kenya have paid so much, then it cannot be expected there would be no increase in the expenditure of the Inland Revenue Office.

The fact is that this is an absurd and impossible position in which to put any Government that they should be asked as to what the sections of the community pay, but if the hon. member is so anxious to know how much the unofficial farming community pay I will refer him to the year 1934, when only £2,000 was paid in non-native poll tax, as against £514,200 paid by Indians and natives. I hope that will satisfy him; for they were the figures given by a former Treasurer, Mr. Walsh.

In all fairness, I would suggest for the consideration of the Noble Lord and his colleagues that you cannot judge any measure of taxation by a twelve months run; it must at least have a fair run of three years. In one year it is difficult to find the whereabouts of people who are trying to evade payment, and there are so many other difficulties in collection that it is very unfair on the part of any sensible member to suggest that within twelve months the department should be

asked for correct figures and facts. We gave a fair trial to the non-native poll tax for at least ten years, and income tax as a practical tax should be given at least three years, when we can find out what is the real position. Under three years it would be the height of folly to agree to such a preposterous suggestion as has come from the hon. member.

In the *East African Standard* of the day before yesterday I noticed an advertisement asking people to join the society for the protection of ratepayers, with no obligation to pay any admission fee or subscription. That is a very funny position. I do not know if this society has any means, but its members on this side of Council has suggested where its funds are coming from to run the agitation against income tax, yet anybody can join without paying. I think the sooner we dismiss from our minds any serious notice of such societies as these the better it is in the interests of the country.

MR. BEMISTER: May I ask under which head in the budget this subject appears?

MR. ISHER DASS: I suggest further that these sort of gentlemen, who are carrying on this agitation in the local Press are not doing any good to the country, of which they are members but are doing more harm, and I would not have taken up the time of Council in referring to it but for one thing, that not one of the opponents of income tax in this country within the last twelve months has written to the Press or any European member told Council one thing: how much capital has disappeared from Kenya with the introduction of income tax? Prior to its introduction we were told by opponents of the tax, that the enactment of this legislation would mean that companies which contemplated coming to Kenya would not come, and the country would suffer to the extent of having lost that much capital.

I have not heard one word from any member of the public who is an opponent of the tax, neither in this Council nor outside, as to how many companies have refused to come to Kenya, nor how much capital has disappeared from the Colony and gone to Northern or Southern Rhodesia, or the Union of South Africa.

[Mr. Isher Dass]

We are simply told by those opponents of the tax that "You can join our society without any obligation to pay fees."

My colleague, the hon. member Mr. Pandya, also supported the suggestion of prosperity. I may inform him and other members of Council that there is no real prosperity to-day, not in Kenya alone but in other parts of the world. This complicated international situation, which has created a state of affairs that one nation is suspicious of or against another, thereby resulting in a race for armaments, that is the only factor to which is due this imaginary increased prosperity.

I do not believe in profits, but I suggest, for all it is worth, that in a couple of years' time, if the international situation becomes more serious, you will face depression, which human history has never experienced before, so that you may only recall this a slight improvement, but far from prosperity, and you can never fool us with your increased expenditure against imaginary increased revenue.

My colleague, Mr. Pandya, also supported the suggestion of building up reserves. I would most certainly have supported him if it had not been that this business concern of Kenya is carrying 17 millions of debt. The honesty and decency of a mercantile house is, according to mercantile law, that as soon as there is improvement they pay their debts off first before they collect money in order to take them over bad times. As long as the Government of Kenya carries on their shoulders any amount of debt, and this present generation leaves it to the future generation, the Colonial Secretary can come before us and fool us by the suggestion that we are living in prosperous times.

MR. PILLING: On a point of order, Sir, I do not think I said we were in the midst of prosperity, but that we were emerging from a period of stringency were my actual words.

MR. ISHER DASS: I have a note here that the word prosperity was used.

My colleague also mentioned that some Government officers were suffering from title mania. As far as I am concerned, I have never taken a fancy to titles, but one thing is definite. As far as this title

mania is concerned, it is a harmless thing, but when these titles are obtained or secured at the cost of someone else, of course they are very harmful things. If these gentlemen who are Deputy Director of so-and-so and the Assistant Deputy Director of so-and-so were satisfied to get their titles, I would not blame them and would leave them alone, but the trouble is that to-day they ask for titles and next year ask for remuneration to maintain those titles. That is the position I am afraid of.

In olden days some states of India used to give certain titles to some of their subjects, who the following year used to ask for a good amount in order to keep up the title in the eyes of the general public. I am afraid that this title mania will cost this country in a year or two further increased expenditure, because people will definitely demand to keep up their dignity and title in the eyes of the general public, and we shareholders, according to proportion, will have to pay them accordingly. Therefore, I suggest that the sooner these titles are dropped the better it will be.

Coming to the ven. and hon. member Archdeacon Burns, I agree with him so far as he suggests there should be more consideration given to the natives. In fact, it has been my serious complaint that the Government of Kenya cannot boast of producing a native matriculated. If there are no higher openings for natives, even then they should receive higher education. I want Government that you cannot judge education in terms of money. You have got to educate them and give them the best education, scientific or otherwise, and make them the finest citizens in this country to take on their shoulders the responsibilities of government.

You cannot reckon education in terms of money, of how much it costs or does not cost. I therefore entirely agree with the hon. member that Government should take steps to provide higher education for the natives of this Colony, not as a matter of courtesy, but of right.

The hon. member also suggested, and again I agree, that immigrant races are entitled to all sorts of concessions—I do not say equal concessions, but why should one get more favouritism than the other?—while the African in the Local Civil

[Mr. Isher Dass]

Service should also have the right to contribute towards a provident fund or a widows' and orphans' pension scheme and such other concessions, and I think it is high time to take steps to produce definite schemes and satisfy us as to what Government intend to do in this matter.

There is a third matter of which the hon. member Archdeacon Burns spoke, the N.I.T.D. This is a vast country, and usually people trained in one line generally stick in that line. I know people educated at great cost in England as advocates, and when they came out here they did not remain in that business but became bankers or farmers. One thing the hon. member suggested I disagree with, that these boys should, towards the end of their training, be placed on European farms for two or three years' practical training. I believe their retention on farms might lead to forced labour or slavery because as apprentices they would not be expected to get good wages but for three years they would be expected to give their best to their employers on farms. I am afraid I do not agree with the hon. member's suggestion. If Government could find some other means to give them practical training by attaching them to the Public Works Department or contractors I would welcome it, but I cannot agree for the moment with the suggestion of the hon. member.

I am very sorry for the hon. Member for Mombasa, because I can assure Council that I never made any attempt in my life to offend anybody or his susceptibilities, intentionally or unintentionally. If I do as a rule speak the truth and sometimes do hurt somebody, they should be so generous and charitable towards me that they should not take it as an insult.

He was surprised when I told him that the names of one or two Germans appeared in the referendum about the municipal elections, but he was not surprised when section 14 of the Territorial Bill allows Germans, Italians, Greeks, every non-British subject, to have the right to be trained at the expense of the taxpayers here though they owe no allegiance to Britain. Hence they have no right to be trained at our expense, because any training they get will be used

against us in time of war. Yet such legislation deprives His Majesty's Indian subjects of the right to be trained for military service. If the hon. member's sense as an Englishman is not hurt at that, I would rather say he, as a very decent gentleman, should not feel insulted at my remarks. In a few days to come, when this international muddle results in something horrible, the hon. member will probably change his attitude altogether.

The same remarks which I have made about the territorial training apply to the Order in Council about which we have heard so much in this Council, and yet the hon. Member for Mombasa, for whom I have the greatest regard and respect, did not utter one word to protest that under that Order in Council—which is intended to be brought before this Council—any European, if he comes from a European country, should, irrespective of race, whether German, Italian Fascist, or anything else, have different treatment to His Majesty's British Indians, that he should be allowed to have lands that he shall have free training and all the amenities of life at the cost of the taxpayers while the same legislation will deprive only one community, and that is British Indians.

The hon. Member for Mombasa, though an Englishman, did not rise above the level to say one word in condemnation of such a thing. If my own relatives and friends were ever to say anything very untruthful it will always be my duty as a true citizen to condemn them at the cost of popularity. He, as an Englishman with a sense of fair play and justice, I expected would have risen to the extent as to offer openly condemnation when his colleagues suggest bringing in this Order in Council.

To-day I may point out here and now, in very clear words, we are not willing that such legislation should be brought in and adopted and imposed on us constitutionally. I can assure you that there will be no compromise so far as we are concerned, and even if we have to use our influence with our country of 350 millions population, we shall not be ashamed but proud to use it against the introduction of methods which are unjust and very cruel and horrifying, which deprive one section of the community and give

[Mr. Isher Dass] preference to those who owe no allegiance to His Majesty the King at all to take up—

MR. PILLING: On a point of order, the hon. member is departing from the subject of the budget now. This has no connexion with the budget.

MR. ISHER DASS: Other hon. members have spoken about this Order in Council, and I was justified in expressing my attitude and that of the community I have the honour to represent here, and say some word about the hon. Member for Mombasa. (Laughter.)

He asked why is it that the Indians have the elective system at Mombasa and not the Europeans? It is very strange that since 1928, when a round-table conference was held and a compromise arrived at, we have been asking for the elective system which is better in all its aspects than the nominalist system. After all, nomination is a primitive system which depends on the sweet will and discretion of Government and on who is in favour as to who shall be appointed to municipal councils and other bodies. But with an election you can show your value to the electorate and prove whether you are a fit and honest person to be elected. So we have all along maintained that we should have the elective system. But the European community in Mombasa have not asked for it, and when there was a referendum—the hon. member can correct me—some of the people were in favour of nomination, or the primitive system, rather than the elective system, so if Government has acted in accordance with the wishes of the majority in Mombasa how can the hon. member blame the Indian community for that? Our complaint is that when the majority asked for the elective system Government refused and listened to the minority. This I will deal with later when discussing the Lands and Settlement Department.

The hon. the Acting Chief Native Commissioner during his short speech spoke about the shortage of labour, a question that has been referred to by unofficial European members. Surely there are only two ways and means of

meeting this situation? Of course, I am not an employer of labour, but as a member of Council it is my duty to suggest something if those hon. members will not drop it because of it coming from an Indian.

You can meet the shortage of labour by means of forced labour, but that cannot be contemplated in the year 1937. No civilized country or government would ever tolerate such a measure, and I am pretty sure that even if some have an idea of bringing it about by indirect measures that they will not succeed, because the time has gone by. The other measure is free labour with better wages and better conditions. If you offer better wages and better facilities and better accommodation to your employees, I see no earthly reason why they should not come out of the reserves to work for you. Even if these people do not mean to come out, they cannot for all time stay in the reserves. Every human being naturally wants to improve his economic condition; to get out of his watertight compartment and see things for himself, and so improve his condition. But if you do not offer them good wages and good conditions, as the hon. Chief Native Commissioner suggested—there are a few bad employers with bad wages and conditions—there is bound to be a shortage of labour, and you cannot expect something for nothing in 1937.

It might have been different in 1901, thirty-six years ago, when there was no Government and only one Commissioner, and he had no means of communication. To-day, instead of asking the Chief Native Commissioner to use his influence directly or indirectly with the administrative officers to meet the shortage of labour, I would rather expect no such action to be taken by him or any head of department. Employers should solve their own difficulties by offering better wages, facilities, and accommodation, and there will be no shortage of labour at all.

In this connexion, the hon. Member for Uasin Gishu (Mr. Hoey) said he found that sometimes the attitude of the administration and district officers is kind and sympathetic towards the African—

MR. HOEY: On a point of explanation, I never said anything of the sort!

MR. ISHER DASS: I am surprised! (Laughter.) However, never mind. But if the statement, or the implied statement, of the hon. member for Uasin Gishu is correct, that the district and administrative officers are very kind and sympathetic towards the Africans, they deserve my sincerest congratulations for that, and I really feel very sorry as a citizen of Kenya that the hon. Member for Uasin Gishu hates the idea of administrative officers being kind and sympathetic towards these poor Africans.

HIS EXCELLENCY: I do not want to interrupt the hon. member, but he cannot draw deductions and imply them to an hon. member or make implied statements. (Hear, hear.) The hon. Member for Uasin Gishu has stated that he did not make that statement, and I do not remember it! It is not fair to imply that he did make it and draw deductions which apply to that particular member when he never made a statement at all.

MR. ISHER DASS: The fact is that he did make the statement, and I used the word "implied", and he also said he did not make that suggestion.

Now, Sir, I will take a little time to deal with heads of departments.

I will begin with Head V, Civil Aviation, on page 7, and have to offer some comments. When Government is prepared to open this new department and spend so much money, I maintain that your Government, without any racial distinction, should afford equal opportunities to the youths of Kenya, whether Europeans, Indians or anybody else, and questions of fitness for the service, efficiency, character and qualifications should be the factors to decide such an issue, and no racialism should be involved in it.

In Head IX, Education, I am really sorry to say that the hon. the Director of Education a few months ago, in Legislative Council, gave an assurance to one of my colleagues that he would appoint a special committee to inquire into the working of the Indian secondary schools, and when I asked a question he said in his reply that he had appointed a committee of so many members with terms of reference which do not include anything about an inquiry to be made into

the working of the Indian secondary education. These terms of reference do not say anything at all about the present situation, or give any power to the committee to inquire as to the grievances existing or matters of superannuation or any other question involved. He has suggested terms of reference which only people with technical knowledge can deal with.

I hope the hon. member will see, if he is satisfied there is nothing wrong with the present system and that everything is smooth, calm and working peacefully, that there is no harm in including a further term of reference to this committee empowering them to inquire into the working of the Indian secondary schools.

Under Head XIV, Judicial, I know perfectly well it is useless to waste time and breath when appealing to your Government, because, after all said and done, since 1934 we have been co-operating with Government on Legislative Council and for the last twenty years my community has been asking not for the moon but for a simple right, which is the birth-right of every citizen, and that is the grant of the jury system. We ask Government for this ordinary elementary right of every individual or citizen, the jury system, and it is high time Government can issue instructions or bring about a certain kind of qualification for jurors, but they certainly cannot deprive the Indian community as a whole of this system on one pretext or another.

Regarding Head VI, Local Government, Lands and Settlement, I am going to take a little more time.

There is one thing which I shall repeat, and at the same time hope that the head of the department, before he leaves the Colony, will see his way to remove what is a just grievance on the part of the Indian community. Government in 1935 agreed to the nomination of an Indian member on the Nairobi District Council, and it was promised, in reply to a question, that as soon as possible or in due course such a member would be appointed. After six months, I asked the same question, and the hon. member's reply then was that on advice given them Government did not think fit to make the appointment.

[Mr. Isher Dass]

This is not justice, this is not the way to treat communities; for it is a reasonable and just demand. I will go further, and say that Government agreed to appoint an Indian member, and afterwards, from what source I do not know, they received strange advice on which they changed their minds. The Government of the Colony should not be carried on haphazardly, and once they made up their minds to make the appointment they have got to make it.

There is a little controversial subject on which I shall have to take up the time of Council, for I am as much concerned about the elective system being applied to Indian representation on Nairobi Municipal Council as any other place. The Indian representatives on that Council have already passed a resolution, and the Municipal Council have also, which have been sent to Government, asking for the introduction of the elective system for Indian members. Yet, after a long delay, a full memorandum and discussion, the hon. the Commissioner for Local Government does not see his way to granting the wishes of the majority. He was rather anxious to grant the wishes of the majority in Mombasa of the European community but is not willing to do so in Nairobi.

He insists that there shall be two systems in the one municipality: that a certain number of people should be nominated and a certain number elected. He may have received representations, I do not deny it for a moment, from some religious body or some section of the community, that they are not in favour of election but, after all said and done, that is not the only body or community whose opinion is to be taken into consideration. The rights of the minority, I entirely agree, should be protected, but you cannot protect them by any primitive method or by such a means of a double system in one municipality. You must give a fair trial to a fair suggestion and a fair system, and if you fail the rights of the minority are being ignored and deliberately challenged, your Government can always step in and save those rights.

I do say that before the hon. member leaves this Colony he would, by removing that primitive system and introducing the

elective system which these people have asked for, leave us in a very happy position.

May I know, when the hon. the Commissioner for Local Government is speaking, how and why it is that he, with the agreement of the unofficial European elected members, advised Government to appoint a committee for settlement? Does he think that in the whole of this country there is no place left anywhere, right from Mombasa to the other end of Kenya Colony, where Indians have not got a say also in the interests of the country as a whole? Why did he not think fit to appoint a similar committee for Indian settlement to be increased?

I hope that the hon. the Commissioner for Local Government will not only give us an explanation in beautiful phraseology and happy English, but a definite statement as to why he did not do so.

Under Head XX, Military, there are one or two things that I want to deal with. If Your Excellency likes to adjourn now, as I shall take some time?

HIS EXCELLENCY: We had better go on; we have got to finish the business.

MR. ISHER-DASS: I shall take some time before I finish, and hon. members would perhaps like a cup of tea now?

Under Head XX, Military, I want to deal with the question of the Royal Air Force. Whatever I have said about civil aviation applies to the Royal Air Force. The Colonial Secretary, Sir Armistead Wade (who is not here now), in reply to a question of mine, gave us to understand that when the whole matter of the Defence Force was finally settled a scheme would be brought in to utilize the manpower of the Indian community.

We have not for a couple of years heard anything in this connexion, and I would ask the hon. member, when he replies to the debate, if he will tell us in what way and in what manner he intends to deal with this question. I shall not be satisfied with a mere explanation that he still hopes to utilize that manpower. We do not want any hopes. I am of the opinion that the time has come when there must be a definite scheme placed before this Council for consideration. Therefore, there is no reason why the

[Mr. Isher Dass]

question of the Royal Air Force and the short service commissions cannot be extended to Indian youths. If none are available with fine physique and the necessary qualifications of course they cannot be taken in, but if there are any with the necessary qualifications and good physique and all the requirements which a person who wants to join the Royal Air Force must have, there is no reason why the concession cannot be extended to Indian youths.

I have spoken about the Territorial Force and the Military, and I will not deal with the subject any more, because if Government is content to treat the whole matter on a racial basis it is entirely in Government's hands, but if Government wants to be fair and to work in the interests of the Colony and they want to utilize the manpower of the Indian community, Government should definitely prepare a scheme for the Council to consider.

Under Head XXIV, Police, I have a word of appreciation for their recent activities in connexion with the capture of burglars and investigations into thefts in Nairobi. One thing I will say: that it is very unfortunate that, after I asked a question in Council, no action seems to have been taken by Government to get the Police to stop begging in the streets by undesirable people or by people who are suffering from such contagious diseases as leprosy and elephantiasis. It is not too much to ask. In the event of the hon. the Director of Medical Services not having received direct information about these cases, he has now received it from me, and there is no harm in the hon. the Colonial Secretary informing the Police that there are such cases in town to be dealt with.

Under Head XXVII, Prison Department, I asked a question recently, and in that connexion I wish to say that you cannot load this department, as you have done, with an increase of £2,500 in its revenue. I suggest that this department should not come into uneconomic competition with firms and people who employ skilled labour. True, the prisoners are there through their own fault, but you cannot employ this cheap labour for exploitation in uneconomic competition.

With regard to Head XXIX, Public Works Department, I would only draw the attention of the hon. the Director of Public Works to the fact that his department has asked for the registration of contractors in various lines of work, electric, building materials, and so on, and I want to refer to electrical work. It is very strange that some Indian firms when applying for registration are told that because they have not got any European foreman they cannot be registered.

After all is said and done, whenever any contract is given to any Indian firm and the work is done to the entire satisfaction of the hon. the Director or his officers, there is no reason why there should be any racial clause inserted that unless they employ Europeans they will not be registered or entitled to tender for any contract. I sincerely hope that the hon. member will not only give a satisfactory explanation but a definite assurance that if, unfortunately or through some oversight, this has been done it will not be repeated.

Under Head XXXIII, Secretariat and Legislative Council, however much I appreciate the time and energy spent by the hon. and venerable member Archdeacon Burns, I cannot help repeating my demand, a reasonable and just demand, that after all said and done it is high time Government granted direct representation to the natives. There can be found in this country a native to represent their own interests. He may not come from Oxford or Cambridge, but there are most capable men who have returned from England after receiving an English university education, and they should be given a chance to represent their own interests.

I am not prepared to agree to one suggestion which is always advanced in certain quarters, that if a Masai member is nominated, he is incompetent to represent the Kikuyu, or that if a Kikuyu is nominated he cannot represent the Masai interests, because this Council cannot be treated on a racial basis or caste system. If an African is appointed it is up to him in his own interests to consult the others. It is not often that the European nominated members representing native interests go to the Africans to consult them. They use their own discretion and intelligence, and the same can be applied to any Afri-

[Mr. Isher Dass] can appointed, but for no reason Government deny this right of representation to the sons of the soil.

A few years ago the late Governor mentioned in the course of his address that it was the usual practice to have a session of the Legislative Council at Mombasa, and that if things improved that practice would probably be continued of holding a session there as well as at Nairobi. It is true that Nairobi is the capital, but Mombasa is the second biggest town, and are as much entitled to have a session of Council held there as the people of Nairobi are. I think it would also be in the interests of members to go to Mombasa for a change of climate.

Of the social services, I will refer to only one that the hon. the Attorney General mentioned rather hurriedly the other day, that Government was anxious to introduce the Shop Hours Act in Mombasa. For the sake of information I would point out that in spite of four years' representations Government have not yet decided on the date when they will introduce that Act into Mombasa. What more representation can be expected? I have asked questions, I have gone to Mombasa, and still nothing has been done in the matter at all, but I am told that some time, in due course, the rules will be made and something done.

If a social measure of this sort is to be adopted, it should not take four years for Government to make up their mind, and I do hope that my efforts will not have been in vain, but that the hon. the Attorney General will take the initiative himself to move the hon. the Commissioner for Local Government to make up his mind about this legislation.

There is one thing more of importance, and I should be failing in my duty if I did not mention it. The Trade Unions Ordinance, which was passed during my absence, I would point out that in no part of the British Empire where such legislation is in force does the Governor in Council have any power whatever of hearing appeals from the decision of the registrar to refuse to register a trade union. An appeal always lies to the courts, but in this country a strange step is taken for which there exists no precedent,

and I fail to understand, if I may be permitted to say so, why Government has no intention of meeting this reasonable demand.

To-day there are Indian trade unions, to-morrow there may be European unions and in years to come African. Unless Government have made up their minds to crush the movement in the start, I have nothing to say, but if Government is really just and fair it will remove a stigma which does not exist in any other part of the British Empire. I think it is high time that that particular section of the Ordinance was removed and in that social legislation a section substituted giving the right of appeal to the Supreme Court of Kenya for the redress of a grievance.

Last, but not least, in social services, when will Government make up their mind to introduce a Workmen's Compensation Act?

MR. PILLING: On a point of order, what has this to do with the budget?

MR. ISHER DASS: This is the only opportunity to offer comments on all aspects of administration.

HIS EXCELLENCY: It must have some connexion with the budget. I agree that it is customary to allow the discussion to range over a very wide range of subjects, but there must be some connexion with the budget. I think the matter which the hon. member is now bringing forward has no connexion with it at all.

MR. ISHER DASS: I am talking of social services for natives, Indians and Europeans, and instead of referring to one thing I want to take a few minutes to deal with all questions. After all, this is the only opportunity of passing serious comments about administration and social services.

MR. PILLING: The hon. member has every opportunity by introducing a motion to represent any views he wishes.

MR. ISHER DASS: Yes, but in answer to a question Government said they were contemplating bringing in a Workmen's Compensation Act shortly, and there is no harm in repeating that question. If the hon. the Colonial Secretary does not like the idea of my asking the question, he should dispense with it as far as he is concerned.

[Mr. Isher Dass]

The last head I want to mention is Head I, His Excellency the Governor. We hear every day that you will treat all matters in a just and faithful manner. Without casting any aspersions, I will say here and now that the attitude of your Government does not justify my community having explicit faith of any fair play from your Government. Not only that, but I have reasons, and just reasons, to fear that all reasonable demands or appeals made to your Government and you, Sir, particularly, are not given any notice at all or taken into consideration at all.

If a compromise were arrived at that the unofficial community should be more closely associated in the administration, we as a large and peaceful community have the right to be associated as much as other communities, but we find from all practical experience that that is not so. May I say one word more? We are here as a matter of right, and remain as a matter of right. After all said and done, we were here before anybody else, and not only for that reason but as good citizens have a right to exist in any part of the world so long as they do not do anything against the constitution.

But to adopt a sympathetic attitude to one community at the expense of others is a step with which my community is not prepared to co-operate, and it is better at this stage to say that we in all sincerity and earnestness, with a true desire to co-operate with Government, appeal to you, Sir, to change your attitude so far as the interests of the Indian community are concerned.

With those words I conclude what I have said, and under no circumstances do I feel justified in supporting the motion before Council.

Council adjourned for the usual interval.

On resuming:

COMMISSIONER OF CUSTOMS (MR. BALE): Your Excellency, various references have been made in the debate to the estimates of Customs and excise revenue for 1938. The Noble Lord, the Member for the Rift Valley, termed the estimate conservative; the hon. member Mr. Pandya remarked that it erred on the side of safety; the hon. Members for Nairobi North and Uasin Gishu I

understood to call attention—and quite properly, if I may say so—to the possible adverse effect on the revenue receipts of the fall in the prices of primary products; the hon. Member for Nairobi South also referred to this aspect of the question and placed the figure likely to be realized in 1938 not in excess of the actual receipts of the current year.

In reply to these comments, and in support of the observations by the hon. the Treasurer the day before yesterday, I have to inform Council that the estimate of £900,000—that is, £25,000 in excess of the estimated receipts this year—was framed by me on a conservative basis in consideration of the agricultural forecast then in my possession, taking into account the international situation and also the expected diminution of the Kenya revenue allocation resultant from the reduction in Uganda import and export trading consequent upon the decline in the price of cotton.

The conservative classification of the estimate has undoubtedly been affected by the recent downward move of commodity prices, and it will be the task of the Standing Finance Committee to examine and assess the position in the light of the latest data available.

The hon. Member for Nairobi South (Mr. Maxwell) also referred to the Customs tariff rating of raw materials. In this particular I understood that he had in mind the materials rated at 10 per cent and imported by the Kenya engineering trade for the manufacture of spares for agricultural and industrial machinery, which machinery itself is admitted free under the tariff at the moment. Tariff revision by reason of the Customs Agreements is a matter of policy involving the three Governments of Kenya, Uganda and Tanganyika, and without in any way commenting on the merits of the case the hon. member has in mind, I have to remark that any appeal for tariff assistance for any particular industry should endeavour to demonstrate to the satisfaction of the three Governments that the establishment or maintenance of that particular activity will be to the benefit of the three territories as a whole.

COL. KIRKWOOD: In rising this morning to support the motion before the Council I do so in what I consider an

[Col. Kirkwood] atmosphere of unity and co-operation which I welcome, and it will certainly make it more easy for me in discussing the budget.

First and foremost, I would like to discuss my own little budget tied up with this motion. I would like to refer first of all to the Kitale Native Hospital. In that connexion I would point out that there is £150 deposited with the Public Works Department and the receipts are held by the District Officer of Kitale when the money was paid over by the unofficials in the Trans Nzoia; as a result of the working of the native hospital by the district previous to Government taking over the native hospital, I did move at the last session of the Council a motion with reference to this matter and also withdrew that motion, as I was given assurance that the overcrowding of that native hospital was well realized by the Government and more especially by the hon. the Director of Medical Services.

It is contended, and I think the hon. the Director of Medical Services will admit, that the hospital though doing very good work is nevertheless overcrowded, and I suggest that it would only be a fair gesture on behalf of Government to add £150 to the £150 already deposited for the furtherance of the amenities of the hospital in question, making a total of £300 to add a maternity ward to the native hospital at Kitale. I will leave that item at that with the assurance that I will appear before the Standing Finance Committee when they sit to try and take it further, and I hope that it will appear in the budget on the lines indicated.

I have also a request to put up to Government for assistance for the Kitale European Cottage Hospital. As Your Excellency will probably remember, the Government granted £1,500 as against the £1,500 raised by the district for that hospital. I certainly was under the impression that the £3,000 would be the finality of it, but now I am requesting approximately a further £1,000 from the Government against £1,000 to be raised by the district.

The hospital will be completed approximately at the end of this year—that is the building—but there is no money for equipment, fixtures or furniture. I have taken a great deal of time and trouble

together with the District Council of Trans Nzoia and the sub-committee that was appointed, and I have also taken the trouble to interview, with a deputation, the hon. the Director of Medical Services, who—I think I am quoting him correctly—agreed with the accepted principle and that the Government was to pay a pound for a pound if this hospital was built, on the condition that the hospital was built. I have supplied him with a copy of the whole of these details in connexion with the furniture and fittings that were required, and he has been asked and he has given an undertaking to have these items vetted. Everything is priced and detailed right down to the last item. What the result of the inquiry into the cost is I cannot say at the moment, but so far I hope and believe that the hon. the Director of Medical Services is sympathetic.

Before the Trans Nzoia District Council signed the contract for that hospital they had the presence and the advice of the Commissioner for Local Government, Lands and Settlement. The situation was discussed and the tender was discussed, and it was just under £3,000. And on the advice of the Commissioner for Local Government, Lands and Settlement, the contract was signed. As I have already stated, the position now is that the building will be completed, but unless assistance is forthcoming from the Government on a pound to pound basis of contribution towards the fixtures, furniture and equipment of the hospital, the hospital will not be opened. That will be very deplorable.

I have all the details here, but I do not think it is necessary or advisable for me to detail any further. I propose to hand them over to the members of the Standing Finance Committee in the hope that they will have time to discuss it and ask the hon. the Director of Medical Services, the Commissioner for Local Government, Lands and Settlement, plus myself, to decide what is going to be done about it. I do hope that eventually an amount will be agreed upon on a pound to pound basis and that it will be inserted in the budget for the furniture, fittings, etc. for the European Cottage Hospital at Kitale.

Under the Educational Vote I have also a detailed proposal I want to put up in connexion with the Kitale School. It is a

[Col. Kirkwood] public matter; education, as we all realize, is a very serious matter. The facts are that the recent examinations at the school show a falling-off in the standard expected by the examiners. A committee has investigated the matter and probed into it to find the reasons, and the conclusion they have come to is that it is due in a great measure to the numerous changes that take place in the staff. The details of these are well known by the hon. the Director of Education, who had communications from that committee, and I understand that he proposes to visit the area as soon as he possibly can, I am asking for the consideration of the appointment of an assistant master at the Kitale School. The Director of Education suggests that a carpenter be appointed to take a lot of the work off the headmaster in the way of outside work and in games, and help in that way. But personally, I do not think that that is going to meet the object I am aiming at, which is to try and improve the continuity of the teaching staff at the school. The changes are far too numerous, due to deaths, leave, marriages and other causes, and the details of that might be discussed by the Standing Finance Committee to find out whether they cannot, in the Education vote allow for an assistant master to be appointed at Kitale School. I hope they can.

There is another matter which comes under the Public Works Department, and that is at the end of Endeless road from Kitale, 11½ miles. It has been a controversial matter for some considerable period of years. I did on a previous occasion put up a proposal for the advance of a loan for the Railway to be carried on to Endeless road, but that was vetoed and eventually turned down. The key to the position, so the General Manager tells us, is that whatever happened the Railway would get the traffic carried on the road, whether they built the railway or not. I am not saying that that is an unfair decision not to build the railway there, but there is a proposal to put a decaville line to ease the traffic and another proposal by the Trans Nzoia District Council to the Commissioner for Local Government, Lands and Settlement, to enable the road to carry the considerable traffic

that passes along it every day. It is only 11½ miles in length, and the allowance for the road is £20 per mile, and that brings the total to £230.

As a matter of fact, in 1933, £425 was spent on that road; in 1934, £417; in 1935, £358; 1936, £378. That is a total of £1,578, which gives an average of £394/10 which gives also a figure of £164/10 which is in excess of the allowance per year over the last four years. And that means that the roads in the district have deteriorated in not having the available allowance allocated to district roads. I maintain that this is a special case for investigation. It carries terrific traffic, and the facts and the figures are well known to the Commissioner for Local Government, Lands and Settlement, and I do not think I need take that case any further, as I also propose to argue that before the Standing Finance Committee.

Now, come to the budget. I realize that there is an increase, and that is the first thing that strikes me. It reminds me of Toppy. It does not matter what happens to the poor child and the vicissitudes through which she goes, she continues to grow. One of the outstanding features of this budget is that it is still growing, and this will probably remain for all time as its outstanding feature. I do not propose to go into the details of the figures, but there are several heads to which I would like to refer on general grounds.

There is one item very seldom looked at, tucked or hidden away at the back of the budget, and that is "Pensions." The pensions were £198,000, and for the 1938 Estimates there is an increase of £6,000. Well over £200,000 is being paid in pensions. What happens! On previous occasions—it has always been a contentious matter, and I hope I am not going to raise it on these lines to-day—but I want to point out that on previous occasions we have bombed the other side, raided and attacked them, but they called for an armistice—we will put it that way—and we appointed a Civil Service Committee, which made inquiries and an investigation and reported. A counter-attack then took place. The Merrick Committee reported, and another committee was appointed, and a good deal of the ground we had won was won back. But whether right or wrong, there it is.

[Col. Kirkwood]

It was always a contentious matter, and it will remain so for quite a long time until it is altered. The amount in the aggregate is a very large one, and beyond the ability of the Colony to pay. I have always advocated consolidated pay and that pensions should be done away with. I think then we would realize in discussing the budget what our liabilities were, and what appeared in expenditure and revenue, so that we get at the back of the budget more than we are doing to-day.

I also appreciated very much indeed listening to your opening address, Your Excellency, and that of the hon. The Acting Colonial Secretary, and I realize there was no fantastic budget put up to us, and I should not describe it but as unimaginative. A great deal of attention has been given to it, but nevertheless with all budgets we do not always agree in the details, although we agree on the principles. I also agree particularly with the remarks that have been passed that it is necessary and advisable in fact to build up surplus balances. But it is going to be very difficult to build up that surplus balance of £100,000 in a year. One realizes that the net surplus from the budget is £33,753, and the net increase in the expenditure for 1938 over 1937 is £125,805. But I maintain that every endeavour should be made to cut down that increased expenditure and cut it down considerably. I believe myself that the budget is a conservative one, and I hope it is. I believe it is an honest budget. There is no attempt here—and I am sorry to have to admit that I fell for it on the previous occasion when it was not an honest budget. But in this one there is no intention to deceive, and I do hope that when it comes back from the Standing Finance Committee that the increase in the expenditure for 1938 is going to be very considerably reduced.

I would like to refer to the Standing Finance Committee and the Standing Board of Economic Development. "Standing Finance Committee" seems an appropriate name, for it is more often standing instead of sitting. I do maintain that the Standing Finance Committee should do more work in connexion with the Government in co-operating and being called in to help draw up these esti-

mates, and not wait until the end of the whole debate and the decisions taken, and then have to vet. it afterwards. That is what I would do if I had my way.

I think my suggestion is the best, and I think they ought to be given more work to do, and the Government should use their knowledge and experience of the Colony to advise them. I understand that Government's policy is at least on the same lines. They have agreed to a dual policy. I think that everybody realizes what that means in broad principles, and my interpretation of it is that both the natives and the Europeans and non-natives can work side by side in this Colony and that we should be allowed to live, and that the interests of all should be studied and the Colony dealt with as a whole.

The settlement policy I think still wants defining. I think a committee has been appointed to go into settlement, and I hope as a result of their deliberations the Government will form a policy of settlement. But I am rather apprehensive on one point, and that is the question of labour. It means that the Government should also form a labour policy, but it will require investigation and a good deal of hard thinking. There are complaints concerning the shortage of labour, and how true it is I think it is difficult to come to a conclusion about at the moment. After a long period of years in this Colony I think I am safe in saying that there is a continual shortage of labour, and we have not got over it. I really think, from the discussions I have had on the matter, that it is really more serious to-day than it has been for some time.

How far the increase shown is genuine it is difficult to say, because I myself am of the opinion that this extended leave granted in the Colony is very dangerous and falsifies the figures. There are thousands of boys away on long leave of three months or six months who are shown as working, and it is impossible to get at the true position. I realize, too, that recently two new Bills were passed in this Council, but that does not rectify that position. There are still several reserves not pulling their weight, and it is not because there is not the work, because there is.

[Col. Kirkwood]

Another point here which has been worrying me is the very large amount that is remitted in native taxation. It is difficult for me to understand how any remission is justified, when the work is there for them to do. Of course, there must be cases of natives needing it, but there are boys capable of work who should be compelled to work in their reserves or come out and pull their weight outside and help the dual policy on the lines it is intended to go.

As regards the loan policy, I am quite prepared to agree to a loan after consideration and agreement for the purpose of settlement and roads. At the moment I am inclined to keep it to these two items. I also approve of the announcement Your Excellency made with regard to roads. I quite agree it is a sound policy to start, instead of all this annual recurrent expenditure, to try and make our main-trunk roads as permanent as possible. It may cost more to start with, but in the long run it will be to our advantage, and it is essential for the development of the country.

Under the Military Head I want to be very cautious. I do not want this Council to think I am speaking as a military expert owing to the service I have had with the fighting forces. I am simply expressing my opinion as a member of this Council and not as a military officer. We have a large amount in the Estimates for a mine-sweeper. I presume it is intended to purchase a vessel. I do not know, but I always thought that two vessels were essential for mine-sweeping; it may be mine-laying with one and training in the other, but it is difficult to do mine-sweeping with one. Whether we should embark on this line I do not know, but the Admiral has advised it. But the best admirals may be wrong and even a colonel can be right.

In connexion with the policy of the K.A.R., I have always maintained that the military protection we give to our Northern Province against what was then the Abyssinians should have been an imperial charge. The position has now changed considerably. We have now a European power instead of Abyssinia, and I think it is only right and just that they should be called upon to control

their own people. I fail to see why we should keep a force on our frontier to keep them out. The expenses are very heavy, and I say again that the military vote which is insisted on by the Imperial Government—as to the form in which it is spent—is wrong, and I maintain that it is an imperial charge.

I would suggest for your consideration that this Government appoint a committee to go into the matter with the Imperial authorities, and see if we cannot get an imperial contribution for this, plus a contribution for military purposes, to show our willingness to carry on the work. But I maintain that if we were allowed that and allowed to reorganize the outposts and withdraw the K.A.R. on the Northern Frontier, the work could be done by the police. Nevertheless, it is an Imperial policy, and one cannot get over that. But there are other countries in Rhodesia—the Rhodesian Police, for example—where they are independent of the military, and do the work by the police. And they do it very well and very successfully, and at half the charge that it costs this Colony. I put both of these suggestions forward for consideration, and I would like to see the basis altered under the Military Vote.

There is one question which I would like to go into, and which perhaps will take a little time. And that is the question of the meat factory and soil erosion and reconditioning, and so on. I am very apprehensive about it, and I propose to quote from the Agricultural Commission Report. I hope it will be done in co-operation with the Local Native Councils, for we have to work through the Native Councils and advise them. Of course, naturally, it will be left to the Government. This Commission sat in 1929 under the chairmanship of Sir Daniel Hall, and to me the report is a very valuable document. The Commission sat for six weeks continuously every day, and sometimes three times a day, and sometimes it sat at Government House in the evening. But the trouble was to allow Sir Daniel Hall to give his advice and assistance while he was here, for his time was limited.

Under Native Agriculture, page 28, Introductory, there is this. I would like to read this long paragraph:

[Col. Kirkwood]

"By far the most important question affecting the native agriculture, one that may determine even the continued existence of the tribes and the preservation of the land upon which they live, is the almost universal habit of keeping live stock, not for production, or as a source of income, but merely as tokens of wealth. Amongst all the tribes cattle are kept from birth to death less as a source of milk and meat than as money wherewith wives can be purchased and the owner may support his dignity. Only the skins are regular articles of trade. The stock require laud for their maintenance and yield a trivial return for the support of their owners. Now that raiding has been put an end to, the flocks and herds have steadily been increasing till they have become a menace to the food supply of the people and even to the maintenance of the soil. In many areas the vegetation is being eaten right down to the roots, the surface of the soil becomes broken, and with the rains erosion sets in. The situation is most serious in the Kamba Reserve, and is fully discussed in the section dealing with the Wakamba, but the same conditions also prevail in the Kamasia area."

And paragraph 117:—

"Of the native live stock, the goats constitute probably the greatest danger. They not only graze closer but they attack shrubs and young trees on the higher land and so destroy the scrub and forest which should regulate the retention of water by the soil and prevent the starting of dangerous erosion. It will be remembered that to the goat more than anything else may be attributed the deforestation of Greece and other Mediterranean districts, where the former soil has been completely washed away, creating on the one hand a bare hillside and on the other swamps in the valleys."

All those who have been home, and I think everybody on this Council, has seen that picture for themselves. But I doubt if they realize that this is a contributing factor towards it.

Paragraph 118:—

"This process is now going on in Kenya and will in the end deprive the

native peoples of much of their means of sustenance. It is necessary to take in hand at once the reduction in the numbers of live stock kept by the natives. Though the ultimate solution can only be obtained by the education of the native to treat his live stock as a means of producing food, it will in some cases be necessary to apply immediate compulsion to get the natives to part with the stock that are in excess of what the land will carry. The conditions are not the same in all the native reserves and the Commission proposes to treat them separately."

Now I jump to paragraph 121:—

"It is not too much to say that a desert has already been created where grazing formerly was good, and where even cultivation existed, and that the same desert conditions are steadily approaching the land at present carrying stock and cultivation."

In paragraph 122 I want to read it all:—

"Mr. Silvester, the District Commissioner at Machakos, states that about 150 bags of maize a day are being imported into Machakos and each of the neighbouring stations upon which the Wakamba are living. The members of the tribe seem for the present to be able to subsist by buying food with hoarded money, but whether the supplies will last out until a new crop can be harvested is a matter on which the Commission has no information. Meantime there is very little evidence of any attempt to sell stock and it is stated that members of the tribe have been known to die of starvation rather than to kill any of their stock for food."

In paragraph 123:—

"The Commission received the evidence of a member of the tribe—Munyao. He stated that he and some of the headmen are conscious of the destruction that is impending over their country; that he could specify many areas which formerly carried good grazing and are now practically desert. He stated that the majority of his people do not appreciate the danger, and are not conscious of the progressive deterioration, but look upon it rather as a temporary affair due to bad seasons. Speaking generally, they would not change their attitude towards live stock

[Col. Kirkwood]

and would not part with it except under compulsion."

And in paragraph 124:—

"The Wakamba solution of the difficulties of this tribe is that they should be given more land. But there is no considerable area now open, and even if new land could be found the process of destruction would only be renewed. No space would be big enough for the Wakamba so long as they only aim at increasing the number of their stock without utilizing them."

Paragraph 127 I also want to refer to, but I need not read it all. It is a long paragraph, and deals with the recommendation for a meat factory. It was contemplated in that paragraph by the Commission that the central Government should contribute £8,000 per annum. I would point out that in that paragraph we find the cause, realize the effect, and appoint a committee to remedy it. One remedy was naturally a meat factory. Now we have the meat factory; we have now got it by private enterprise. I understand that the factory is there, but there is nothing to go into it. It is something like the cottage hospital at Kilale.

There is an interesting paragraph, perhaps fantastic to some people—paragraph 129—which I propose to read:—

"It has been suggested that one step might be taken to meet the native psychology, by the minting of a special coinage, wherewith the meat factory would pay for the stock that are forcibly expropriated. This coinage might consist of large pieces coined from some type of resistant bronze, bearing the image of a bull, and of the nominal value of, say, Sh. 30. Smaller ten-shilling pieces would similarly carry the figure of a goat. These moneys would be legal tender in the Reserves only, but would be exchangeable at any of the banks for their face value in the ordinary currency of the country. They should be perforated with four holes, so that they could be strung together on a strip of hide for purposes of display. It is suggested that by their means the transition from cattle as currency in the purchase of wives to cattle as saleable assets might be facilitated."

I think this paragraph is worth the Government's consideration, if it was only possibly to turn over the value of the cattle to coinage instead, to something they could display and yet could be able to turn into currency, and even go further so that the banks could take them so that they could go into cold storage in the Treasury. The Treasury could circulate them back to the districts and the district officers could also take these accounts. I believe myself that after a trial and after a short period the natives would realize that they had got coins that were of the same value as an animal itself and that they could be cashed in a bank or at the District Commissioner's office. I put this up for the consideration of Your Excellency's advisers.

Paragraph 131:—

"The other process that would have to be taken in hand for the regeneration of the worst areas would be the compulsory closing of blocks for a term of year, in order to enable the natural vegetation to regain a hold and eventually reclothe the soil. On some of the land, regeneration with native grasses might be attempted, but in all cases the areas would have to be closed to grazing."

Paragraph 134—I think I will read that short paragraph:—

"It has been suggested that, as a means of reduction, a stock tax might be placed upon goats, and even upon cattle; the proceeds to be handed over to the Local Native Council and applied to such matters as the regeneration of eroded areas and the improvement of roads and water-boring. The Commission hesitates to express an opinion on this proposal without fuller inquiry."

That is the proposal that is required. I have only picked out paragraphs here and there from this long report, but I do suggest that it should be studied by Your Excellency's advisers in connexion with this erosion question and meat question and the water-boring, etc., in the native reserves. But there is one thing I would like to emphasize and that is that the first essential in the reserves is preventive measures among the natives, and until the Government takes that view and that attitude I shall persistently oppose any

[Col. Kirkwood]

expenditure on reconditioning in the native reserves. I consider it farcical to contemplate spending a large amount on reconditioning the native reserves if prohibitive measures are not going to be applied in the first place.

In my humble opinion, preventive measures are the essential ones, and the regulation of grazing and the closing of certain areas for a period. When they have had the experience and the advice of officers and will not be wasteful, then they may start reconditioning and attempt to recondition the Ukamba, or Kamasia, or Suk or Turkana reserves, or any of the native reserves. Until that time, economically it is farcical and ill-advised, and no amount of money that this Colony could raise would have any effect whatever as regards the value spent and the value received in the Revenue Estimates. I do impress on Government that they should first of all take preventive measures in all the reserves.

This report has been in existence for years, and nothing has been done. Even the Government officers themselves have complained to me that they have no authority. It seems a large statement to make, but it is true. And take the reserves up in my area, I know them and I have been many hundreds of miles through them—Suk and Turkana. But what little arable land or cultivated land they have they are destroying as fast as they can destroy it, and nothing has been done by the administrative officers to stop them. It is really lamentable and leading to disaster; even in this reserve on the Northern Frontier the desert is coming right up to the settled area unless something is done, and right up to the escarpment within 25 miles of Kitale. It has already advanced a large number of miles in the Kamba Reserve, and it is steadily rolling on. And all that is due to the want of control and a system of preventive measures in the reserves to destock according to this report and the evidence of Mr. Liddell, who took a valuation of the reserve and stock, and recommended a two-thirds decrease; and two-thirds would bring it down to 60,000 as a maximum it is considered the Ukamba can carry.

In the interests of the natives, and I know your Government has the interests

of the natives very much at heart, I do impress upon you not to waste money you cannot afford, that cannot be raised, for the reconditioning of the native reserves until preventive measures have been tried. I am all out to do what we can for the native, but we have got to do it within reason. I realize that not only has the native, the European and non-European had many millions of pounds spent on their interests and in the Colony for services, but we have got to cut our coat according to our cloth.

I want to go on to income tax, but so much has been said about it. My only object in referring to it is to make my position perfectly clear, and also I may be of some value to Your Excellency; and there are one or two statements I would like to make on the matter as it stands at the present, as I see it. As far as I am concerned, I quote from Hansard, 1933, Volume 1A, page 587, speaking in Council at that time—and the report I know is a correct one—I said:

I am not opposed to income tax as a tax, but I do not agree with Government forcing any measure on the country against its wishes; otherwise I am not against income tax, or any other tax found necessary to balance the budget, providing any measures introduced to raise further revenue shall be with the approval of the Elected Members and providing adequate control over revenue and expenditure is granted to the taxpayers' representatives."

That, I think, will make my position perfectly clear in a trivial matter, and it appears that a section of the community is going to carry that trivial thing on, but I simply stand on that quotation I have read out here and leave it at that. I would point out in passing that when that declaration was made I had considered it and it was not hastily devised by me. It also carries a guarantee behind it, and that guarantee was also in the European Elected Members' Organization that we were determined to balance the budget, provided that we were allowed to do it by methods and measures we could agree to.

The tax has been put on the Statute Book, and I understand that it is in the process of collection. It will be some time

[Col. Kirkwood]

next year before they can close the account, and I would ask the Government that when the accounts are closed and income tax for 1937 has been received, that Your Excellency will cause an inquiry to be made into the incidence of the tax, the source and the cost of collection, and bear in mind the cost that not only the commercial people pay, and, in addition, not so much them, but particularly I am thinking of the agricultural people—the man who runs his own farm and finances his own farm and handles his own money. Books are not necessary and certainly not for compiling an income tax return, whether you have an income or not, and these people have been out to a large expenditure to prove that they have no income tax to pay, and that should be taken into consideration as well. I, personally, am not prepared to start chasing the hare again. I am prepared to wait and see the result on the lines I have indicated.

While I am on this subject I would like to draw attention to page 500 of this document and a quotation from Lord Moyne. Without making any special reference to any special member of Council the question has arisen and does arise on the proportion of tax paid up. I do not want to raise a racial issue, and this quotation is very illuminating:

"Contributions. Services. Surplus:

	£	£	£
European	665,781	171,247	494,534
Asiatic	385,658	46,080	339,578
Native	791,100	331,956	459,144

The problem as to whether the contributions are adequate cannot be decided by any accepted test, and judgment must depend on a balance of considerations. The latest population figures are as follows:—

European	17,285
Asian	56,903
Native	2,950,000

"Europeans, by far the smallest community, are thus paying the largest contribution of any of the three groups towards the cost of common services."

If that quotation has no other value it has definitely shown that the Europeans are more than pulling their weight in this

Colony and are paying more than they are entitled to pay.

Sir Alan Pim's report was tied up with this question of income tax in the recommendations he made, and as I say Sir Alan Pim's recommendations I look upon as regards income tax and intended income tax for Europeans definitely means imposing extra taxation on the Europeans and a decrease on the non-native Europeans and decreasing the taxation on the natives. But he did recommend, and a part of his recommendation has been enforced, the abolition of the hut and poll tax and the raising of the rate limit. I think that these facts have to be borne in mind.

On the basis grant which was introduced to the district councils, I am in agreement with the previous speakers that the whole amount should be reimbursed again and paid in the budget. It is a long history, which I do not intend to go into. As a result of the Feeling Report on the setting up of local authorities in Kenya, I opposed in 1927 the expenditure on the Public Works Department plus the 25 per cent overhead. During the depreciation the district councils had to agree to a temporary reduction—I must admit, did it most unwillingly, and I think it is only justice on the part of Government to reinstate the 50 per cent cut, which I understand is being done. But I would like to ask and to have a reply given, when and how it is proposed to pay the balance of the 50 per cent? If it is not going in this year's budget, then would it go into next year's? Or whether there will be a method of consolidating it for use on the backward state many of the roads have got into?

The N.I.T.D. has been mentioned, and the hon. and venerable member representing native interests stated that he thought the terms of service as to the number of years should be altered, and that more theoretical work and less practical work should be done. I must say I am totally in disagreement with him. I do not think five years is too much. It may be, but I do not think any theoretical training is going to be too much.

ARCHDEACON BURNS: Your Excellency, on a point of explanation, I said the very opposite.

COL. KIRKWOOD: I am sorry if I have misquoted the hon. and venerable member. The N.I.T.D. was really started by European settlers in this Colony. The Government would do nothing, and we collected and supplied the money for a certain time, and it eventually became what it is now. But what the Government could do, and I think they ought to do if they are going to help the natives, is to see that every boy who passes through that depot and completes his time should get a job of work, on every Government contract in this Colony as far as they can be absorbed. What is happening? They go and get training and wander back to the native reserves and they become handymen. It is true that they can improve their structures and their dwellings and so on; and are fairly handy; a few boys on the farms are quite handy boys. But there is no inducement for them to become bricklayers or masons in Nairobi in the Public Works Department. The question was asked in this Council not long ago, and the answer was that one was working for the Public Works Department. I consider it is a scandal. Once they have had their training the Government should try and keep in touch with them and help them on, and give them work and reasonable pay. I do not see why it should not be done under the contract system, thereby getting trained natives. If anyone has any other suggestion, if it is reasonable and a practical one, I shall be only too pleased to support it.

Under P.W.D. I want to consider in general terms. On one particular instance I think it was understood, I understood some time back that the P.W.D. were, as far as possible, putting all construction work out to tender. I am not satisfied that that is being done. I think it wants looking into, and I hope Your Excellency's advisers will check that statement and find out what is happening. I am quite sure that under the contract system it would mean bringing the Public Works Department down to a cadre instead of being a huge spending department. I also realize that a very large amount of the stores that are shown under our surplus balance are not liquid. The Public Works Department stores are always being lost or stolen. This happens every time they

are taking stock. It is beyond me to understand what has become of these stores. They do not know themselves very often.

There is another item under the Public Works Department estimates that I would refer to shortly, the two ferries north of Mombasa, and I should like to be checked up on this matter.

I understand that something like £850 or more has been received as the contract price for these ferries. I think it is a scandal. There are two pontoons. I have been over them, and on each occasion there were six boys on each pontoon, twelve boys, running the ferries. What happens? Somebody puts in a contract and takes the ferries over, for £850 or £500; the year that I took this matter up it was £500. The P.W.D. get that money, and the contractor has only got to put his boys on and make his profit for the year. That wants inquiring into to get to these conclusions.

The ultimate result, the key to the situation is that the users of these coast roads are not only paying for the ferries but are being taxed through these ferries. That, I think, is bordering on a scandal. I am safe in calling it a scandal, for the public highways should be free; but they are not only paying the ferry fares, but in excess of what it costs to run that service. If there is no other way out of it, why does not the Public Works Department hand the ferries over to some boys on a minimum contract so that they can get the ferry charges down to the users of the road and let the boys make a living out of it. Why make a small fortune out of it?

Why this matter is not taken up more consistently I do not know. It is a long way from my part of the country, but this item is one of the outstanding things in the budget and it requires remedying, and I hope it will be remedied.

The Agricultural Vote also seems like Topsy. I think. Again it is still growing and keeps on growing. I am going to make a drastic suggestion that that vote should be cut by 50 per cent. I have lived in this Colony since 1917 and have been interested in farming, and the service that we have had from this department is not worth the money shown in this budget.

[Col. Kirkwood]

I think it is very unnecessary, too, as regards the wheat breeding part of it. That was the one part I was always interested in—the trying-out of new strains and the sowing of new strains and trying to get a satisfactory rust resistance in this country. They have met with considerable success, and several of our wheats, equal any in any part of the world, have been developed.

But what has happened? It very often puts the work back for twelve months or two years, because the officer in charge goes on leave. Then somebody not interested, or who is lacking in experience, is appointed in the breeding up of these plants, and looking on them as children and making a name for himself by getting new strains. It wants a terrific amount of patience and it wants a terrific amount of interest, and the year's work, as a result, has gone when the man goes on leave. Not once but several times has it happened, and the year's work is gone.

That wants looking into, and I hope it will be. Generally, I am always interested in agriculturists in our own agricultural country, and under Agriculture we have to alter the basis of the budget completely. It might interest the Council if I quote for instance the amount that has been received for maize over the last five years: In 1937, this year, it was Sh. 7/20 (this is the highest we have had for many years); in 1936, Sh. 4/42; in 1935, Sh. 5/68; 1934, Sh. 6/95; and in 1933, Sh. 3/50. That gives an average, a very small average, of Sh. 5/55. I maintain myself that maize can be grown on a very large shamba of 1,000 acres—that is all right—but not on a farm of 200 acres. I want to put up for the agriculturists a suggestion that they should be given sympathy and assistance in every possible way. These figures I have quoted I know are correct, for I am an agriculturist myself and have been growing maize for a long period of years at a loss, and you cannot farm for years at a loss without building up an adverse balance sheet at the bank or somewhere else. They have had a long and hard and trying time of it, and I would put in a plea not only for that—and I would mention that the agriculturist is the primary producer of this Colony—but for a general reduction in

taxation. We had in 1933 agreed to alternative taxes to balance the budget and to keep His Majesty's Government going. It is a guarantee not only then but now and in the future, as far as the European Elected Members are concerned. We will see that the budget is balanced and we will tax ourselves during the years that lead up to it. But I maintain that if we are to have the income tax put on then we are entitled to have those temporary taxes which we agreed to taken off, but they have not been removed as they should have been.

A very irksome tax is the entertainments tax. The amount received from it is not a very large one, only a few thousand pounds, and it is most objectionable, especially in times of depression when everybody is trying to save money. They are even deprived of an innocent enjoyment of seeing the cinema because the entertainment tax does not allow them to afford it.

In general, I do not want to keep the Council—I have spoken longer than I intended to when I started, but I admit that I would like to have stayed longer on this agricultural document—but the session is drawing to its close, and I know everybody is getting tired and weary, and it does not take long to get fed up on this subject, so as far as I am concerned and my district is concerned we are not going to join issue on this income tax question. My position, as I see it, and my friends—and those who are not friends, do not matter very much—know that I am on safe ground and I am not going to join in the controversy again. The atmosphere of the Colony to-day and during the sitting of this Council is quite a different atmosphere from that we have been used to for many years, and I will do my best to maintain that attitude and I hope my co-operation with and consideration by the Government side of the views put forward will be in the interests of the Colony of Kenya as a whole.

The debate was adjourned.

ADJOURNMENT

Council adjourned until 10 a.m. on Thursday, the 18th November, 1937.

Thursday, 18th November, 1937

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Thursday, 18th November, 1937. His Excellency the Governor (Sir Robert Brooke-Popham, G.C.V.O., K.C.B., C.M.G., D.S.O., A.F.C.) presiding.

His Excellency opened the Council with prayer.

MINUTES

The minutes of the 17th of November, were confirmed.

ORAL ANSWERS TO QUESTIONS

No. 63—ORDER IN COUNCIL re WHITE HIGHLANDS

MR. ISHER DASS asked:

Has the attention of Government been drawn to a special cable published in the *East African Standard* of the 4th November, 1937, on page 1, column 3, in respect of the Order in Council re-creating the White Highlands?

Will Government be pleased to lay on the table the Secretary of State for the Colonies despatch to the Governor in this respect?

THE COMMISSIONER FOR LOCAL GOVERNMENT (MR. LOGAN): The answer to the first part of the question is in the affirmative.

The answer to the second part is in the negative.

DRAFT ESTIMATES, 1938

REFERENCE TO STANDING FINANCE COMMITTEE

The debate was resumed.

MR. HEBDEN (Postmaster General): Your Excellency, as I have to leave for Dar es Salaam tomorrow to attend the budget session of the Tanganyika Legislative Council, I must take an early opportunity of replying to a few points raised in debate.

In the course of the debate several hon. members have referred to the inflations of official designations and the hon. Mr. Pandya has accused me of substituting two Deputy Postmasters General for two Assistant Postmasters General. If the hon. member will turn to page 86 of the Estimates, under the heading of "Direct Expenditure, Kenya," he will see that a Deputy Postmaster General has been deleted and a Regional Director substituted. The reason for this change is that

Regional Director more correctly describes the duty of the office; it is not in any way an inflation of title, and Regional Directors have been substituted in the case of Uganda and Tanganyika also.

It is possible that when the hon. member made the statement, he was referring to item 2 on page 86 of the Estimates, where a Senior Deputy Postmaster General has been substituted for Assistant Postmaster General. A Senior Deputy Postmaster General has been in the Estimates for the last 8 years, and all that has been done is that he has been transferred from Dar es Salaam to Nairobi in order that he might perform the appropriate duties. I do not think it can be said that these two items can be described as inflation of official designations.

The Noble Lord, the hon. Member for Rift Valley, asked why meteorological services are not included under Civil Aviation. If he will turn to page 43 of the Estimates he will see that under item 19, "Wireless telegraphy and direction finding services at Nairobi for aviation and meteorology," a sum of £2,725 is provided, of which £625 is for meteorological services. I am assured by the Director of Meteorological Services that this sum of £625 truly represents the services which should be charged to civil aviation.

The Noble Lord also asked for a statement of what he termed the Empire air mail service. As regards the scheme itself, it has now been in operation approximately six months, and hon. members have had an opportunity of judging its advantages. My own view is that it is the biggest step forward since Rowland Hill introduced penny postage, and when the full scheme is extended to the whole Empire and night flying is introduced, I think the advantages will be much more than they are to-day.

I understand from the Noble Lord (I am sorry he is not here at the moment) that what he really wants is to know the financial implications of the scheme. It is generally known that I do not control the whole of the expenditure under Head V, and that the money is divided among different departments, so that what I say now only reflects my own department's expenditure.

I will compare the figures of 1936 with those of 1938. In 1936, this Government paid a subsidy to Imperial Airways of

[Mr. Hebdén.]

and mail payments on the pound rate weight basis were £13,500, making a total of £28,500 for 1936. This is what one might call recurrent mail expenditure. In 1938 the subsidy will be £9,000, and fixed mail payments £6,500, a total of £15,500 as against £28,500 in 1936, a saving therefore of £13,000. We have to take into consideration in addition a loss in postage by the reduction from 50 cents to 20 cents for each half ounce, which amounts to £9,000. That means that, after deducting this loss of revenue, there is a balance in favour of Kenya of £4,000.

In addition to this expenditure, there is other recurrent expenditure in connexion with direction finding and wireless stations. The subsidy paid in 1936 to Messrs. Cable and Wireless was £750, which in 1938 is increased to £2,725. At Mombasa and Kisumu wireless stations the personal entitlements and other charges are estimated to be £2,140 and £742 respectively, making a total for 1938 of £5,607 so that the actual additional expenditure in 1938 over 1936 on these two expenditure heads will be £857.

I should like to remind hon. members that this extra expenditure of £857 includes a loss of revenue of £9,000, so it can be said that Kenya is in a very favourable position.

Regarding capital expenditure, we are in a more fortunate position. The Air Ministry, or the Imperial Government, are making us a present of no less than £23,845 to cover the cost of the wireless stations at Mombasa and Kisumu, together with the cost of equipment.

The hon. Member for Mombasa has directed attention to the fact that £19,800 is required to rebuild the whole of the Mombasa telephone system, and that only £9,900 is included in the Estimates for 1938. I can only associate myself with the views expressed by the hon. member. This exchange is worn out, and obsolete, and with the sum provided in the Estimates it is impossible to make material improvement in the system next year. I would ask the Standing Finance Committee to give this question their consideration and provide the full sum for 1938 if possible.

The hon. Member for Uasin Gishu (Mr. Hoey) has complained of the unsatisfactory broadcasting system in his district. I have no personal knowledge of this broadcast system, but I am sure the hon. member appreciates the many difficulties which arise from short wave broadcasts and, furthermore, it is quite impossible on one wave length to satisfy everybody in a country like Kenya where conditions vary from day to day. I can assure the hon. member that I will make inquiries into the matter, and if anything can be done to improve it it will be improved, and I am sure that Messrs. Cable and Wireless are of the same opinion.

In conclusion, I should like to remove a misunderstanding which exists in the mind of the hon. Member for Nairobi North. He has made a statement that the Post Office produces revenue of between £50,000 and £60,000 every year. If the hon. member will refer to my annual report, he will see that these figures refer to cash revenue over recurrent expenditure, and do not take into consideration interest and depreciation charges, the cost of buildings, rent of buildings, and pensions. If we take one item alone, interest on capital expenditure, and assume that the capital expenditure is two millions, interest at 3 per cent alone is £60,000. That makes my profit very small indeed!

DR. DE SOUSA: Your Excellency, before I proceed with my speech this morning, I wish to express the hope that my privilege as a member of Council will not be unduly limited by considerations either of time or of the State agenda, because it has always been the practice of Council to allow unofficial members the widest possible latitude during the budget debate, as this is the only occasion when the representatives of the people can come to you, Sir, and to your Government with day-to-day problems of the unofficial community which they represent.

The other sessions held during the year are usually on the initiative of Government, and the agenda for each is composed of bills brought in by Government, and we only come in on invitation. At this budget session it is our privilege, and our right, to come as the representatives of the people. I hope you will not allow me and the other unofficial members who

[Dr. de Sousa] follow me to be tied down by a formula consisting merely of revenue and expenditure figures. I mention that particularly, not only on account of certain subjects we may want to bring up not related to figures in the budget perhaps but because of the tradition of this Council as regards the time for closure and the time for recess.

I say that because I do expect that, within my rights, you will have the necessary forbearance with me this morning, however long I may be, and I also expect that the other members will do the same, because unfortunately last year, soon after the budget was referred to the Standing Finance Committee, one European elected member, in his addresses to the country, referred to the Indian members as having taken undue advantage and a lot of time in their budget speeches. I hope that today they will display signs of solidarity because it is equally their privilege as well as mine.

I should like to say a few words about the beginning of the session, and that began with what we consider as the speech from the Throne, and that is your own speech, Sir.

In that speech you used the term "constructive economic development." It is a matter of great pity that you were unable to define what is meant by constructive economic development. The budget before us does not give us any indication that there is anything like development, that there is anything constructive about that development, much less that there is anything economic about it. On the other hand, it looks, as you rightly said, that it is a consolidation, budget, or rather the hon. mover said it was. All I can say about it is that this budget consolidates the existing assets, and that is true. It also consolidates the equity European Civil Service and its extension, which is evident from the figures before us, and also the inevitable pension commitments.

It is, in fact, I agree, to that extent a consolidation measure.

If you have any views of your own about constructive development of this country, I do hope that you have in your mind that this constructive development should be of the whole population, and

not only part of the population of the country. I am quite sure that you are acquainted with the views expressed by Mr. Sayers at the meeting of the Associated Chambers of Commerce in Nairobi a few weeks ago, when he said that if in that development were included a policy of Indian agriculture there would be found a fine body of Indian agriculturists.

This question of participation by Indians has been a long one. We have spent most of our virtues in cursing each other on this problem, a vital problem to the Indian community. As I said the other day, I am not asking for the moon. It has been a question which has seriously strained relations with the big population of the Indians. If you have no item on your programme, Sir, for allowing Indians to participate in the economic constructive development, I say, with all due respect, that you had much better scrap the thing out of your programme.

In going in for that vague thing called constructive development, you said that it will be entrusted to the new body you are going to appoint, your Executive Council. When it is to deal with such big matters, it is only fair that I should make some remarks, and take you back to a speech you made in connexion with the change in the constitution of the Executive Council, when you said, if I remember correctly, that you would appoint those four unofficial members because it was your privilege and prerogative, and that you would select for the country the men you thought would be the best advisers.

I submit that if the time has come when you want to follow the example of America and embark on the government of the people by the people for the people, an object of this kind cannot possibly be entirely of your own prerogative. I say that because where you have elected members representing the unofficial section of the community on this Council, it is from among these members that your choice has to be made. Otherwise, the whole thing will be a farce, and you need not have an elected Council; you need not have the next election at all; you still have every privilege of appointing any Tom, Dick or Harry you choose in the streets of the capital of the country, and in that

[Dr. de Sousa] say that you cannot consider it a privilege to appoint anyone.

As an example of how that can be abused, we had only the other day, a very sad occasion, when Government appointed an Indian on the Transport Committee. What was the result? The whole of the Indian population is opposing the Transport Licensing Bill, its principles, practice and details. There was not a note of dissent in the report, which was unanimous and was signed by the Indian member. Yet, when you appointed him, you had five of the chosen of the people on this Council and you would not take their advice, but would go to somebody else and get it.

It will be a farce to have an election in 1938 if you continue to persist in that idea that it is the privilege and prerogative of Government to appoint the unofficial members of your Executive Council. That seems to be very hard speaking, but we are from the people; and we want to say it without fear or favour.

I am very sorry that the Noble Lord is not here. I thought when he spoke that he was taking on himself part of the duties of the hon. mover. He was not in that mood when we met for the budget session last year and the circumstances connected with it prior to the session and subsequent to the session. All I can say is that the part the Noble Lord played in it is one of the most astounding political somersaults that I have ever read or heard of, that is in connexion with income tax.

I do not want to take on myself the duty of chastising him, but I would ask the Noble Lord, who is proclaimed in England as the leader of the Colony when it is only a small section of the Colony, how he justifies his attitude in the last budget and co-relates it with his attitude at this session, which I call a political somersault?

Income tax has taken up a very large part of our deliberations, and if I were not a member of this Council I might have considered that the motion before Council was a motion for income tax. We have exhausted our energy on that issue for several years, and particularly during last year. I mention it because I am following the example of the hon. the

Acting Treasurer. He seemed to have been very much impressed—or he might have said, frightened—by certain figures published in a daily paper in connexion with the cost of income tax, and he took all the trouble to read them out. He was very generous; he said it might have been due to a misunderstanding that those figures were published by the society which ostensibly protects the general taxpayers but which I am afraid is protecting its promoters first.

The hon. member having referred to those figures, I might as well refer to another opinion, maybe a very honest opinion, which appeared in the form of a cartoon in the same paper. I cannot describe the cartoon in better words than those which have been written by an esteemed friend of mine in Tanganyika who has been connected with Indian politics for a number of years, Mr. Sitaram Atriari. He wrote in his daily paper—and it is a very good thing to record it in Hansard—

"From out of a background of economic morass is shown emerging a long and stout snake called income tax with its fangs open for action, and the cartoon shows a sinewy, powerful and determined looking individual, who is called a settler, firmly gripping it in his right hand. A little distance away are shown two shrivelled human forms and these are supposed to represent an Indian and an African with terror-stricken countenances.

The following sentences appear underneath the cartoon to explain its meaning and significance:

The Settler: This is the finish of the snake or me.

The Indian: It's going to get me too, if you can't kill it.

The African: Don't give in, Bwana—if you go, who will pay me my mshahara!"

I mention this because this cartoon is not a true representation but, as my friend calls it in the heading to the editorial in his paper, it is a lying cartoon. I submit it is a lie to suggest in a cartoon that the Indian community is connected with the settler in opposing income tax. It is a lie, and it is again a lie to suggest that the Indian has ever sought the protection of

[Dr. de Sousa]

the white settler: it is a double lie. I think that that is a point which my friend missed—

MR. SHAMSUD-DEEN: On a point of order, Sir, this is a budget session. Are we discussing cartoons in various papers or the budget?

DR. DE SOUSA: I submit that it is a question of income tax and misrepresentations made about income tax and of the Indian community being shown as supporting income tax, and we have devoted the better part of proceedings in this Council to discussing income tax. I said it is a lie to suggest that the Indian community have not supported income tax. I am not surprised that the hon. member who has just spoken is not quite happy about my making this statement.

The Indian community, whether the hon. member supports it or not, or has objected to income tax, or opposed income tax, supports income tax and is not with the settler community in opposing it.

There are several questions I want to refer to now, and one of them is connected with the Police Department. There are a few points which I hope Your Excellency will give some attention to as well as the heads of the departments whenever they can do so.

In connexion with the Police Department, I have to bring to the notice of Your Excellency that for some time now crime in Nairobi has been on the increase, especially crime of a petty nature. It will not be possible for me to substantiate my statement with figures drawn from the annual report of the department, because not all petty cases of theft or other petty crime come to the notice of the police. It has been held by very many of us that if the police had been increased to some extent greater relief might have been given to the inhabitants of the town. If that were not possible the suggestion has been made in the past to Government that the municipality should institute a municipal police which would take upon themselves part of the functions which the colonial police now carry out in their own town.

Again, in connexion with the police, I have recently had an opportunity of going into the question of immigration diffi-

culties at Mombasa, particularly as regards Indian immigrants. I am very grateful to the hon. the Acting Colonial Secretary for the very sympathetic manner in which he received my representations, and although I have no further information I believe that he is dealing with the matter. But that does not excuse Indian members in this Council from the duty of ventilating a grievance which is not new but very old.

I do not want to go into details, but one thing that struck me when I took the trouble to investigate the matter—and I was on the deck of a boat from India from 8 a.m. to 1 p.m.—was that the Mombasa police authorities have no staff to cope with the rush of work connected with immigration. I think improvements can be made in the situation there by adding to the police connected with the Immigration Office, because at present when the only two officers at that office go to the ship to attend to the formalities connected with immigration, the office remains closed for that day.

That is a fairly serious state of affairs, apart altogether from the great hardship on the poorer sections of the Indians travelling on deck who are coming to this country and also to the adjoining territories of Tanganyika and Uganda.

There also arises the question, and I think the hon. the Acting Colonial Secretary together with the Commissioner of Police will be able to attend to it, of exchange. People have to pay a deposit of Sh. 200, and for the exchange purposes the immigration authorities quote a certain figure which is higher than the money-changers, who are a few yards away from the ship, will give. That is a very important question which I hope will be attended to.

In connexion with the police force, there is a subject of very great importance to the country, and particularly to Nairobi which, so far, to my knowledge has not been raised in this Council nor in the public Press nor on any public platform, and that is the question of betting on races outside the Colony. I was trying to look into the law of England where this kind of betting, called the bucket system, has been engaging the attention of the police and other authorities.

[Dr. de Sousa]

This system of betting is very extensive now in Nairobi, and I am advised it is a system which is not affected by our gambling laws, but there is an ancient Ordinance which I suggest the hon. and learned Attorney General might look into to see if he can make it more adaptable to modern conditions. If I am not allowed to bet or stake money on a card or dice or any other device provided in the gambling world, I ask why I can put money at a bookmaker's office on a horse? That shows there is a need for some legislation to be brought in.

I understand that betting outside a race course is not allowed in England. I am talking as a layman in the matter, for I have never gambled in my life and until recently I did not know what a punter was. I am talking as a perfect layman in the matter, but I can say that while this gaming may be an entertainment to some people it has become a perfect vice and has led in the last three or four years in Nairobi to the ruin of several men and their families, to my knowledge.

I was told the other day, and that is how I began to take an interest in the subject, that a man had offered money as a stake on a horse which won, and when he went to the bookmaker's he was refused his money. He went to the police and they sent him away, and said they could do nothing in the matter as there was no law. I find it difficult to believe that, but I do believe it is an important matter where Government should make an inquiry as to whether the police really refused; because, if the allegation is true, I think there is a law in this country that for cheating or some such thing the parties concerned can be brought before a court of law.

My information in this matter has been that this bucket system of gambling, or whatever you call it, is very extensive. There is no secret about it, and I understand the Postmaster General gets about £1,000 per annum from one firm of bookmakers alone, and I am not surprised that Government encourage it. The question is of great public interest, and I am sure that when you have heard all this you will consider it a question of summary interference by the Government of the country

in this matter. I have a book here (laughter)

MR. HOEY: On a point of order, Sir, have we to listen to this? I do not see that it has anything to do with the budget. The hon. member says he knows nothing about it and is now treating the Council to a long discourse on something of which he knows nothing and which has nothing to do with the budget.

DR. DE SOUSA: That does not impress me, because I said I endeavoured to learn about it. (Laughter.) The hon. member can pull me up if I make false, wrong, or incorrect statements, but I am not likely to do that because I have these things in my hands.

The other point is that at the beginning of my speech I made it clear, in connexion with the interpolation of the hon. Member for Uasin Gishu, that if I do not talk on this point now I can give notice of motion and have a full dress debate for one or two days. I am trying to save the time of Council and incidentally the expense connected with it.

Here is a list which is issued almost every day, in which names of horses are given. People with haggard, desperate faces, go four and five at a time into a bookmaker's office, the list is put before them and on a board. On this list are the names of the horses, their weights and the jockeys, and also the stakes. What would one expect? One would expect that that list would correspond with the horses running in say Durban, Johannesburg, or London. The big races are, of course, broadcast on the wireless, such as the Derby, but this is in connexion with the small races.

What would one expect? A complete list, but it does not. Here, for example, is a list in which the name of the horse that came first is not included. People have been betting, and the probable winner has been excluded from the list. This is a matter of about 10 days or so ago. Here is another one, which excludes from the list Newport, another one, Broken Seal, another one excluded is Ontario; here is another one, Finden; and so on and so on.

Am I to understand that this is a legitimate business? This list is of August 2nd,

[Dr. de Sousa] two advertisements of the Durban Gold Cup, with no mention of the probable winner—

MR. SHAMSUD-DEEN: On a point of order, I am sorry to interrupt the hon. gentleman, but if he were allowed to say that gambling is allowed in the Colony I think he would be perfectly in order, but if he is going into all the details of races all over the world and the names of horses, I do not think we shall ever finish this session!

DR. DE SOUSA:—

HIS EXCELLENCY: Order, order!

There are limits to the extent to which an hon. member can go into details in this matter. This is possibly just within the scope of the debate to-day, but I would ask hon. members to remember that Government business and the country's business has got to be got through, and they should merely quote sufficient instances to show there may be some things occurring to which the attention of Government should be drawn. I do not think there is any point in going into a vast amount of detail which has been gathered from papers, books, or any other source.

DR. DE SOUSA: I do not want to say more, but these are only five or six cases which I have quoted. If you do not wish me to speak further on this particular subject it is a pity, because I shall in the course of the session have to give notice of motion, for I want to prove to you that there is immediate necessity for Government interfering in this matter. They could not possibly do that unless I gave concrete instances to corroborate what I say.

It is no use telling you that there is a lot of betting going on and many families are ruined, and then sitting down! Consider that all these issues are entirely new issues, and there ought to be some sort of opportunity of discussing them in detail if we can do so.

Again, you will say that I am taking up the time of Council. My point, and it is a very important one, is that when these lists are out the bookies very often refuse to accept bets for some reason or other. Again, sometimes there have been refusals

to pay, and people have been to the police who have refused to take action. Again, I understand that from September of this year bookmakers have been accepting money in bets on a race, the Derby, which takes place in June, 1938. That is a very serious problem.

These are the things I have to say, whether my colleague who is objecting likes them or not. When you know that many large transactions of money are taking place, thousands of pounds, there is no security to the punters who invest the money. In a case like this, people in offices and in Government put money 8 or 9 months ahead on a race. How is that money going to be utilized? What security have the public got that that money will be paid out or the bookmaker will be in Kenya at that date?

Again, my information is that it is again a matter for inquiry by the police. In these transactions post-dated cheques have been given and accepted. These cheques are presented at the end of the month, and they are given by people who get monthly wages, such as clerks and artisans, and there are cases in which employers and bank managers have been notified of the inability of a man to meet his post-dated cheque, and there are instances in which men with 15 and 20 years service have, through this betting, been turned out of their posts.

I think it is getting more serious than some people thought at the beginning. What does this all mean? It means the ruin of families of innocent women and children mainly of the middle and poor classes. I think I have mentioned enough in this connexion for Your Excellency to at least be justified in ordering an inquiry, and if that inquiry is satisfactory, as I am quite sure it will be, then you will have to legislate in this matter, so that if gambling is to be allowed on races outside the Colony there shall be some protective legislation for the people.

In this connexion I should also point out that there is no protection for the juveniles joining in this betting. Men under age can also indulge in it, so that the matter becomes doubly serious. There is legislation in England, by the Racecourse Betting Control Board, and their function is to determine the places where

[Dr. de Sousa] bookmakers can operate, while the profits of bookmakers are marked down to a certain percentage.

I hope that has been quite interesting, although I have taken so much time of the Council. Personally, I do not think I have wasted time for a single second.

Now I come to other subjects which may not be so startling as the last one, and one with which we are faced in these days is the collection of native hut and poll tax in Nairobi itself.

I have nothing to say to a genuine effort that Government may be making to collect this tax from the natives. Until recently, the collection was done mainly in the reserves, but now the various chiefs do it in Nairobi. I do not want to criticise the process, but it seems to me an innovation. I do, however, object to the difficulties that the system is creating.

I had an instance only yesterday. I went to my office after Council and could not find my boy. I discovered that he had been taken away because he had not paid his tax. That may be quite a legitimate thing to do, but I have been put to inconvenience because, as a rule, I work until 7 or 8 o'clock in my office after leaving a sitting of Council, and I had to do my work without the assistance of my native boy.

A little discretion on the part of the authorities would have saved the situation and straightened out matters. They had only to inform me that the boy had not paid his tax and I would have given him an advance of a month's salary, a simple process. Now the boy, perhaps suffering from a bad memory, was taken to prison last night. I consider it a serious thing. I am sure there are several other similar cases, of boys being taken away without any consideration for the employers, and there may be many employers who would refuse, because the boy is away from work, to pay him so that he loses two days' wages.

This is happening in Nairobi, and it is necessary that the officers concerned should know that there is a hardship in the collection of the tax.

Another question to bring to the notice of Government, it has been referred to by

the hon. Member for Trans Nzoia, is that of the entertainment tax. I am only referring to it now because I fear the hon. member did not give all the reasons as to why there should not be an entertainment tax. I agree with him that there should not be one. It was imposed during a time when we searched for every cent to balance our budget; rightly or wrongly, we wanted all the money we could get, and rightly or wrongly we taxed the people, and this tax is a remnant of the several processes of taxing the people.

One point that I should like to stress is that the modern cinema is not necessarily or entirely entertainment. It has got in it many things which are educational. I very often like to see the news reel because I can follow world events more intelligently than by reading a small paragraph in a local paper. It is of educational value. I think Government in the course of this session should repeal the Entertainment Tax Ordinance, and I think it would be preferable if Government withdrew the notice of motion to continue it during 1938.

Another subject which is entirely new again and which may perhaps need a reference to the British Foreign Office, because perhaps this Government may not be able to settle the matter, is the question of the repatriation of foreign subjects.

As you know, it is customary for the representatives of foreign nations in any country to be responsible for their own citizens, especially with regard to repatriation. I understand that Government have no difficulty about the repatriation of foreign subjects of all nations except Portuguese. I know that it has become quite a problem recently in connexion with Portuguese subjects who have to be repatriated, and the representative of that country in Kenya refuses to assist in the matter of assisted passages and so forth. Quite a few cases have been attended to by the Unemployment Committee which dealt with the repatriation of British Indians, but I think the committee very rightly came to the conclusion that the repatriation of foreign subjects should not be a charge on this Government and discontinued their assistance, with the result now that whenever the necessity of repatriating a Portuguese subject occurs he

[Dr. de Sousa] becomes a charge on the general community, and assistance has to be given by means of subscriptions and various other methods.

I think it is necessary that where there are accredited representatives of a foreign country in this Colony, they must be responsible for such cases, and that the latter should not be a charge on the community generally. This is a matter which will, perhaps, have to be referred to the Foreign Office for negotiations with the Portuguese authorities.

There is another point. My hon. friend Mr. Isher Dass yesterday raised the question of giving salaries to members of this Council. I think there are members of other bodies who come in for consideration, especially members of the unofficial community who devote their time in connexion with legislation from which Government derive certain revenue. For example, take the case of the Liquor Licensing Court. Members of the unofficial community who comprise its members give much of their time, and Government make quite a lot of money in the way of licensing fees. Again, there is the Film Censorship Board, and Government make a lot of money from the duty on imported films and, in the last few years, from entertainment tax. There are several other bodies.

Members of those bodies, if Government finances permit, should also have some remuneration for the time they give to the public service.

MR. ISHER DASS: On a point of information, I was referring to the item on page 106 of the Estimates, allowances to unofficial members of Executive and Legislative Councils.

DR. DE SOUSA: I should like to refer, though I am sorry to have to do it, to the hon. Member for Mombasa (Mr. Bemister) and his complaint about the Englishman being deprived of rights which in Mombasa the Indian enjoyed.

I do not know much about it but I do know this much, that Indians in Mombasa have been able to control the finances there, and if they have been able to do that in Mombasa on a local board I see no reason why they can-

not carry on with a spirit of co-operation and goodwill from the European members on any other boards. Actually, I am glad that they have got the elective principle and that all the members are going to be elected, and I express the hope that Your Excellency will see that Indians in Nairobi will be placed in a similar position.

Now I come to another subject which may not be quite so pleasant, particularly to the hon. the Acting Colonial Secretary. In my budget speech last year I made an allegation concerning certain hardships of Asian officials, especially administration officials in the districts, and I was given subsequently, at the end of the debate, an undertaking that an inquiry would be made. The then Colonial Secretary gave that undertaking. I understand from a letter I received from him that there have been no cases of hardship. Of course, that means that my allegation in Council was entirely unfounded.

I am still of the opinion that what I said last year holds good even to-day, that Asian subordinate officers, especially of the administration, are treated unfairly. There are two or three provincial commissioners on this Council, and they will know that only recently there was the case of a man with long service and ability being transferred elsewhere because there was a junior, a favourite in the establishment section of the Secretariat, to be posted to his place.

I refer to this, because these hardships exist now as they did when I made the allegation. I said that there was need for serious inquiry into the working of the establishment section of the Secretariat, and if free and confidential reports were allowed from Asian officials and a promise given that they would not be penalised or prescribed in matters of promotion and transfers you would probably be surprised to know the amount of hardship there is. I am asking for that inquiry, and Government should allow it, especially into the working of the establishment section.

Another matter that affects the Asian Civil Service, a very important subject, is that of special grades.

The system to-day is that these special grades are built up of seniors in the first

[Dr. de Sousa] grade. It is not a question of seniors in the Service coming up. There was years ago a system, and a very good one, called the long grade system, whereby Asian officers used to rise according to period of service and according to their ability to the topmost grade. For some reason or other this system was discontinued and replaced by what was called the watertight system; that is to say, promotions from the first grade were made by each department concerned, and promotions in the first grade were not in respect of the whole service.

I hope you will understand, Sir, this particular position I am trying to explain as well as I can. What has happened when the watertight system was working is that junior clerks have been able to get to first grades within their own department irrespective of their time in the Service, and when these departments had been filled up with first grades all of a sudden Government, at the suggestion of an association, did away with that system, and reverted to the long grade system, with the result that you have got a body of first grade officials on promotions to special grade which are made on seniority of first grade and not on seniority of service.

The system of watertight compartments and promotions to first grade by that system has been the cause of bringing about a lot of dissatisfaction in the Service. It happens now that there are senior first grade clerks in various departments who are chosen for these special grade offices in the administration.

As I said last time, there are administration clerks who have for years and years been deprived of civilised comforts, they have no schools, cinemas, theatres or anything of that sort in the districts in which they are working, and when it comes to a special grade post (which is the only ambition of an Asian official), the greatest honour Government can bestow, after 25 or 30 years service, when the time comes to give him that remuneration junior clerks of Government unacquainted with the work, are shoved on.

To give you a concrete instance. The hon. the Attorney General will tell you that he has recently had a very valuable

clerk taken from his own office and sent to take charge of the cash in an administrative centre. A year or two ago a clerk in the Game Department, who had devoted all his time in that office, was shoved on to another post. Only recently, another clerk who has been all his life in the Treasury, was sent over to an administration post. In all these cases the meritorious services of the administrative official have been brushed aside and men with no experience whatever have been sent. The results have not been happy.

In one instance, over-payments were made of several thousands of shillings. In another recent case (one of the provincial commissioners may be acquainted with it) the same thing has happened about money matters. Payments have been made wrongly through mistakes. It is inevitable when you send people unexperienced with administrative duties. I should like one of the administrative officers to confirm what I say about the complicated duties of the clerk, which is seldom carried on satisfactorily by clerks posted from other departments, and it would be interesting to know the views of administrative officers on the importation into their own departments of persons not acquainted with the work.

The remedy for such a state of affairs must be in the provision of a few more special grades and the allotment of them to the major departments.

Now, I come to a subject which is my own, and I am not therefore going to make many mistakes or be very readily shaken. I am going to refer to the Medical Department, and I can assure the hon. the Director of Medical Services that our relations this year will be different to what they were last year and the previous year, because I am in the fortunate position this time of not having to refer to things like neurosis and psychosis and the matter of mental strains contained in new religion and civilization so far as natives were concerned, and other high sounding terms with which we dealt last year!

This time I congratulate the hon. member on his report. It makes very backed statements in accordance with facts, and that is how a medical report should be made, and it is a pleasant duty for me this morning to have to thank him. I do

[Dr. de Sousa]

not think I have done that in previous years, and it is also a very pleasant duty to thank him for another thing, in connexion with the operations in the Nairobi hospital on Indian women. I think he has done his best to give us an outside man, although I am informed it is not yet possible for him to exclude one or two other males besides the surgeon, assistant surgeon, and anaesthetist from the room when an Indian woman is operated on. It is not impossible to expect that before long that little defect will be remedied.

I thank him again for the improvement he has brought about in the nursing in the female wards, although I must say he might have extended his attention to the other side as well, the male side. They have no nursing attendance. They have a head nurse supervising, and they do not see the kindly face of a nurse for the better part of a day. I think he will be able to see next year that this particular defect can also be remedied.

Again, I have got to thank him—I am afraid I am thanking him too much—for the reduction in the laboratory fees. I think they are now in keeping with the needs of the people, although slight reductions here and there might be necessary still.

Lastly, thanks are due to him on the question of the vaccination difficulties of Indian immigrants at the port of Mombasa. There is still a little difficulty, which I think on further inquiry he will be able to attend to.

But I must express my regret that he has not given any attention whatever to the suggestion made to him of training Indian boys as laboratory assistants. I think if you want to relieve the tension which the number of locally educated youth has brought about, his department more than any other, except perhaps the Railway, is fitted to do it, in the direction of training them as laboratory assistants, compounders, hospital assistants. I see that he has a very elaborate programme for these and other posts for the Africans, and I think it is only right that the Indian community should have some share in that part of the education of the local youth.

Another question is that of statistics of hospital and dispensary patients treated

in Government hospitals and Government dispensaries. I complained last year that there were no figures as regards Asians. These reports are useful not only in this country but in other countries, especially to various British colonies. I think there is a system of exchange with all the other colonies and protectorates in the British Empire, and I say it gives a false impression if in the hon. member's report figures are given concerning Europeans, while in another column Africans and Asians are shown together, so that the largest immigrant community, that is the Indian, with a population of 40,000, has no place in the statistics of the Medical Department at all.

I hope he will do that next year. I am very disappointed to see he has not included them, and it is not a difficult matter, because he already keeps a record of Asian officials as against European officials so that the Asian population as well as the African and European populations, can well be included in the figures.

Another thing which I raised last year, and the hon. member acknowledged, was the medical inspection of public schools, but it has not yet been recommenced. For a number of years the Government schools have not been medically examined. If it were a question all these years, as it was, of finance, I suggested that the voluntary services of private medical practitioners should be canvassed. I am sure that has not been done, and I must repeat: is it not possible for Government to provide an inspection at least once a year of the public schools?

They might consider the proposal, and I am sure that many private medical practitioners will assist the Medical Department in this very necessary work, especially when it is connected with such things as teeth of the children, the conditions of the throat, and several other important matters.

I have also to draw the attention of the hon. the Director of Medical Services to certain very necessary services. I am glad that he has been able to provide specialised services in eye troubles, but there are more than eye troubles to-day, especially in Nairobi itself. There is, for instance, the matter of the teeth of the Africans. What happens now-a-days when an

[Dr. de Sousa]

African in Nairobi has toothache and wants to relieve it? He goes to a Government dispensary, where there is a staff which, like myself, does not specialise in the removal of teeth, and over and over again private medical practitioners are faced with the problem of treating septic teeth. For a Government like this, a native ought to have some means of relief in dental treatment.

The figures in the hon. member's 1936 report concerning venereal disease would seem to a casual observer very distressing. We have in this report a very small paragraph in which the Director says that the medical officers in the districts have recently been showing some concern for the spread of gonorrhoea in the districts, and the statistics for syphilis alone show a decrease since 1934.

This may be on account of the greater facilities of which the natives have taken advantage in the services given in the Government hospitals and dispensaries but, nevertheless, this is a problem which has got to be attended to, and the more so because of the relationship which this has for example, to the practice of Nairobi Municipality in renting single rooms to single African women. This is the social side of the town on which so much stress was laid by a local doctor, and here you have a municipality which allots to single women on rent small homes. That does not encourage the prevention of disease, but encourages it.

Again, partly because the local authorities take no interest in the matter or partly because of the attractions of the town, we get now a large body of young women, married or otherwise, who come to the town most of them ostensibly for the purpose of selling goods or to buy certain materials, but who actually get lost in a city like this. It is a common thing for these women to come in with a load and never return for several days.

If the social status of the African community is to be protected, if not raised, I think Government ought to do something more to assist the social work, and one of the measures as far as Nairobi is concerned would be to discourage single women getting rooms rented to them by local bodies, and women attending the

beer shops, and coming into town and living all by themselves.

There is another question which has given me some little concern, and that is the question of tuberculosis. The figures published in the 1936 report were not alarming to the casual observer, but they are to people like me engaged in this work, that since 1929 to 1936 there has been a progressive increase in the notifications of tuberculosis. While in 1929 the number was 676, for 1926 the number has nearly doubled, 1,201.

It is very difficult for anyone to suggest, in a country like this, measures which can control tuberculosis, but I feel that neither Government nor any public body has made a beginning in dealing with tuberculosis, either from the preventive or treatment side at all. For example, the whole Colony to-day has not a sanatorium, yet in the highlands of Kenya there are recognised places which would be ideal for the treatment of the disease.

Another thing is that there is no preventive legislation nor any treatment of cases; several cases, in fact, have had to leave the Colony. Many of them were Indians.

In connexion with tuberculosis, the hon. the Director of Medical Services will be interested to know, that not only is there no sanatorium treatment, but I was surprised the other day when I sent a case of tuberculosis to the Nairobi Hospital and suggested a special treatment which he knows as well as myself—pneumothorax—I was informed that there was no instrument in the hospital. When such treatment has to be undertaken the instrument belonging to a private practitioner has to be obtained. If that is true, it is hardly credible for a large institution like this not to be provided with the most up-to-date instrument, which costs only a few pounds.

Again, in the past few weeks, I sent up a case to the native hospital of puerperal septicaemia and asked for treatment by pronosil which is universally used in streptococcal infections, and they told me they had none of this drug. I gave what I had in my bag, and what more was needed was bought from a local chemist. When I asked one of the officials at the hospital why a drug of this kind was not kept in a

[Dr. de Sousa] hospital like this, as it did not cost the Colony a hundred pounds, he said they had already provided for the year's requirements by purchasing streptococcal serum, a remedy which is considered of doubtful value and generally discarded. That is not a very creditable thing for a hospital of this sort, and I am not sure that it is not the same with the European hospital. I know that in the Native Civil Hospital the drug is not kept, and Indian patients have to buy it outside.

I come to the question of malaria, with which I am going to deal rather exhaustively. It is quite an interesting subject. I was interested in reading the medical report for 1936 where, if I am not mistaken, you will find that in Nairobi 1,000 cases were notified. By implication we are told that the year 1936 has been a year of comparative freedom from malaria.

I think this question of notification of malaria and its inclusion in the list of notifiable disease, has given the community here and outside a wrong impression of the incidence of malaria in Nairobi. I am talking of my experience in this town, a long one, which goes back to the time when there was no malaria but it is quite safe to put Nairobi down as one of the worst malarial places in Eastern Africa. I should like to hear of any other place which has more malaria than Nairobi. I do not want to frighten Your Excellency, or anybody else, or the public, but that is so, and the sooner we understand that we are in the grip of this disease in what we consider to be the heart of Eastern Africa, and certainly Kenya, then the sooner we shall know exactly what is our responsibility.

To tell us that 1,000 cases were notified implies that about 12,000 cases of malaria were treated, because every doctor under the law is supposed to notify each case, but he does not do so. I think I have the privilege of this Council, and I would say that I seldom notify cases of malaria. I alone must have treated 1,000 cases during the year. Notification under the law was introduced for one single purpose, that local authorities as well as Government would find out the places ridden by mosquitoes and be enabled to deal with them.

I submit that during the last seven years, for Nairobi at any rate, most people as well as the Medical Department and the authorities know in which places malaria mosquitoes breed, and when that is done I do not think there is any more need for the notification legislation to continue, for these figures in the annual report give an entirely wrong impression. For example, the statement recently made in an annual report that over 50 per cent of Indian children born in Nairobi die within the first year of their life, which is a misleading statement. This comes under the same category and besides giving people a false impression, creates also a false sense of security.

I would very much like the hon. the Director of Medical Services to see whether he cannot bring in some sort of motion to revoke, or get the local body to revoke—the hon. the Commissioner for Local Government should be interested—or remove malaria from the list of notifiable diseases, because notification serves no useful purpose, and a busy practitioner has no time to fill in a big form with details of where the patient came from, how many days he was sick, where he resides, and etcetera.

We sometimes have to deal with a row of patients, and we have no time to do this, although temptation is put in our way by offering us Sh. 2 for every notification. Again, it is an unnecessary expense for the municipality. They do not need to know any longer what are the places which are breeding malaria mosquitoes.

In this connexion, no reference has been made to the fact that the largest breeding place of malaria mosquitoes in Nairobi is the Nairobi Swamp. We have been bringing this matter up ever since the 1926 epidemic, and the first attack of malaria I ever had in my life in Africa was in Nairobi. The Indian community is mostly affected, for it is in their midst that the swamp is situated. Year in and year out we make recommendations, and Government officials consider we are very stubborn and waste time. There is no need for us to waste time if our representations were attended to.

What are you going to do with the Nairobi Swamp? If you are not interested in it then you are not interested in malaria.

[Dr. de Sousa] at all, for unless you deal with the Nairobi Swamp you will never deal with malaria.

It was only by chance in going through the budget that I noticed that Government have been mean enough to profit on this question of malaria. Government sells quinine. This year they budgeted for an expenditure of £1,500 for quinine and a revenue of £2,000 on the sales, a profit of £500, or Sh. 10,000. For 1938 they are budgeting for an expenditure of £2,000 to buy quinine and for a revenue of £2,200, Sh. 4,400 profit. I think it is undignified for any government to try and sell quinine mostly in competition with local chemists and local shopkeepers and yet try to make a profit on a question of malaria prevention. It is undignified, and I hope the hon. the Director of Medical Services will insist on it being deleted.

Now I come to the last question in connexion with the Medical Department, the group hospital. Last year I asked a question in November 1936:

Have Government sought or obtained the advice of representatives of the communities concerned in the preparation of the plans for the hospital in question (the grouped hospital)?

The hon. the Director of Medical Services replied:

"Before any final decision is arrived at with regard to this question, or with regard to the general design and detail of the proposed hospital, representatives of the three communities concerned and of the medical profession as a whole will be given every opportunity to offer advice and suggestions to Government with regard to the matter."

I submit that the time for him to fulfil his promise was when Government appointed the committee which considered the proposed scheme for a grouped hospital at Nairobi. I made personal representations and spoke to him, and asked why it was that in a matter like this the Governor had not been advised to put an Indian on the committee, not necessarily a member of this Council, but an Indian medical practitioner. It may mean nothing to him, but he should be there if only to know what other people had to say.

If this is a question of such great interest to the Indian community, as I am sure

it is, and if representations have been made by that community and their representatives, and if the hon. the Director of Medical Services has given an assurance in this Council that he will consult those interested, then that was not the right way of appointing the committee. Much dissatisfaction and ill-feeling can always be prevented by a timely action. Even then he did not appoint anyone.

This grouped hospital is a very old question, and Your Excellency has given an assurance that with the available resources a start can be made with the Asian and African sections. I have expressed my own view in this matter. I do not think you have the history of the grouped hospital very clearly before you, but I want an assurance and I want to know definitely whether it is or is not the case that the building of the European section of the hospital will be included; this will mean the complete grouped hospital.

At the beginning, the European community expressed its disagreement at the inclusion of their section in a grouped hospital. I have no reason to believe that Government will not complete this scheme by later on erecting the European side of it, but I think I must express my fears that this country, if it does not now complete the three sections, will be faced with the problem of constructing a separate hospital for Europeans, which would entail additional expense on a separate community by itself. That is one of the reasons why I would ask that an assurance be given or an indication that this scheme will be completed.

I realize that at the moment there is just about the necessary amount to put up the Asian and African sections.

Now I come on to the subject of education.

HIS EXCELLENCY: I think this will be a suitable time to adjourn for the interval.

Council adjourned for the usual interval.

On resuming:

DR. DE SOUSA: Your Excellency, I am now coming to the education side of the budget. When I come to that, I have to deal pretty extensively with it.

[Dr. de Sousa]

I do not know that any member of this Council has spoken in more congratulatory terms of the present Director of Education than I did last year, and if I have to say a few things this morning that hurt I am sure he will appreciate that my efforts, just like his, are in the interests of the education of the Indian youth.

Your Excellency did great service by attending the prize distribution at the largest Indian secondary school in Kenya, and you gave very good advice to the boys. You also mentioned, I think, it was reported in the Press, that there was a limit to the taxes that could be imposed and the amount of money that could in consequence be spent on any one undertaking. I suppose you referred to the increasing expenditure on Indian education. I also believe that what you actually meant was that there ought to be some limit in that respect.

For quite a long time the Indian community has been clamouring for more and more money in regard to the education of their children. This clamouring has been well received in a sense by the present Director of Education, and I must say at once that we are not ungrateful for the sympathetic manner in which he has considered all financial questions affecting Indian education. But there has been, rightly or wrongly, a sense of insecurity among the Indian people in that Government are trying to evade their responsibility and that Government have quite a different conception of the type of education that Indian children should have.

At that very function the hon. the Director of Education showed his great concern about Indian boys and their careers. He said there were fewer and fewer posts offered to Indians in the Civil Service. That is what he said. He said "This was not deliberate, but a question of economics," and he amplified his remarks by saying that "The higher paid posts which previously were occupied by Asians were now going to young Europeans and educated Africans were taking many junior positions. I suggest," he said, "that there is a wider scope for artisans."

This passage has led to quite a lot of misunderstanding. For my own part, I do believe that what he wanted to say was

that the Indian youth was deprived of one of the opportunities that exist so far in the general economy of the Colony. That is so, because all of us have complained that the Asian are being gradually squeezed out of the Civil Service. If it were purely a question of economics as the hon. member said, if this squeezing out process were a question of economics, I should abide by that, but I say it is not a question of economics. In fact, it is a question of engaging a higher paid staff for work that can be done by this community, that is, the Indian community, and it is not a question of economics at all.

We have an illustration of this in the present budget, where provision is made for European clerks to do work which Asian clerks would do for perhaps half or a lower salary. It is definitely not a question of economics, it is a question of policy, to squeeze out from a legitimate occupation one section of the community and giving preferential treatment to another.

The question of accommodation in these schools has also been a question which has been agitating the minds of people for many years. I am glad that some finality has been reached regarding the school in Nairobi, but it is not only by providing additional buildings that you can relieve the difficulties. The principal of the school at that very function you, Sir, attended, made a reference to the abolition of the Cambridge Preliminary, and he said it was a most useful method of weeding out pupils unfit for higher education.

I mention this because the statement comes from a man who has been connected with Indian education for a number of years and who has got a good record of service. There has been quite a lot of misconception as to what higher education is. I personally am not a highly educated man, but I do not consider the school certificate is anything that we can call higher in education. There is the London Matriculation class or school certificate class now introduced. They give the modern pupil just that much as is necessary for him to be an ordinary citizen, an ordinarily educated citizen, up to the artisan or any other post.

[Dr. de Sousa]

I think, Sir, it is the right of every modern boy to be equipped with the amount of education that comes up to the Cambridge Senior or school certificate standard; I think he has that right. It has been said there are many boys who will never learn. That is a controversial subject, and on it I do not want to express an opinion, but I do wish to emphasize that the conception of higher education in this country is not right at all. There is nothing of high education in the school certificate standard, it is just education every boy needs.

There is another matter that arises from the Director's speech, and that is the scope that exists, as he said, for Indians as artisans. As I say, even the artisan must be educated in modern times, he must be able to read a newspaper, he must be able to follow world affairs. One of the most unfortunate statements in that speech was the Director's reference to a possibility of land development in Kenya and he quoted the example of sugar and cotton in Uganda due to Indian enterprise. It is a wrong thing to ask boys to emulate the example of the sugar and cotton magnates of Uganda because there is not enough land in Kenya for agricultural development by Indians. Magnates are more or less rare and the average boy will not become a millionaire. It is a very wrong thing to put before the boys and again it is wrong to suggest to the boys that they cannot be anything more than artisans and carry on like their ancestors who built the railway and many of the buildings in the Colony. I think that statement was quite unfortunate.

In the last session of Council I tabled a motion which had two parts. One was the question of secondary education in the Indian Government schools, and the other was the question of an inquiry into the working of the Indian secondary school, Nairobi. My hon. friend Mr. Isher Dass referred to the subject yesterday, and said he agreed (and I agree with him) that the hon. the Director of Education should not have refused that inquiry. I am not here to blame him. Taking everything together, I would be satisfied with what he has promised.

He has promised to have a sub-com-

mittee of the Advisory Council on Indian Education, and that sub-committee has been appointed. The term of reference to the committee is a new syllabus; it is only on the syllabus that he was prepared to give in. I think it might have been well worth the time and patience of this Council for me to have had that motion debated, so that all the circumstances connected with the situation as it then arose could have been placed before the public, but I withdrew my motion.

I understand that in spite of his refusal to give in to my motion, he is still endeavouring to meet these points in the course of the inquiry, and I have very little to say at the moment on this particular issue.

There was in the Education Department's annual report for 1935 a table giving heights and weights of boys in the European schools. I asked a question at the time as to why the weights and heights of Indian boys were not also recorded in the report. I had an assurance from the Director that those of boys in the Indian secondary schools would be included in future annual reports, but the 1936 report does not include a table of this kind.

Again, in this connexion, a question arose to which I have referred in connexion with the medical vote, and that is the medical inspection of schools. I do hope that at this point, small though it may appear to the heads of the departments concerned, will be taken up in 1938.

It has been the practice in the past for an inspector of schools to visit the aided schools. This has, I understand, not been done for some time, at least for two years, and I think it necessary that Government should keep a close eye on the schools, whether aided or not, and that 1938 will afford an opportunity for the hon. the Director of Education to continue the practice and inspect all the aided schools.

Again, I have got to refer to the question of bursaries. (These suggestions may seem insignificant and take up a great deal of time at this stage of the debate, but they must be made.) A start has been made, but I find that it has not occurred to the Education Department that this bursary system should, in the case of Indian boys, be used as far as possible to

[Dr. de Sousa] encourage them to go to schools in Europe in order to qualify themselves as teachers in the schools here, for our difficulty is not only the numbers of teachers but the quality of them in the Indian schools.

Quite a startling revelation was made by the hon. the Director when I put to him a question as to how many pupils were expelled or excluded from schools on the grounds of superannuation. I have the figures for these exclusions for 1936, but as regards previous years he replied that there was none available. That is a very serious problem for us, and it is a serious matter for Government, not to be able to tell the public how many young men have been turned out of the schools in 1935 and 1934, or if they were made without the knowledge of the Director of Education, the knowledge of the principals of Government schools, or without the knowledge of the Advisory Councils. That is a very serious lapse, and I do hope proper records will in future be kept, and I am informed they are being kept.

A subject of some importance, minor though it may be, is the question of second languages in Indian schools. In giving evidence before the Standing Finance Committee in 1935, I suggested that additional provision be made for Latin. I think the Noble Lord will remember, he was present at the time, that he expressed surprise that the secondary school did not give Latin instruction, and if I am not mistaken he said there ought to be one teacher in the school who would be able to do that task. It was represented to the Standing Finance Committee at the time that this could be done without additional expense, so much so that at the beginning of 1936 a class was started in the Indian secondary school, Nairobi, and was continued until 1937. There were 8 or 9 pupils in that class.

Suddenly it was discontinued. The question arose, is a language like Latin necessary for the Indian youth? There is a difference of opinion. People say, why over-burden them with Latin. There are others who think that if Latin can be taught without any additional expense, why not give it? and if Government have to spend money to provide that additional

facility, why should anyone object to it being given?

In that particular school, this language could well be made one of the subjects, and the principal of the school is able to take Latin. He takes no other class and he has no other work except administrative work, not even an English subject in which Indian boys are usually most backward. I suggest that under the circumstances he should take at least one class. There is another European education officer attached to the school. He took the Latin class which started at the beginning of 1936 and gave it up for new work in connexion with the training of pupil teachers.

I say that this could have been done without additional expense to Government. However, that is past history. The class is definitely discontinued, but I consider it is a great pity, because in days to come the boys will need it. I have made my views clear about that.

There is another subject in which I am very interested, and it has a great bearing on the education of Indian children. That is the question of Indian education officers. Much of the educational advancement of any child depends on a well contented, satisfied staff of teachers. I am sorry to have to say it, but you have not got a contented Indian teaching staff, and if, as we all believe, Indian education is not to-day as good as it might have been, we have got to remember that there is this dissatisfaction among the staff.

This staff is in a very peculiar position. They are highly qualified men, they have got to undertake responsibilities which the average official does not take, they have got to deal with more delicate subjects than any other profession, and yet these men are the least privileged among the Asian Civil Service. The question has recently been, to some extent, referred to the Secretary of State for the Colonies. I believe last January. There is a batch of about 35 teachers who were engaged prior to 1928 and who, in 1934, were told in a Government notice that they were not entitled to pensions.

This batch of 35 teachers is excluded from the ordinary pension rates which the Asian Civil Service get. It must be under-

[Dr. de Sousa] stood in that connexion that after 1932 the pensionable status was discontinued, but the staff, which joined from 1928 to 1932 could not possibly have been brought in under the system. The Government circular did not affect the Asian Civil Service engaged between 1928 and 1932, in another case exception made was of no less than 58 officers in the Asian Civil Service. It is most unfair that such a large staff of men who are doing responsible work second only to the principals of the schools, should be excluded. Those who were in the service of the Tanganyika Government under similar circumstances were included in the pension scheme.

When we realize such a lot of education is undertaken by Indian teachers, when we at times boast about our results, and you yourself, Sir, mentioned in your speech the results of the London Matriculation, we are likely to forget the part these Indian teachers play in the education of the Indian children. You have secondary schools for Europeans as well as Indians, you teach them the same subjects, you submit them to the same overseas tests; the European schools are managed by European teachers, the Indian schools by Indian teachers, and the overseas results in the overseas tests in Indian schools are far more satisfactory than those in the European schools. What is the difference?

There are 62 European education officers for European schools, at a total salary of £26,000. You have 130 Indian education officers at a total salary of £28,000, almost equal. It means that a European officer gets on an average double the salary of an Indian education officer, and for the same type of work. That is the way the hon. the Director of Education basis his exposition of what economics are. Men having the qualification of a M.A. to-day are being engaged by this Government at a salary of £7-10 and we find no difficulty in getting them. The Education Department should be the last department to put educated people on the level of artisans, or even lower. Yet more and more men are being engaged on these salaries, small salaries, hardly large enough to keep body and soul together.

This is a problem on which I have taken the time of the Council, but it is well worth it if you consider the reactions of a disenchanted staff on the future of the Indians in the country.

Now I shall not be long, I have almost finished; in fact, I know it has been a strain on hon. members but I have already asked them to forgive me. I have merely to mention one or two small matters, not of a particular nature.

One is the question of an increased grant for Goan education. I said last year, and repeat it this year, that the encouragement given is going to have a good result in that school; that is, to make arrangements to raise it to the status of a secondary school where the School Certificate Examination will be taken. That has been possible because of the sympathy of the hon. the Director of Education.

In this connexion I am sure he is aware that the school has been fulfilling a very useful function, not only for its own community but others as well. Only this year the school was used for the purposes of a Cambridge Junior class for Indian girls who could not get these facilities either in Mombasa Government school for girls or in the Nairobi one. I think that shows a spirit of inter-dependence between aided schools and Government, when Government is in a position to avail themselves of whatever services aided schools can give them in case of necessity, and I am sure the hon. the Director appreciates that fact.

I have finished, and I repeat that I had to bring up these several points because of the interest they have to the people concerned. It is not always that we have the privilege of bringing before Government these points which to officials and others may appear small but which to the individuals concerned are matters of day to day interest. I know that I have bored hon. members, and possibly Your Excellency, but I had to have the opportunity of explaining these small points so that I can have the consolation of knowing that I have served the community I represent on this Council.

The debate was adjourned.

ADJOURNMENT

Council adjourned till 10 a.m. on Friday, the 19th November, 1937.

Friday, 19th November, 1937

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Friday, 19th November, 1937. His Excellency the Governor (Sir Robert Brooke-Popham, G.C.V.O., K.C.B., C.M.G., D.S.O., A.F.C.) presiding.

His Excellency opened the Council with prayer.

MINUTES

The minutes of the meeting of the 18th November, 1937, were confirmed.

SITTINGS OF COUNCIL

HIS EXCELLENCY: I should like to inform hon. members that in order to accelerate the progress of business, we shall meet at 9 a.m. next week instead of 10 a.m., and shall also continue in the afternoons as far as may be necessary. In all probability we shall have a sitting on Monday afternoon.

DRAFT ESTIMATES, 1938

REFERENCE TO STANDING FINANCE COMMITTEE

The debate was resumed.

MR. WRIGHT: Your Excellency, the observation and ruling you have just made comes, perhaps, as a timely hint to this Council, where the debate has been unduly protracted during the last week or two. But it is usual for elected members on these occasions, at the budget session, to go over all the points they can think of that concern, first, their own constituencies, and, secondly, the general aspects of the Colony, and with a general election approaching it is not to be wondered at that elected members in the main are prepared to make the most of their opportunity.

I will, however, not abuse that privilege so much this morning on behalf of my constituency, because I feel I can more properly do so and save the time of Council by submitting such evidence as I have in the interests of public facilities in my constituency, such as telephones, wireless licences, and so on, to the appropriate body, the Standing Finance Committee, who I have no doubt will give favourable consideration to them.

There is only one matter I want to touch on, because I can think of no other

way of doing it except in this Council, and I therefore ask their forbearance to mention an incident that happened at Nyeri some time ago, which has shaken a good many settlers there: a case of shocking cruelty to animals. I do not know how to deal with it, because it is difficult to reflect in the slightest degree on that important body called the judiciary of Kenya.

The whole matter arose out of an incident whereby two cattle were maimed and hamstringed, and one was skinned alive. Sentence was passed on the native concerned, and when an appeal was made the sentence was subsequently revised in such a fashion as to appear hopelessly inadequate not only to the settlers in the area but also to the native community themselves.

The case, briefly, was that a native was guilty of a grave offence of such fiendish cruelty that the owner had to shoot one animal next morning, for it had been skinned overnight and hamstringed previously. The local magistrate inflicted a sentence of three years—the maximum is ten years—and for some technicality and reason, not adduced, the native, guilty of a similar offence on another occasion, had the sentence reduced without appeal to 18 months.

The people of that district are apprehensive that if such lenient sentences are given for such grave offences, the effect will be bad, and demoralization will be very great indeed.

Missing out all the matters affecting my constituency, I would now pass on to the consideration of the Revenue Estimates, or that part which I consider a blot on our Kenya escutcheon. I refer to the item Income Tax which appears in the Revenue Estimates.

My colleagues, the majority of them, as you are aware, Sir, accepted that I personally was one of those, and am proud of the fact, who refused to do so, and it may be said, and I am one to say it, that it is a perfectly proper act to break with one's party rather than agree with a thing of this sort, or rather than stifle one's convictions on a matter of this sort. That I have done, I am the more convinced that that line was the right one by the fact that the line I take to-day

[Mr. Wright]—was the line taken by practically all my colleagues then, as you know by the remarkable series of documents submitted to Council by my hon. friend the Member for the Coast (Major Grogan).

I have always wondered what change of face. The average individual, looking through those documents, will be in a dilemma if he tries to get at the reason; yet we have witnessed, and with mixed feelings somewhat, some of us, the majority of our colleagues accept without a murmur (and even apparently with a degree of satisfaction) the complete reversal of what was once their recognized policy.

It has always been my contention that, at the time this income tax was rather lightheartedly accepted by the majority of my colleagues, the light of intelligence on the issue was too feebly diffused in this Colony of Kenya, and of leadership there was none. Changes, however, have taken place, people have more and more begun to realize the full implications of what they lightheartedly accepted, which, at the time, was probably natural owing to the period of depression all settlers had been through. They would feel that, after all, this tax could not conceivably affect them, and that it would be rather nice to sit back and watch those mythical plutocrats paying the tax, all those people who are assumed to have so much money here and overseas to put into the common coffers of Kenya.

That feeling was greatly upset when recently, by public proclamation, it was made quite clear that the non-resident bondholders of our ten millions 6 and 5 per cent loans were to enjoy tax-free dividends on those loans. It became abundantly clear, therefore, that a source of rainbow gold was Kenya, and Kenya alone. It became more and more clear that the undertaking given by the Secretary of State that all these territories were to suffer the same inflictions simultaneously, or one following the other, was not to take place, and for some extraordinary reason Kenya, and Kenya alone, is to suffer this tax which boils down to a tax on development.

I have dealt with that issue in this Council at great length before, and I hate

repeating arguments. I have heard it said that there is nothing new of income tax: I will say that I have never heard anything said in this Council in its favour in a young, undeveloped colony. In politics, just as in chemistry, action produces reaction, and as the settlers of Kenya, who were so complacent on the issue then, begin to find what the cost of the collection of the tax is to be to the Kenya Government—and not only to Government but to themselves—they begin to react, and the reaction intensifies the irritation caused by the imposition of it. They know beyond doubt that, and there is a growing number of them, we have been fooled. They know that the compromise was a glowing term that meant, literally, nothing. They see in it nothing but the surrender of our evolution to the Government, and to Downing Street particularly, and in that surrender was yielded all that for which we as settlers have long contended.

In this Council my hon. friend sitting on my right (Mr. Hoey) called this compromise an agreement. It brings one to a consideration of the meaning of the word, and agreement postulates three definite essentials. Agreement means that in the first instance there must be no misrepresentation of any kind. In the second place it presupposes no element of duress, and, finally, it should have such precise terms as could be construed, or made understandable, say, in a court of law. I still have to see in the terms of this compromise anything that will fulfil those conditions.

No single one of them would appear in that which is called an agreement and, while speaking of the meaning of words generally, I would, if you will forgive me, refer once again to the use by my hon. friend the Member for Uasin Gishu in a peculiar sense of a word in the debate on income tax in the budget session last year. He said:

"The compromise would have to be criticized, and no one minds criticism, but I believe those criticisms which have been flashed out by the Press are nothing more or less than the opinions of a lot of die-hards who, no matter what bargain you have made with Government for dealing with different

[Mr. Wright] problems, would damn it to the hilt so long as it contained the principle of income tax."

MR. HOEY: Hear, hear!

MR. WRIGHT: I am glad my hon. friend endorses it.

I am proud of being a die-hard, but here the expression is used as if it were a term of contempt, and I think that was the implication; it was certainly a term of reproach. You have probably a greater knowledge, Sir, than I have, but the term die-hard was given as a very honourable term during the War to a regiment, and it has always meant people who go on fighting, and dying if necessary, for principles. It is a particularly absurd thing to use in respect of a matter like income tax, but I am one of those who take a longer view of income tax: I am concerned with the future.

I am not concerned with the individuals who are high political dignitaries to-day. The welfare of Kenya is, in my estimation, a far greater matter than our or their dignity at this present juncture; but my feeling for Kenya goes to the matter of the children of Kenya and of the people who have settled here, who, before they have begun to develop, are to be arbitrarily taxed in this way.

I think when the prophet—I am ashamed that I cannot remember his name: I will presently—was dealing with the backsliding of the nation, he used words which fit the case we are confronted with to-day when he said:—

"Ye have ploughed wickedness, ye have reaped iniquity: ye have eaten the fruit of lies, because thou didst trust in thy way, in the multitude of thy mighty men. Therefore shall a tumult arise among thy people and all thy fortresses shall be spoiled."

The tumult has already arisen among the people, and that is abundantly clear to anyone with eyes to read and study the trend of events in the Press or among their countrymen. To those of my colleagues responsible for precipitating that tumult I say, in the words of the same prophet—Hosea, by the way—

"For they have sown the wind and they shall reap the whirlwind: it hath

no stalk, the bud shall yield no meal; if so be it yield the strangers shall swallow it up."

(Laughter.)

Sir, "the strangers shall swallow it up." That epitomizes the real meaning of income tax as we know it in Kenya, and that is the basis of my constant protest against its imposition here. It is for that reason that I would beg your leave to move an amendment to the motion before Council.

I do so diffidently, because I am aware that the debate has already lasted a long time, but as I am conscious that logic and reasoned argument begin to have a certain amount of power under your chairmanship, Sir, and will ultimately prevail, I feel honestly that this amendment will not evoke another prolonged discussion on income tax, because it summarizes one or two points, notably the one supported by Sir Alan Pim, when he emphasizes this great fact: that income tax cannot be allowed to become a tax on capital or a serious obstacle to development.

The amendment reads:—

"And that it be an instruction to the Standing Finance Committee to reduce the Revenue Estimates to the extent of an amount which would represent the elimination of the capital tax in the Income Tax Ordinance contained in the section allowing provision for depreciation, and to include a new section exempting from income tax all sums allocated to the redemption of debt."

The amendment itself is self-explanatory, and I do not propose to belabour the point.

It emphasizes two things: that this tax as it exists to-day must be recognized as a capital tax in its disregard of allowances for depreciation. If there is any equity about it at all, Government would concede, especially to the settlers, to the traders of the country a similar period to recoup their losses and pay their just debts for the period of five or six years during which the depression existed so desperately in this country.

MR. BEMISTER: Your Excellency, I beg to second the amendment.

MR. HARVEY: On a point of order, Sir, is it in accordance with Standing Rules and Orders for an hon. member

[Mr. Harvey] who has already spoken to the substantive motion to second an amendment thereto?

MR. SHAMSUD-DIN: If there is any doubt about the procedure, Your Excellency, I will second the amendment for the purposes of discussion.

MR. HARRAGIN: In my opinion, it cannot be seconded by the hon. Member for Mombasa, but the hon. member Mr. Shamsud-Deen has, however, seconded.

HIS EXCELLENCY: The hon. member Mr. Shamsud-Deen will therefore become the seconder.

MR. RILLING: Your Excellency, the amendment proposed by the hon. Member for Aberdare amounts in effect to a proposed amendment of the Income Tax Ordinance.

I am authorized to state that, in the opinion of the Commissioner for Inland Revenue, and also of the hon. the Attorney-General, certain amendments are clearly necessary to the Ordinance as it now stands, and Government is prepared to consider an amending Bill, in the light of experience gained, some time early next year.

In these circumstances, possibly the hon. member would be prepared to withdraw his amendment?

MAJOR GROGAN: Your Excellency, I am afraid that I have already trespassed a long time on the patience of Council and I do not propose to repeat it. But I do make an earnest appeal to Government to take these two issues into most serious consideration.

I have already elaborated objections to this Ordinance, which in principle and every other respect is entirely unsuited to the conditions of this country, and I do not propose to reiterate any of those arguments. But I do say two more damaging factors in the innumerable damaging factors of income tax in this country are embraced in this amendment.

In the matter of depreciation, I beg Council to contrast this suggestion with the practice of the Uganda Railway, and if you look into the Railway budget (which we shall debate shortly) you will find very properly in that budget under at least three heads, a capital fund, renewal and betterment funds, whereby the

main asset can be adequately conserved, and even improved, by reserves set aside out of income for that purpose. In the matter of debt, the same thing applies.

It is well known, or it should be, to all members of Council that the plantation industries, the farming industries, and allied commercial interests in this country have been subjected to most terrible strain during unparalleled days in the history of the world. In the course of that they inevitably accumulated immense burdens of debt in order to enable them to carry out at all. I am perfectly certain that if the matter were investigated, hundreds of concrete examples could be adduced showing that people, plantations and companies have been compelled to borrow very large sums of money in order to carry on, which cannot possibly be shown as losses so as to be allowed under the provisions of the Ordinance.

I ask again that you should compare this suggestion, a very proper one, with the practice of this Colony in respect of all moneys borrowed by the Colony for its own uses or on behalf of the Railway. There is a definite sinking fund, a statutory one, set aside whereby sums are put aside to liquidate the debt incurred in acquiring those assets.

This amendment does nothing but ask that the individual components of this country, especially the people who provide the basic resources of the country, shall adopt the same procedure as adopted by the Railway and State.

I apologize for intervening in this debate, but if this is a consolidation budget you should at least allow an individual the same opportunity to consolidate his position.

MR. HARRAGIN: Your Excellency, I should just like to make one point clear, although I am not going to be drawn into an argument on the Ordinance. I do not admit for a moment, as it might be taken from the wording of the amendment, that there is this capital tax which is referred to. The point was gone into carefully at the time and every provision was, we thought, made in the Ordinance whereby there should not be a capital tax.

The hon. mover is well aware that all sorts of provisions were put in to avoid this very point which he is raising now.

[Mr. Harragin] though, of course, it will be considered together with the other amendments which the Commissioner is going to put up in due course. I do not think I can pretend there will be anything new in regard to that particular point.

LORD FRANCIS SCOTT: Sir, speaking to this amendment, it is a rather peculiar procedure when one suddenly finds an amendment brought forward without any notice being given one or any consideration that such a thing is going to be done, which one expects one's colleagues to do as a matter of courtesy.

The difficulty I see about it is that the amendment is mandatory. I think I am right in saying that the Standing Finance Committee, if it is carried, are to reduce the Estimates by this amount, which of course in effect is contrary to Standing Rules and Order No. 32, except that Your Excellency has permitted the amendment to be moved. It does put one in a very difficult position to have a mandatory thing that one is to arbitrarily reduce something by a certain amount.

As far as I am concerned, I am only too anxious that any hardships which are entailed in income tax by the provisions referred to should be alleviated if it can be done, but it is difficult to support an amendment which tells one definitely to do certain things, the implications of which one does not know nor the amount of the money.

MAJOR GROGAN: On a point of order, the same issue arose last year, exactly the same.

MAJOR CAVENDISH-BENTINCK: Your Excellency, speaking to this amendment, I share to a very great extent the views just expressed by the Noble Lord. I think it a great pity that this amendment should be put in as mandatory, especially as I am not quite certain whether the hon. member proposing the amendment has quite appreciated what the facts are.

I rather gather that he says that no allowance has been made for depreciation. Having spent a good many months on this particular measure in trying to get every possible relief that we could, and being very much in sympathy with the views expressed by the hon. member and

the hon. Member for the Coast, I can say that we did everything we could to bring in such reliefs in the form of depreciation assistance that we could. The only form in which it was found impossible to give such relief was in the case of a building, that is, if the building was an ordinary house. In the case of buildings which contain any kind of plant or machinery depreciation is allowed.

I am not quite sure whether the hon. member quite realizes that losses can be carried forward for five years indefinitely. That also was going as far as we could.

There is another point about this amendment. That is, I am rather astonished that he should presuppose, judging from the views he has expressed, that this tax will remain in force for 50 many years and should require immediate amendment. I thought he was hoping it would be removed at an early date.

Personally, I think it a great pity to start bringing in amendments at this stage. We took such a lot of trouble with the Ordinance, and if it is not workable as it is it will not work at all, and it is a great pity to meddle with it before it has been tried.

For those reasons, and not because I am out of sympathy with the hon. member, I object to the proposed amendment at the present stage.

The question of the amendment was put and negatived by 29 votes to 3, one hon. member not voting.

Ayes.—Major Grogan, Mr. Shamsud-Deen, Mr. Wright.

Noes.—Messrs. Bale, Bemister, Boulerson, Archdeacon Burns, Major Cavendish-Bentinck, Messrs. Daubney, Fazan, Gardner, Harragin, Harvey, Hayes-Sadler, Hoey, Hodge, Hosking, La Fontaine, Logan, Maxwell, Morris, Pandya, Dr. Paterson, Mr. Pilling, Sir G. D. Rhodes, Major Riddell, Lord Francis Scott, Sir R. Shaw, Messrs. Stooke, Walsley, Dr. Wilson, Mr. Wolfe.

Not Voting.—Col. Kirkwood.

The debate on the substantive motion was resumed.

COMMISSIONER FOR LOCAL GOVERNMENT (MR. LOGAN): Your Excellency, there have been one or two

[Mr. Logan] points mentioned during the course of the debate on matters which come within my special purview, and it may be therefore opportune that I should intervene in the debate this morning.

Two matters with reference to land administration have been mentioned. The hon. Member for Usin Gishu represented the case of certain farmers in the Kipkarren area. I have reason to believe that at the time he spoke he was not so fully informed of the extent to which our efforts in this direction have gone as he is at the moment, and therefore I will content myself with saying that we have had the problem of these farmers under our consideration in the Advisory Land Board, and we have followed the principle that whereas Government would give such assistance as it could in the way of making Crown land available on payment, there was no case for assisting individual farmers in this area at the expense of the State. We have, however, on the basis of applying that principle, nearly approached the end of that particular problem, I hope.

Before I leave it, there were one or two things said by the hon. member which I think it is perhaps necessary for me to say a word or two about. If I understood him correctly, I gathered that he was under the impression that when these farms were given out there was an official description that they were suitable for coffee. That is not the case; there was no official description of the farms published. At the same time, I am quite prepared to admit that everybody concerned thought that that area would be suitable for coffee.

There is only one other point on that particular matter, and that is that of the people who are there at the moment there are only four of the original allottees, so that the whole of the remainder of the farmers bought their farms presumably with their eyes open.

A question was raised by one of the hon. Indian members on the subject of Indian settlement. That came to me as rather interesting, because I have not forgotten the complete absence of result which ensued some fourteen years ago when this Government intimated its

readiness to place in reserve no less an area than one and a half million acres for Indian agricultural development. Moreover, it will not be beyond the recollection of members that at the last session, when this Council was debating the question of the appointment of a Settlement Committee, that motion was, I think, unanimously opposed by the hon. Indian members.

I might on that subject recall the attention of Council to the words used by my hon. friend the Member for Nairobi North when replying to the debate: He said:—

"In this question of settlement everybody, every race, had its place. The only trouble was that Indians had not taken advantage of opportunities offered them. If at any time they wanted assistance in that regard, he would be the first to say: Let them have it, and do his best to assist them. The Europeans had given a fair deal to other races, and there was no question of racialism in this particular motion."

Turning to matters affecting local government, the hon. Member for Usin Gishu raised the question of the basic road grant. He very correctly said that Government was under a statutory obligation to pay the district councils a basic road grant that sum of money which was spent in 1927. He also referred to the willingness with which the councils had met Government's position and the general position of the Colony in agreeing to reductions in these grants during the times of stress.

I do not know that it can be said in the light of the remarks that have been made throughout this debate that we have completely emerged from that depression. Therefore, dealing in an initial way with road expenditure problems, the solution placed before this Council in the Estimates was that there should be an equivalent rise in the expenditure on roads both in district council areas and on roads within the control of the Public Works Department.

Hon. members will know that this grant is a grant for maintenance and improvement. I do not think any member would contradict me if I said that, for the purpose of maintenance only, it is more

[Mr. Logan]

than is necessary for that purpose, and moneys have been used and wisely used for works of improvement as well as works of maintenance. I did have the idea that, in formulating a programme for the future, it might conceivably be an advantage to district councils if, instead of pressing for the return of the whole of the basic road grant and thereafter being dependent on Government goodwill for additional sums for special reconstruction purposes, such as the Endebess road which has been mentioned, it might be to their advantage if in some way they capitalized the balance of the basic road grant so that more extensive works could be undertaken. That idea has not been fully worked out, but I may say that when placed before the representatives of the district councils at a recent conference with the Road Board Sub-committee, it did not receive a very favourable reception.

At the same time, I make bold to think that something along those lines will be a necessary feature of the future road policy of this country.

The hon. Member for Nairobi North referred a day or two ago to the necessity of an inquiry into the financial relationships between Local Native Councils and the Central Government. With that, if I may say so, I entirely agree, but I think that it is no less necessary that the financial relationships between the Central Government and the local authorities in the settled areas should also be the subject of an inquiry.

We have in the last ten years gone on with a plan that had no basis, really, no logic or anything else, or reason, and we took the total figure of one year's expenditure, from which there has sprung the idea of waiting to see how developments would occur in order to give time for the working out of a more scientific and logical plan, but we left it at that for the time being. Almost as soon as these councils were established our troubles commenced. The economic blizzard began to blow, and therefore it was quite impossible to bring into effect any alternative scheme.

Now we are emerging out of the depression I do suggest it is time we endeavoured to get on to a definite basis

of financial relationships. In my opinion, it is good for neither side that the grants which district councils get should be in the nature of almost—I will not say it, but I was going to—a dole, but it is not that, really, because naturally the money comes from the people of the country. But it is not satisfactory in dealing with road policies in their own way that councils should have to come to Government each time for approval, not only of the policy but for the grant of money, and there should be some system established, in my opinion, which would place this relationship on a very much happier basis. I think the foundations of a new financial relationship should be wisely laid, but these foundations naturally must be laid with agreement between Government and the Councils.

I would not have it thought that during the last ten years there has been no contribution from local sources towards local services. That is not the case, for in the Uasin Gishu and Trans Nzoia areas there have been funds locally raised for hospital purposes, and though at Nakuru the war memorial hospital there is not a local authority function it is nevertheless supported by Europeans residing in that district.

The Trans-Nzoia cottage hospital was referred to by the hon. member representing that area. It was largely because I was aware of the fact that Government, like other folk, helps those who help themselves that I encouraged the council at the particular time to sign the contract for the building of the hospital, although it was clear they would need to ask Government for a still further subvention. At that time, the original estimate of £3,000 was expected to cover the whole cost of the building and equipment. The time taken for the preparation of the plans was rather prolonged, and meantime building costs had gone up, so that it was clear that the original estimate would not stand, but it was thought, at least I understood it to be so, that the extra amount would not be over excessive, something in the nature of £500.

In these circumstances, and in order to avoid false economy both to the Council and Government, I advised the council to sign the contract and then put up its case for further assistance from Government.

[Mr. Logan]

It was, however, I think a matter of equal surprise both to members of the local council and to myself when the final estimates of what they still required were worked out. But that matter has been represented by me to Government, and has been commended to the notice of the Standing Finance Committee by the hon. member himself.

The question of Indian representation on district councils was raised during the debate. The case for that was not argued, and I do not propose to say anything about it, because such case as there is set out in the report of the Local Government Commission. But I would remind Indian members that in these district council areas any representation of Indian interests on district councils must rest upon some special basis, because Indians are not resident in the area of jurisdiction of the councils; furthermore, that urban interests are already represented on district councils by the method of appointing liaison officers from townships or municipalities situated within the area of the councils' jurisdiction.

Actually, the claim made by the hon. member Mr. Pandya for immediate consideration of that question was that more money was now being spent than hitherto by district councils from Government funds. That, of course, is not the case. The actual amount of money proposed in these estimates to be given district councils is still a good deal less than they have hitherto received.

In the last few years it has become almost a time-honoured custom for my hon. friend the Member for Mombasa to enter the lists with me in particular. (Laughter.) In previous years he has given me his tilt and thrown me off my balance and I, in reply, after getting myself up, have endeavoured to give him a Roland for his Oliver. When he spoke two or three days ago, realizing I think that this would be the last occasion of our friendly tourney, he was good enough to temper the wind of his eloquence to the shorn lamb, so I propose to-day to meet my adversary at the gate.

He has referred to two questions in particular, one the question of the election of European members of the Mombasa Municipal Board.

I am entirely in agreement with him that, generally speaking, the system of election is the best method of choosing councillors to represent local interests on municipal bodies. I think that tends to create greater interest in municipal affairs among the people of the town, but there is nothing particularly sacrosanct about the elective system, and, in a country such as we have here, it is not only right but advisable to apply it in the light of special circumstances.

Among the European population of Mombasa there are certain special circumstances of which everybody is aware. It is not a permanent population; it has among its leading members persons who are prevented from one reason and another from standing for election. It would be highly injudicious in the interests of the municipality itself to debar such persons from sitting on the council and giving the town the benefit of their advice. Those considerations have been given due weight not only in Government circles but in municipal circles, and it would be wrong for this Council to retain the impression, which possibly the hon. member inadvertently gave, I think, and that was that there was a general demand in Mombasa for the application of the elective system to the whole of the seven European seats.

There is a considerable body of opinion in favour of that, but no inconsiderable body of opinion in opposition to it, and the principle on which the Standing Committee and the Governor in Council considered the matter was that it was for them to study the interest of the town as expressed to them by the town itself, and as they were able to interpret the feeling of the town it was that opinion was divided, and that the matter would be best dealt with by restricting the number of European elective seats to four and by allowing a latitude of three seats for the purposes I have indicated.

That principle was also applied in the case of the election of Indian members to Nairobi Municipal Council. There again, Government was not satisfied and is not satisfied that the whole of the Indian community is in favour of the application of the elective principle to all their seats, but Government has indicated that when the Indian community itself can

[Mr. Logan]

to satisfy them on that point they will not be averse to granting the whole of the seven seats for election in Nairobi as they have done in the case of Mombasa.

My hon. friend the Member for Mombasa also brought up the case of certain by-laws. Without the by-laws in front of me, I was not able to follow quite clearly what his points were, but I think he is well aware of the procedure which has to be followed in the making of by-laws. They are made by local authorities; they then are submitted to the Governor through me for approval, and if objections have been received the by-laws require the approval of the Governor in Council. It is true that these particular by-laws were passed early on in the life of the Board, and that they are complicated and technical by-laws; as much assistance as we could give from my office was given to the Mombasa authority, but they themselves were the body which introduced the by-laws and submitted them for approval.

I should be reluctant to think there was anything very specially important about the amendment the hon. member mentioned, because if I am not mistaken he was a member of the Board up to within three months of the date on which they submitted those by-laws for approval, and he then returned to the Board and sat on it for two years dating from one month after the by-laws had been submitted for approval, and his last period as a member of the Board finished as recently as April of this year. He therefore has had, I think, ample opportunity for bringing to the notice of the Board any peculiarities there may be about these by-laws.

MR. BEMISTER: On a point of personal explanation, I have opposed them every time I have had the chance, and that is on record!

MR. LOGAN: The hon. member, as we have often heard him say, is a great exponent of democracy and a believer in the rule of the majority! (Laughter.)

During the last ten years I have been closely associated with the local authorities in this country, with their creation and establishment, and as I think must be the case in the growth of all young bodies in the initial stages there have

been difficulties, growing pains, and so forth. But I make bold to claim that local authorities have passed through that stage extremely well. They are now getting new responsibilities imposed upon them, and I think the foundations they have laid and the value of their work which has been shown during those early years has been such that Government does realize their value and is prepared to increase the burden of responsibility placed upon them.

The development of this country must lie, in my opinion, to a large extent upon the success and actual working of local authorities, and if the road is to be taken towards the greater constitutional improvement which a great many people in this country hope for, that road must first be followed for a long time in the way of local government.

Speaking to-day for the last time in Council, I would like to take this opportunity of expressing my indebtedness to all members of local authorities for the way in which we have worked together. We have had our little jousts; but I think we have all come out of them with good humour on both sides and, for my side, I should like to say how very appreciative I am of the help and assistance I have received from all of those bodies. (Applause.)

Council adjourned for the usual interval.

On resuming:

SIR ROBERT SHAW: Your Excellency, after the very exhaustive review of the affairs of the nation which has taken place in the course of debate, I feel that the patience of hon. members must be growing a little thin, and although I do not expect to have any bouquets handed to me at the conclusion of my remarks I will not take the opportunity of overstaying that patience. I am, however, concerned with a few matters in connexion with the activities of our four principal spending departments, and I divide them for my purpose into two categories: I put the Agricultural and Public Works Departments into one category and the Medical and Education Departments into another.

With regard to the Agricultural Department, I would like to remind hon. members of the fact that in 1935, when the question of the reduction of Government

[Sir R. Shaw]

expenditure was the one thing in all our minds, a very exhaustive examination of that department and its cost and activities was undertaken, which resulted in a proposal by the Director of Agriculture that he would endeavour to put forward a scheme for the reorganization of the department not involving any loss of efficiency but which might save an annual cost of as much as £15,000. For reasons never disclosed, and it is quite useless to attempt to investigate now, those proposals were never allowed to see the light of day, with the result that when the Estimates for 1936 were passed I think I am right in saying that there was no reduction but a slight increase in the cost of the department.

In the meantime, the Financial Commission visited us, and made the fresh proposal, for the reason presumably that it was the only proposal which had not yet been made, that the Agricultural and Veterinary Department should be separated into two separate entities. It was not supported or opposed very strongly as far as I remember, and I have no particular comment to make on that re-arrangement, but what is interesting is that, after all these investigations, and only two years after all that heart-searching, we find that the combined costs of these two departments amounts to an increase of about £12,000 or more over and above the 1936 figure, which I regard as our turning-point figure.

In addition to that, it has already been pointed out by the hon. Member for Uasin Gishu that at the beginning of the agricultural estimates we find a total of very nearly £18,000 for administrative and general and personal emoluments before we arrive at the essential, and quite indispensable, technical services at all. I find it extremely difficult to fit in the whole of that performance into what is called a consolidation budget. If we endeavour to take some comfort from the policy underlying the activities of the department, I again find myself very much disappointed.

I make no complaint of these technical services which I have referred to, such as the plant breeding station, the Scott Laboratory, and things of that sort (which I think are excellent, essential, and doing

excellent services to the Colony), but if we come to the native side of the question the impression that remains in my mind after watching the matter for a number of years is that the activities of the department in that connexion are nothing more or less than a continuous attempt to increase native production. Of course, it sounds very nice. As a matter of fact, it means a continual demand on the natives to produce more cash crops in order that they may pay their direct taxes more regularly and contentedly, and in order that we may peddle more trade goods to them so that they can subscribe even more indirectly to the revenue, so that once more more funds are available for more native services, which in its turn leads to a further demand for cash crops. So you have a most perfect vicious circle.

It has all got to be paid for, and it is paid for, in one way only; and that is by forcing the native annually to expend an ever-increasing amount of his one and only asset, the fertility of his soil. That process will go on, and we are told there is great new activity in cotton growing in the country. One wonders how that started, whether it is wise, at the present state of the cotton market. One wonders if the native wants to grow cotton. One wonders very much indeed whether, in case any native does want to, the Agricultural Department insists on such native digging and filling a compost pit alongside his shamba. Otherwise, as I repeat (and it is worth repeating), it is simply making him live on continual withdrawals of his capital.

My complaint in regard to this department is, in the first place, that the cost of it has been unjustifiably increased as soon as we attempt to turn the corner from the depression years; and, furthermore, in regard to native affairs, the policy underlying it is ill-defined and unsatisfactory.

Turning to the Public Works Department, I begin on the same note. I go back to the year 1935, and the immense investigations which led to placing before Government a recommendation that they should choose between expanding and developing the policy of local self-government (both district and native councils), and so saving the overhead costs in the Public Works Department, or alterna-

[Sir R. Shaw]

tively, as it was suggested, that the whole of local self-government should be abolished in order to achieve economy by that means.

Very rightly and properly, Government chose the former alternative and, moreover, have shown that they propose to follow up their decision. In the years that have intervened, a new district council has been formed and a very great deal of work on the main roads was handed over to existing district councils.

If the policy means anything, that should result in a reduction of the work to be performed by the Public Works Department and a corresponding reduction in overhead costs. If you look at the staff list as shown in the estimates of the department, all I can find is a slight increase in the clerical staff. The total cost of the department has also increased, although I know that in the Memorandum it states that that can be explained by new expenditure to administer the Water Ordinance.

But that in no way interferes with my argument. What I complain of is that there has been no decrease in the cost of this department as a result of the declared policy of Government, which I was very glad to have reaffirmation of from the hon. the Commissioner for Local Government this morning. I cannot fit that departmental vote into a consolidation budget either.

We have in the case of these two departments, one in which the cost has been increased and is accompanied by an unsatisfactory policy, and, in the case of the other, we have departmental activities which we believe are controlled by a satisfactory policy but we find no reflection of that policy in the financial provision made in the Estimates. I am more particularly concerned with these things because I share very strongly the views expressed with such pleasant lucidity by the hon. the Treasurer the other day.

Everybody, I think, will admit that the task before us now quite definitely is to endeavour to build up more surplus balances as a sheet anchor to windward to see us through bad times which may come again. But we cannot build them up by increasing taxation. In fact, we have reached a stage in our budget discussions

when, if one looks at the Revenue Estimates—and I have underlined a number of items as instances where really good cases for alleviation of taxation have been made out—one really realizes how completely the question of surplus balances lies outside increased taxation in any way.

Moreover, one cannot expect any spectacular increase of revenue over and above the more or less satisfactory flow we are experiencing at present, and there is only one way in which surplus balances can be collected; that is, by rigid control of expenditure. There is no question about it; after the experience the country has been through in the last few years it is hardly necessary for me to say that it is impossible to relax the rigid economy of those years for several more years, until the country has had an opportunity to recover.

Passing on to the other two departments, the position is somewhat different. I think everybody must admit that if this Colony is to develop and progress as we all desire these two great public services cannot stand still; they must expand *pari passu*. If I might be permitted to be slightly cantankerous for a moment, I would emphasize the expression "public services" as opposed to the loathsome term "social services" which appears in the Memorandum, and to express the hope that this billious term will be eliminated from our official vocabulary in the future.

Apart from that, if we admit that these services must expand to meet the demand, and even that the very considerable increase of £26,000 in the Education vote over the 1936 figure is genuinely a consolidation measure, all we can do is to endeavour to ensure that we are really getting the best possible value for the expenditure of this money. I am not going to attempt any criticism of departmental heads or staffs in any way, but I think it is the duty of those who represent the taxpayers to make some inquiry as to the policy that underlies their activities.

Take the Medical Department. I do not want to enter into a lengthy discourse but will merely take a comprehensive example of what I mean. We have a great many native hospitals in the country, and I am quite sure the hon. the Director of Medical Services will tell us that he would

[Sir R. Shaw]

like to have a great many more. However, if we visit any of them, we find that a large proportion of the patients are dysentery and malaria patients. A layman must wonder whether the continual expanding of the hospital service is the proper manner to deal with these diseases. What happens? In too many cases patients leave hospital after treatment, go back to where they came from, are re-infected, and come back to hospital; and the whole thing starts all over again.

I am perfectly well aware that we are confronted here with a principle with which we all agree. It is our duty to give back to the natives in return for direct taxation the maximum possible amount of direct services. In this direction that we can afford, I do not think anybody quarrels with that, but would it not be better to spend a great deal more of our money on preventive measures rather than on hospital treatment? Or put it in another way: With the utmost respect to the hon. the Director of Medical Services and his staff, we might spend a little of our money on purchasing a few bags of apples for issue as a daily ration to our natives! (Laughter.)

I hope the hon. member will not take this suggestion amiss. I do not suggest that we must keep the doctor away from them, because they need treatment, and excellent treatment they get; but if by any chance that is the right policy to adopt, that we should give the fullest service we can in matters of prevention of disease. I think it lends strength to the argument put forward by the Noble Lord that we should endeavour to finance our hospitals to some extent by charging the natives fees, as is done in the case of other communities, if they require further hospital treatment over and above the expensive preventive measures we endeavour to provide.

Regarding the Education Department, one is immediately confronted, of course, with one of the biggest problems in the world to-day: What is to be done with the educated natives? Again I am not going to enter into a lengthy discussion on the subject, it would be presumptuous on my part, but I will content myself with asking what I think is an honest question: What is a 'detrribalized native'?

The stereotyped answer always is that a detribalized native is one who leaves the reserve and goes out to work for a European. That, of course, is all nonsense because as a matter of fact if he does that he continues to lead a life and follow pursuits which are naturally congenial to him. He does not, to use a good old-fashioned expression, have ideas put into his head. He can return to the reserve and take up tribal life whenever he chooses, and the detribalizing effect of such employment is to all intents and purposes nil.

A detribalized native is an educated native. If we educate these fellows, fill their minds with new ideas, equip them with means of following out those ideas still further, give them a new sense of values altogether, how can we expect them to go back to the reserves and ever be content again with the daily round and common task of tribal life? It simply will not happen, and we are confronted with an uncomfortable question: Are we in fact entitled to educate any native unless we are prepared to absorb him naturally and completely into the economic life of the country?

There is one very easy and, I am afraid, superficial answer often given. It is nothing new; I am not pretending it is, and that answer is technical education. That answer can be a very serious trap, and for that reason I was very pleased indeed when the ven. and hon. member Archdeacon Burns took that matter up with his usual vigour and fluency. He used one or two very interesting expressions.

He said first of all that the boys coming from the N.I.T.D. are wasted, and he is right—they are wasted; He then went on to ask why these trained artisans were not absorbed. In his use, or misuse, of that term I think is the answer. The boys who come from the school are not trained artisans. If we tell them they are we are grossly deceiving them. They cannot go on to the labour market and demand positions as skilled artisans, or command the wages of skilled artisans; they are merely schoolboys who have obtained a very excellent technical education.

What I am afraid happens in too many cases is that they go from the school, sell the nice set of tools given them, go back

(Sir R. Shaw) to the reserves, throw their weight about there for a year or two, build a few model huts out of wattle and daub and petrol tins, and then justify that ever-growing body of disillusioned malcontents who have no regular occupation. But I believe that in the technical side of the programme is the Government remedy to these things.

These fellows cannot be skilled artisans until they have been apprenticed to a trade, and I believe if Government chose it could get various firms, professional people, builders, contractors, engineers, throughout the country to co-operate in a scheme of apprenticeship for these fellows, and such apprenticeship is covered completely in our labour legislation. Firms cannot possibly afford to take them on as trained artisans, but they could and would be glad to take them on as apprentices. I contend that every boy who alleges the N.A.F.D. should be compelled, definitely, to sign articles of apprenticeship at the end of his course, and when he has served such apprenticeship he will, so to speak, be trained against the virus of disillusion and discontent, because he will always be able to go out and find work and command artisan's wages in the normal economic life of the country. (Hear, hear.)

You will note that I have in speaking of these two departments referred chiefly to native matters, and that is all I wish to say. I have done it because of the general feeling in the country that our money is not doing any good, and that it is being spent on things that are not necessary. I am sure that if we had a fair share of the money, we would be able to do a great deal of good. I am sure that if we had a fair share of the money, we would be able to do a great deal of good. I am sure that if we had a fair share of the money, we would be able to do a great deal of good.

As regards a few other matters taken in debate, before I sit down there is one that I should like to refer to.

It appears to me that there is a very unfortunate misunderstanding in the mind of the ven. and hon. member in regard to some of the remarks made by the Noble Lord during his speech. The Noble Lord pointed out that on the question of income tax we made the stipulation that this tax was not to be used by Government in order to collect increased funds for the expansion of native services. The venerable member seemed to think that that implied a lack of appreciation on our part of the very great contribution which the natives make to the revenue, direct and indirect, and, furthermore, that it displayed some grudging spirit in voting money for those services.

I can assure him that that is not the case. The whole point was that there was introduced into our fiscal system a new principle which, as Lord Moynie so charmingly pointed out to us a few years ago, is the principle of inescapable taxation which may be increased by Government (so we are always told) by a scratch of the pen, or a turn of the screw, or a stroke of the lash, or whatever the expression is, and all we stipulated was that the screw will not be turned in order to provide increased funds for spectacular native services. It is perfectly reasonable, and I am sure the hon. member realizes it is, and it cannot have any definite effect whatever on the voting of money for native services.

I might have had a good deal more to say on this 13 of Head II of the Revenue Estimates had it not been for the fact that the Noble Lord gave us such a very clear and accurate exposition of all the points relating to the estimate. I am sure that I was not intended to say anything more than what I said, and I am sure that it is not necessary to say anything more than what I said.

DR. WILSON: I am sure that the Government will do a great deal of good for the natives. I am sure that the Government will do a great deal of good for the natives. I am sure that the Government will do a great deal of good for the natives.

(Dr. Wilson) and gallant Member for Ukamba. I do not want to steal the thunder of the hon. the Director of Medical Services, because I am sure he has a perfectly good reply ready on the question of hospital services for natives.

All I wish is to thank the hon. member for a very cogent argument for increasing the Medical Department vote, because I am certain he would be the last to say that the hospitals must turn away all sorts of acute cases of illness. What he says is that we must spend so much on preventive measures as to avoid the necessity for the hospitals.

SIR ROBERT SHAW: I do not want any misunderstanding. I did not suggest there must be an increase in the vote. I merely suggested it is a service which must expand in the future.

DR. WILSON: I did not suggest that the hon. member wanted an increase in the vote, but what he said was an argument for that, because I am perfectly certain that while the Medical Department is in the hands of the present Director more money will tend to be spent on prevention than on hospitals. But hospital expenditure, to my mind, is unavoidable. The expenditure on prevention is expandable according to the idea of the Director and according to the amount of money available, and the last speaker put up a very good case for increasing the Medical Department vote.

As regards what the hon. member calls public services—and which I still like to call, at the risk of being termed bilious, social services, because they are social services of the best description—there is this question of natives paying hospital fees. I am afraid I am rising to the fly which he trailed in front of my nose! If we were able to prevent disease to that extent that the average native would be able to avoid being ill, there might be a case for charging a hospital fee for any native who unfortunately becomes ill and has to enter the hospital. But it is not fair to charge him anything in the nature of a considerable fee for treatment under present conditions when he cannot avoid becoming ill.

I must leave the hon. the Director of Education to reply to the statement that a detribalized native is an educated

native, because he is far more able to deal with it than I am. I maintain that he is not.

I just wish to refer to one or two items, and the first is the item of revenue on page 14 under the head "Customs and Excise," "7. Cotton yarns and manufactures, £168,000, an increase of £17,000 over last year. I do not propose to say very much about this; it has already been referred to by my colleague, and I spoke on the subject last year. I am not questioning the accuracy of the item; I am not suggesting the possibility of altering the rate at which this import duty can be collected in 1938.

I am only asking that it should be remembered that there is this very large sum being collected in the shops and form of a heavy duty on cotton goods, and the greater part of that large sum is collected from the natives. In passing, that sum does not include the very large sum acquired as the result of very heavy import duties on blankets.

I would not have referred to the subject at all if it had not been for certain hints, or more than hints, that there may be an attempt in the near future for a reconsideration and possibly readjustment of our whole system of taxation. I want it to be remembered that if there is a case for the relief of indirect taxation on the non-native as a result of the imposition of a direct tax, there is a stronger case for the relief of the native, who has always been subjected to a direct tax far heavier than any system of income tax ever yet proposed. It is such an easy and convenient way of collecting revenue, to tax the necessities of the native population. We must agree that cotton goods and blankets are necessities, unless we accept that the native is going to be content for all time with his skins and unless we are content that he should be so content to remain in that stage.

It is so easy and convenient a method of collecting revenue, but that does not say that this heavy import duty was ever justified. Our raw materials have to be exported overseas, manufactured overseas, and then re-imported. That is bad enough without the extra drawback of a heavy import duty. One is tempted, and I have no doubt the suggestion will be laughed at, to suggest the possibility of

[Dr. Wilson] our raw materials being manufactured nearer home. There is no harm at least in saying that a live local manufacturing industry is worth much more to the Colony than this very heavy import.

The next item is an item of expenditure on page 28, item 33, "Labour camps." I am afraid that this is going from the sublime to the ridiculous, from a matter of hundreds of thousands of pounds to a matter of £75, because that is the beauty of this budget debate and its curse, that no subject is too wide and no detail too small for discussion! The explanatory note in the Memorandum concerning this item, on page 7, reads:

"39. The increases of £30 and £25 respectively under these items are due to the increased use which is now being made of the small rest camps at Nairobi, Kisumu, Yala, Mumias, Kendu Bay and Sagana, and also on the Kinangop serving the Aberdares route between Najyasha and Nyeri, and two smaller camps on Mt. Elgon and at Njabini."

I accept that list as being correct, but the last-named rather puzzles me. I know Njabini fairly intimately, as I happen to live there, and in all my ramblings around my home I have never fallen over that labour camp.

But, accepting the list, the amount of £75 seems rather absurd, because if there is a case at all for these labour camps or rest houses for natives, surely there should be far more than there are in this list and the amount should be more than £75. I think myself there is a case for some system of rest houses. We all know perfectly well that the native, when travelling about the country to or from his work or other lawful occasions, is at times subject to very severe hardship, especially during the rainy season and it might be the concern of Government to arrange that he might have more shelter at the end of the day's journey.

I know the difficulties in the way, that camps in the past have caused the spread of disease, but I do not think those difficulties are insurmountable, and if it should be found wise to arrange for some such general system of rest camps or rest houses I hope the amount will be pro-

vided by Government. In any case, I do not think it would mean a very large sum.

While discussing this item, which comes under the heading "Labour, Section" of the Administration, I must refer to the remarks made by two previous speakers on the Labour Department of Government.

The hon. Member for Nairobi North said he considered this department was unnecessary, and even dangerous—

MAJOR CAVENDISH-BENTINCK: On a point of explanation, I never said anything of the kind. I considered it was extremely necessary, but that it was a little overdone by reason of one or two recent activities, which is quite a different thing.

DR. WILSON: I beg the hon. member's pardon: I thought he said the existence of the department was, shall we say, a potential danger, and I understood him to say that inspection of housing and other conditions under which labour was employed was unnecessary interference, because such questions would solve themselves.

Then the subject was taken up by the hon. Member for Kiambu (Major Riddell), who said that there was no need for any interference by Government between employer and labour, that he thought there was already too much legislation in this respect, and, in fact, I understood him to say, he considered that no legislation and no regulations were necessary as between master and man.

I am very surprised to hear such opinions expressed in this Council, especially by the hon. Member for Nairobi North. Whether employers of labour like it or not, the fact remains that in every country which professes to reach any standard of civilization at all the question of the conditions under which labour is employed is very much the concern of Government, and I think it is a pity that what I call such reactionary opinions should be expressed in this Council. I really can scarcely believe that these two speakers seriously think so. I am very sorry if I am misrepresenting what I understood the hon. Member for Nairobi North to say.

LORD FRANCIS SCOTT: I rise to a point of order, Sir. The hon. Member for

[Lord F. Scott]

Nairobi North definitely objected to the work done but did not object to the labour organization, and I think the hon. member should accept his explanation. The hon. Member for Kiambu I think did object.

MAJOR RIDDELL: On a point of explanation, I think I definitely stated that I was glad to hear what the hon. the Commissioner for Local Government had to say regarding the labour officers. I queried their value in the terms of my speech.

DR. WILSON: It appears that I had better withdraw my allegation that either hon. member objects to the Labour Department of Government, and I am extremely glad that I am able to do so, because to my mind to suggest that less money rather than more should be spent on this department or that its activities should in any way be curtailed is trying to put back the clock in a way quite impossible in these times. I think it much better for the good name of Kenya if more public attention were directed to what Government is actually doing in the interests of native labour in the vitally important questions of conditions of housing, food, clothing, and general hygienic environment.

I do not want to be misunderstood. I am not saying that the conditions generally under which native labour is employed are bad or greatly in need of improvement. That point was quite well dealt with by the hon. the Chief Native Commissioner when he pointed out what the inspectors had to do, although good employers were in the great majority. My point is that for the good name and reputation of Kenya for fair dealing with natives it is as well to emphasize the importance of the labour section.

A few months ago I happened to be in the House of Commons when the Colonial Office vote was being debated. I listened to the beginning of the first speech of the Opposition, and one of the first points made was this: in Kenya there is no Labour Department of Government. Then the speaker went on with the astounding statement that if a native labourer had any grievance or was suffering from an injustice he had no one

to whom he could go for redress. After hearing a few more glaring misstatements—which I could call by another name if I were not speaking in this Council—I was so disgusted that I left, and I was unable to hear whether those statements were as ably and adequately dealt with as no doubt my hon. friend opposite (the Chief Native Commissioner) would have dealt with them had they been made in this Council.

All I am saying is that, to my mind, knowing conditions elsewhere, it is surprising this country has carried on so long with so little formal standardization of conditions under which native labour can be kept, with so little supervision and so on. Whether it is fortunate or unfortunate, it is certainly exceptional, and that state of affairs cannot continue indefinitely, and I think it would be wiser to adopt an attitude more in accordance with the general trend of world opinion and make more, rather than less, of what the Government is doing in the way of maintaining a labour department or section.

Another item I want to refer to briefly is on page 36. It is not, I am sorry to say, what one might call a full-bodied item, but a ghost of an item. It is in item 37, italics: "The reconditioning of Machakos native reserve." Last year £400 was provided, and none is shown this year. I am unable to believe that the whole of the native reserve was reconditioned for that sum in a year, and presumably the explanation of the disappearance of the item is the appearance of the one-line vote for soil conservation, an expenditure of £2,500. Presumably that includes all the provision considered necessary for Machakos, although I notice £600 for reconditioning the Kamasia Reserve still stands.

The only point I wish to make is that I hope that whatever work has been started in the Machakos Reserve will not be dropped for a more general investigation or research into the problem throughout the whole country, or as far afield as South Africa, and that whatever work started there will be carried on. I am in agreement with what the hon. Member for Trans-Nzoia said, that the important thing is prevention rather than repairing

[Dr. Wilson] damage, but I am perfectly certain that whatever work has been carried on and is proposed to be done in the Machakos Reserve will include prevention, and possibly more prominence given to prevention than to actual reconditioning.

The last subject to which I wish to refer is that nowhere in the Estimates is any provision for pensions or provident fund for the African Civil Service. The matter has already been brought up by my ven. and hon. colleague on the day that I was unable to be present. There is no need to argue the case; it is self-evident, and it is only a matter of common humanity and ordinary common sense.

I have two reasons for mentioning it: one is that Sir Alan Pim, in his report (and that was not published yesterday), said it was high time this matter should be settled; the other reason is that I hope in the course of a day or two, when we are discussing the Railway Estimates, we shall find the hon. the General Manager asking for a further sum of money to enlarge the scope of his provident fund to allow natives to participate. And if the Railway can do it, why cannot Government?

I think the General Manager is to be congratulated on the lead he has given, and I think it very regrettable that there has been so much delay on the part of Government. Even now there is no indication that it will be done. I sincerely hope there are steps now being taken to deal with what I consider a very serious question.

MR. MORRIS (DIRECTOR OF EDUCATION): Your Excellency, this has been a very long debate, and I do not wish to participate in any verbal marathon or non-stop rhetorical contest. At the same time, this year I have very unexpectedly in this annual budget entertainment been allotted the part of Aunt Sally. This role belongs traditionally to my hon. friend the Director of Public Works! I have, therefore, a good many points to answer, and I will endeavour to be as brief as possible.

The Noble Lord wanted to know what was the policy underlying the taking-over of certain primary schools for Africans by Government. This raises a very much

larger issue, which the Noble Lord also mentioned, the whole of the correlation of finance as between Government and Local Native Councils. This allocation of educational expenditure as portrayed in this budget is a definite step towards a clear-cut policy in this direction.

The principle has been accepted by Government after consultation with all the provincial commissioners, that the cost of elementary education for Africans should mainly be borne from local revenues, while the cost of primary and secondary and higher education should be mainly borne by Government. This is, of course, contrary to the practice generally adopted where elementary education is a charge on the State and secondary education is, although assisted by the State, rather a charge on the private purse. But there are circumstances in this Colony which make it advisable to reverse the usual process. There is such a very widespread demand for elementary education that for many years it will be quite impossible for Government really to make any efficient effort to meet it. It seems better therefore to allow local authorities to arrange for the extension of their elementary educational facilities so that they can provide this in accordance with their capacity and willingness to pay for it.

There is a further advantage in that if Government is going to control the expenditure on secondary and higher education then the facilities offered can be related to the capacity of the country to absorb the products of secondary schools and colleges.

In connexion with the taking over of these schools, I would call the attention of hon. members to item 19 of the Revenue Estimates, which shows an increase of £1,750 in school fees from African pupils, and to item 109 of the Expenditure Estimates, grants-in-aid, which shows a decrease of £1,000. These amounts, £2,750 in all, must be set off against any extra expenditure involved in taking over the schools. These schools have been built by local native councils, but in future all the fees will be credited to revenue and any further increase in expenditure should be met by increased fees.

[Mr. Morris].

The hon. member Mr. Pandya raised the question of whether Government was prepared to pursue its accepted policy, and take over additional Indian public schools. This policy has been in abeyance for some years owing to financial stringency. The present budget has been called a consolidation budget, and, in regard to the Indian schools, it is definitely a policy of consolidation. It is no good attempting to take over new schools until we are able to support and equip effectively those schools which have already been taken over.

The hon. member has also pointed out the great difficulty with which we are faced in keeping pace with the rapidly increasing Indian school population. He has also made the point that the Indian community itself is doing a great deal to meet this difficulty. I must admit this freely, and I must agree with the hon. member that the amount of £8,075 allowed under item 70 will not suffice to provide the Indian public schools with the modicum of assistance which is accorded them under the grant-in-aid rules.

In upbraiding Government for lack of facilities for Indian girls, the hon. member forgot to mention the Government Indian girls' school in Nairobi.

He also brought up the matter of relief teachers. That is a very important matter, not only in Indian education but also in European education, and I intend to bring it to the notice of the Standing Finance Committee. I agree with the hon. member that the possibility of training Indian youths with a view to developing Indian agriculture in suitable areas should be thoroughly investigated.

The ven. and hon. member Archdeacon Burns has drawn the attention of Council to the lack of any provision for a provident fund for the African Civil Service. I think that probably he may have been considering the position of Africans engaged in teaching. There is no doubt that the "karani" complex mentioned by several hon. members due to one fact, and one fact only, and that is that Government and private employers will place a premium on purely clerical work. As long as the African employee in agriculture or in teaching or in any other social

service—I believe that is not a very good term—is going to be paid and work under conditions which are less generous than those of clerks, then so long will the African's aim and ambition be to occupy an office stool. That, I think, is the root of the matter. If we had an African Civil Service with a provident fund in which there were equal opportunities for all and no special premium placed on clerical employment, then we could, I think, remedy this evil.

The next point to which the hon. member drew attention was the training given at the N.I.T.D. This matter has also been mentioned by the hon. Members for Nairobi North and South, Kiambu, and Ukamba. There seems to be a complete misunderstanding about what is going on at the N.I.T.D. It is possible that the report of the principal that with the sole exception of the late Major Robertson-Eustace, not a single unofficial member of Council has visited that depot for the purpose of inspecting it during the whole of the last ten years—

MAJOR RIDDELL: On a point of correction, I myself have been there on several occasions.

LORD FRANCIS SCOTT: I have been there too.

MR. MORRIS: That is the report I received from the principal.

ARCHDEACON BURNS: I should like to say that I have visited it several times.

MR. MORRIS: It will probably be a great help if more hon. members were to go round and see what these boys are doing.

It is complained that not sufficient of the work is practical. My impression was that possibly there was not enough theoretical work. The theoretical work there is confined to two hours per week per pupil; all the rest of the time they are doing purely practical work.

The ven. and hon. member suggested that they might go out and do more building under supervision. Well, during the last year the apprentices have completed all the building of the African school at Pumwani; they undertook also a building

[Mr. Morris]

for the Medical Department at Mathari, for the Veterinary Department at Kabete, and also buildings for local native councils at Narok, Kapkabet, Kisii; and, in addition to making all the joinery required for these buildings, the carpenters shop worked at high pressure to meet the needs of the various departments.

Next year it is anticipated that the apprentices will undertake work in connexion with the new K.A.R. lines, and, strangely enough, the other day a letter was received from Uganda, asking if it would be possible to send up a gang of our apprentices to help with an educational building programme.

Very careful inquiries were made last year as to the employment of apprentices from the depot, and they were on the whole quite satisfactory. There was some doubt about the Ukamba area, but the district officer has written in recently protesting against any cutting down of the places allotted to his district. The technical officers of the Makerere Commission made an inspection of the school, and from their report I will give hon. members this quotation:—

"The technical school on Mt. Elgon, and the N.I.T.D. School and Railway Workshops at Nairobi deserve high praise."

The question of higher education was mentioned by the ven. and hon. member Archdeacon Burns and the hon. member Mr. Isher Dass. A Commission has recently been out to Makerere College and its report has not yet been considered by this Government, but the fact that it was appointed should, I think, reassure those hon. members that the colonial governments in Africa quite realize their responsibility in this matter.

The hon. Member for Nairobi mentioned a scheme for sending Kenya youths to Cedara Agricultural College in Natal. Provision for this has been made in the Estimates. It was very fortunate that during his recent visit to the Union the hon. member was able to visit that school and, what is more, was able to bring back a most satisfactory report about it. It appears to be quite suitable to our requirements, and I am now taking

steps to try and recruit some boys to go down there next year.

The hon. Member for Kiambu pressed for agricultural education in regard to soil erosion. A great deal of attention is paid in the elementary and primary schools to the teaching of agriculture, but this teaching, if it is to be fully effective, requires that the teachers themselves should be given an opportunity to go to an agricultural training school and get a special course.

The hon. Member for Nairobi South (Mr. Maxwell) also commented on the N.I.T.D., and I hope I have given him a satisfactory reply. During the recent labour troubles in Nairobi there was a great demand for ex-apprentices from the N.I.T.D., and I was given to understand by several European employers that the boys gave very satisfactory service. I am sure that Government is quite prepared to consider this scheme of improvers. The boys are taken on as apprentices and serve for four years in that capacity, and if they are going out as suggested I think they should rank as improvers. I think it will be admitted that there are difficulties. Who is going to give them instruction? Possibly Europeans may be available. If they are going to get their instruction from Indian artisans I am very doubtful whether it will be as efficient instruction as they get to-day at the depot.

The hon. member Mr. Isher Dass raised a point in regard to the terms of reference of the sub-committee of the Indian Advisory Council on Education which is considering the curricula of Indian schools. The terms of reference of that committee are very wide on purpose, and will, of course, include the question of superannuation when they are discussing the suitability of the curricula to the needs of the various pupils.

The hon. Member for Trans Nzoia (Col. Kirkwood) has commented on the staff of Kitale School. Changes of staff have admittedly been frequent, but there are causes for that. Unfortunately, we had casualties, and then the feeble resistance offered by female members of the staff to the gallant and strictly honourable advances of the he-men of the Trans

[Mr. Morris]

Nzoia has also caused vacancies. (Laughter.) There were other instances where changes were due to the exigencies of the Service.

Another point brought up by the hon. member was the appointment of a European carpentry instructor. Last year, for the first time, carpentry was introduced into the European primary schools and fared most successfully. Unfortunately, next year, unless the Standing Finance Committee will come to my assistance, I am afraid these instructors will have to be withdrawn which, in my opinion, would be most deplorable.

The hon. member Dr. de Sousa introduced into his speech many criticisms of the department quite extraneous to the Estimates. I do not wish to occupy the time of Council in dealing at length with these.

At the prize-giving at the Indian school which he mentioned, I made a speech. The whole object of my speech was to try and persuade parents to give up this worship of examinations; to realize that every Indian boy could not possibly be employed as a clerk, and to think that there were other occupations equally good and possibly more honourable. To interpret that, as it was interpreted in one Indian paper, that the Director of Education did not wish any Indian to be anything but a *fundli*, seemed to me to be very unfair criticism.

I am quite unable to accept the hon. member's dictum that all Indian children are entitled to stay at school until they reach the school certificate or matriculation standard. In England, only about 20 per cent of the children who leave the elementary schools ever reach a secondary school, and of those only about 8 or 9 per cent reach matriculation. As an ideal, I should have no quarrel with the hon. member's dictum, but as practical politics it is of course quite impossible to consider.

It may be that the hon. member wished to solve two problems simultaneously: the problem of education and the problem of unemployment. If Government will grant marriage allowances and old-age pensions to the more backward scholars I feel it will be to the benefit of Kenya! (Laughter.)

On the question of superannuation, all cases are considered by the school committee. Anyone who feels he has a grievance has a right of appeal to the Director.

I was glad to hear the hon. member say he was satisfied now that a very wide scope had been given to this commission of inquiry, but I do hope that, as a result, we shall achieve some reorganization of Indian education and give it a more practical and less academic bias.

I am sorry I was not able to provide in my 1936 report statistics as to weight and age of pupils, but the growing demand for statistics made it quite impossible for me to put in statistics for every school in the Colony.

Overseas bursaries are, of course, open to any candidate who wishes to obtain teaching qualifications. Unfortunately, up to date no such candidate has applied to the bursary committee, but any applicant of that nature will, of course, receive the most sympathetic consideration.

On the question of the teaching of Latin, an extra class was provided, and one of the masters of the primary school went down in the afternoon to take it. Then a Latin class was formed in connexion with the continuation classes provided by Nairobi Municipality, and the extra class was closed down. However, if the provision at the continuation classes is not sufficient, the question of reopening the class must be considered.

I did not quite follow the hon. member's reference to the inspection of grant-in-aid schools. There has been no cessation of this activity, but of course, with a very limited inspectorate staff, it is not possible to make frequent visits to any particular school.

He then brought up the question of the petition which was forwarded to the Secretary of State by certain Indian education officers for pensionable status. That petition had my support, but it was not accepted by the Secretary of State.

The hon. member then mentioned the question of relief teachers. Relief teachers are engaged temporarily to take the place of officers who have gone on leave, and it is not usual to appoint them at the salaries commensurate with their qualifications but at the flat rate mentioned of

[Mr. Morris]

Sh. 150 per month. But if one of those teachers is afterwards engaged in a permanent capacity, the salary is adjusted and he goes at once to the scale appropriate to his qualifications.

I am at one with the hon. member in hoping that the school medical inspection service will be resumed in the near future.

In regard to Goan education, I trust the proposals included in the Estimates will be approved by the Standing Finance Committee.

The action of the Dr. Ribeiro Goan School in admitting certain Indian girls to the Cambridge Junior class was very much appreciated by the Education Department.

The only other member who has so far brought up any further points of criticism is the hon. Member for Ukamba (Sir Robert Shaw), who said that a tribalized native is an educated native. What does he mean by an educated native? (Laughter.) I am afraid there are very few of them in Kenya. It has been calculated that only 12½ per cent of the school population in Kenya—I am now referring to Africans—has any sort of education at all. There are only 100,000 children in the schools, and I suppose about 90 per cent get very little more than a smattering of reading, writing, and arithmetic.

The whole importance of our educational policy is to try and educate the people in the reserves and to try to give them an education suited to their environment. We are paying very great attention to agriculture, and the number of children who are getting any sort of higher education is only about 2 per cent of the whole number attending school. I cannot believe that every native who goes to school and learns to read and write is going to become a clerk. Unless he goes to school and learns to read and write, he will not understand all the propaganda issued in the reserves trying to get the natives to take steps to improve their health and preserve their soil. That point has been emphasized in the Makerere Commission Report. I think it was Sir Daniel Hall who said that reading and writing do not matter, but the Makerere Commission took the opposite view, and

it is their opinion that without some education a native cannot hope to improve on his old and wasteful methods of cultivation.

MR. LA FONTAINE: Your Excellency, I have two points to bring up.

The first one is the question raised by the hon. member Dr. de Sousa yesterday in regard to his personal boy, who he said had been detained until he had paid his taxes. I am glad he mentioned the matter, because I was able personally to inquire into it, and it illustrates the difficulty which our taxing officers have to face in Nairobi in collecting at the present time. The native tax is due on the 1st January. In October, over a month ago, a campaign for the collection of the tax from native quarters was instituted in Nairobi, and, in order to inflict the least possible inconvenience upon employers of labour, notices were inserted in the local paper on two different dates, so that employers of labour would have the opportunity of informing their boys and making some arrangement for the payment of the tax.

The arrest and detention of the hon. member's boy was perfectly legal, and on payment of the tax in the course of the afternoon he was released. Therefore, I think there is very little cause for grievance in the matter at all.

Now I pass on to a much more important question, and that is the question which has been referred to by a number of speakers, namely the question of soil erosion in the Ukamba Reserve, in which Government is charged, in one case, with failing to face the facts of the situation and, in another, doing nothing at all.

What are the facts? In 1929, when the Daniel Hall Commission reported, public opinion, both European and native, was not fully alive to the danger of soil erosion. The situation had not reached its present intensity. We had no Arbor Society to jog our elbows and stimulate our enthusiasm and, incidentally, do the excellent work that society is doing. But, even so, in 1930 Government seriously considered a proposal to establish a meat factory to deal with the surplus Ukamba cattle, and were only prevented from so doing by its prohibitive cost.

[Mr. La Fontaine]

The slump came soon after, and the expenditure of large sums on reconditioning was completely out of the question. In 1931, when the provincial commissioner went to Ukamba (he happened to be myself) he soon realized that the natives in that area were completely unprepared for a drastic system of destocking and reconditioning, and that what was first necessary was to institute a campaign of propaganda and education.

To this end, Machakos Local Native Council was persuaded, and agreed, to vote a sum of £700 for the institution of reconditioning measures on an experimental basis purely for purposes of demonstration. Areas were selected for the cultivation of grasses and destocking, and it met with considerable success. So popular was this experiment that a request was made for a similar experiment to be tried in an adjoining location, which was also successful. Simultaneously, campaigns for planting along the slopes of the hills of seedlings and trees were also begun, and a vast number of seedlings was distributed.

It is admitted that owing to the drought and negligence a good many of those trees died, but on the higher slopes the planting of wattle was instituted, and this industry is now being widely continued with reforestation in certain higher areas in the hills at considerable profit to the natives concerned. Though here the impelling motive was gain, the economic value of wattle-planting need hardly be emphasized here.

From 1932 onwards, the annual contribution of the Machakos Local Native Council towards reconditioning was increased, until in 1936 and 1937 the amounts totalled £1,500 in each year, which is a very high proportion of the annual income of that council. Propaganda has been intensively directed towards fencing by natives of their holdings, and the result has been of considerable importance in the grazing of certain parts. In 1934 it was realized that propaganda itself was insufficient and that something of a more drastic nature was necessary. It was therefore decided to destock an area of 50,000 acres, which has now been done. It was planted up

with grass and terraced, and penalties imposed on native trespassers with their cattle.

All these measures are very vital preliminaries to the grand finale, which is the establishment of the meat factory in order to deal with the Ukamba cattle. I accept full responsibility for those preliminaries, which were instituted mainly at my suggestion. Hon. members have in some cases stated their views that those measures were completely useless without a reduction of stock to the number which the reserve is capable of carrying. That is a view I am unable to agree with.

The measures which I have described have an immense practical and educational value. They are necessary, because ultimately the problem can only be solved by the co-operation, the willing co-operation, of the natives themselves. In order to win this co-operation, constructive reconditioning must be undertaken with their intelligent support. I firmly believe that stage has now been reached when the reduction of stock by compulsion, if necessary, must be carried into effect. But such a step would have no small justification—indeed, it would have been open to serious attack—if it had been taken before means of disposing of the surplus cattle had been available.

There seems to be some anxiety now that the meat factory is approaching completion, that stock will not be available to keep it supplied. I do not think there is any serious ground for this fear, though the fact that the price of cattle has increased may cause some temporary difficulty. Measures, however, to cause the necessary production of stock are being actively pursued, and a census list of cattle owners is being compiled, and methods of progressive reduction, beginning on the Yatta and extending gradually throughout the locations, are being seriously considered.

What, however, must be clearly understood is that once the cattle population of Ukamba Reserve has been reduced to the figure that the reserve can economically carry—60,000 head—the meat factory company will have to look elsewhere for their supply. As the cattle of Machakos Reserve only number in the neighbourhood of 200,000, the reduction will not take many years to effect.

[Mr. La Fontaine]

I need hardly say that those who, like myself, have to be agents of Government in dealing with the problem are determined in the natives' own interest, to see that destocking is effective and generally carried out. In this odious and unenviable duty towards a loyal and friendly people we need the constructive criticism and friendly co-operation of the members on the other side of Council, and I have no fear that such co-operation will not be forthcoming.

There is one other point, raised by the hon. member Dr. Wilson, that I should like to mention in regard to the amount of money allocated by Government to the Machakos Reserve for reconditioning purposes in 1937. The amount in 1937 was £400, and was increased during the year to £1,000, I imagine, and I am stating my personal opinion only, that the fact that no money under this head has been included in the 1938 Estimates is due to the fact that a further sum of £2,500 has been allocated under another item in the Estimates. But I would remind the hon. member, perhaps, he did not hear what was said in the early part of the debate on the Estimates, that a sum of £10,000 has been asked for from the Colonial Development Fund, and also a further sum of £24,000 on which, if approved, local native councils will be asked to pay the interest, so that very ample provision is being made in the future for this particular service.

The debate was adjourned.

VALEDICTORY

LORD FRANCIS-SCOTT: Your Excellency, with your permission and the courtesy of Council, I should like to refer very briefly to the fact that this is the last occasion on which we shall have among us in this Council one of our most distinguished members. I refer, of course, to the imminent departure of Northern Rhodesia of my hon. friend the Commissioner for Local Government (Mr. Logan).

I think I am right in saying that about nine years ago, when he first became a member of this Council, I remember how impressed the whole Council was when, on almost his first appearance as a mem-

ber, he had to make a very long speech introducing the Bills dealing with the principle of local government. We all realized from that moment that Government had got a recruit of no mean ability.

From that day to this, I think we all recognize there have been few members of this Council with greater capacity for lucidity of expression and quick repartee in debate, an instance of which we had only this morning! It has always been a pleasure, whether one was being attacked or not, to listen to the hon. member.

But what I suppose he will go down to history in Kenya as chiefly associated with is the establishment of local government institutions in this country. (Hear, hear.) It has been due to his hard work and capacity which has enabled these local government institutions to be of such good effect as they are to-day, and I was very glad to hear him say how pleased he was that at the end of his term of service here, he felt they were of such good effect.

He said that sometimes we had differences of opinion. That is inevitable, but I can assure him that any official differences of opinion which may have occurred have no effect on the personal regard and friendship with which his many friends on this side of Council always regard him. I think I am voicing the views of all of us in saying that we wish him and his charming wife all happiness and prosperity in the country to which he is going. (Applause.)

ARCHDEACON BURNS: Your Excellency, my colleague and I wish to associate ourselves with every word the Noble Lord has said and, more particularly, we wish to ask the hon. the Commissioner for Local Government to express to Mrs. Logan our deep regret at her departure from the Colony, seeing that she has taken such a prominent part in all of the work that has gone on among the girls of the Colony, both Europeans, Asians and Africans in connexion with the Girl Guide movement.

I do not think I can say any more than that Kenya will be a little poorer when the hon. member leaves to take up his new position, and we do wish him, in the words of the Noble Lord, great blessing

[Archdeacon Burns]

and prosperity in the new office he is taking up in Northern Rhodesia.

MR. PANDYA: Your Excellency, on behalf of the Indian elected members, we associate ourselves with what the Noble Lord has said this morning regarding the hon. the Commissioner for Local Government.

He has always extended unflinching courtesy to all those who have come in touch with him. It was only natural that we might not always agree with his views, but he has always tried to help us to the best of his ability. He has been promoted to a higher post, and I am sure he entirely deserves that promotion, and I wish him on behalf of the Indian elected members great success in his new post and new activities.

HIS EXCELLENCY: Hon. members of Council, I need hardly say how pleased I am to associate myself with all the remarks made and in that to include all members of Government. Here in Council we shall miss his fluent yet concise speeches and ready wit. I shall miss his sound constructive advice, ever at my disposal, which was the product of long experience and clear, logical brain.

We shall miss him in Kenya, but his services will not be lost to the Empire, and I can only reiterate the good wishes already expressed in wishing him and Mrs. Logan all success and prosperity in their new post. (Applause.)

ADJOURNMENT

Council adjourned to 9 a.m. on Monday, the 22nd November, 1937.

Monday, 22nd November, 1937

Council assembled at the Memorial Hall, Nairobi, at 9 a.m. on Monday, 22nd November, 1937. His Excellency the Governor (Sir Robert Brooke-Popham, G.C.V.O., K.C.B., C.M.G., D.S.O., A.F.C.) presiding.

His Excellency opened the Council with prayer.

MINUTES

The minutes of the meeting of 19th November, 1937, were confirmed.

PAPERS LAID

The following papers were laid on the table:

By MR. PILLING:

Colonial Audit Department Annual Report, 1936, with copy of despatch to Secretary of State for the Colonies No. 690 of 1937.

By MR. HARRAGIN:

Reports of Select Committee on the Game Bill.

ORAL ANSWERS TO QUESTIONS

No. 69—POST OFFICE, KITALE

COL. KIRKWOOD asked:

Will Government please state the position regarding the proposed new Post Office at Kitale?

MR. PILLING: Although consideration has been given by Government to the question of providing the necessary funds for the erection of a new Post Office at Kitale, it is regretted that it has not been found possible to include provision in the Estimates for 1938 as drafted and presented to this House.

DRAFT ESTIMATES, 1938

REFERENCE TO STANDING FINANCE

COMMITTEE

The debate was resumed.

MR. DAUBNEY (DIRECTOR OF VETERINARY SERVICES): Your Excellency, the references to the work of my department have been brief and I shall not take very long to reply to them.

The Noble Lord referred to Lord High Deputy Director and I think, though he may not have mentioned it, that he had

[Mr. Daubney] certain appointments in my department in his mind at the time. I think there is some misunderstanding or misapprehension in regard to the effect of the Pim proposals following the Hall Commission and subsequent economy reports on the senior posts in my department, or in that section of the Agricultural Department as it used to be. I should like to give briefly the history of those super-scale posts. I hope the title is not alarming to members on the other side of Council.

The super-scale posts are posts of fixed salary which is generally higher than the maximum grade salaries. That is a Colonial Office definition. Prior to the Hall Commission of 1929 there were four of those super-scale posts: the Chief Veterinary Officer, the Assistant Chief Veterinary Officer, the Chief Veterinary Research Officer and the Assistant Chief Veterinary Research Officer. After the Hall Commission there were still four of those posts but, under the recommendations of that Commission, the Chief Veterinary Officer took over certain duties in connexion with animal industry, and his title became Deputy Director (Animal Industry); he was assisted by the Assistant Chief Veterinary Officer and the Chief Veterinary Research Officer, who with the Assistant Chief Veterinary Officer still remained on the establishment.

The *East African Standard*, for the information of the public, in 1932 printed a list. They "featured" (I think that is the correct term) the Civil Service posts the holders of which were in receipt of £1,000 a year or over. They included the Deputy Director (Animal Industry) and the Chief Veterinary Officer as separate posts, so that five of those posts at over £1,000 a year were shown.

My substantive post at the time was Assistant Chief Veterinary Research Officer, the junior one of the four. I was then acting as Chief Veterinary Research Officer and Chief Veterinary Officer and Deputy Director (Animal Industry), and according to the paper I was acting in posts the salaries of which amounted to £4,000. That was the first occasion on which I realized how seriously I was being underpaid! (Laughter.) However, subsequent committees of economy advocated

that these four posts, as they really were, should be reduced to three. That plan was tried under the existing organization, the Agricultural Department, and it was found not to work successfully, and although the post of Assistant C.V.O. was abolished we had to bring in a senior veterinary officer to assist in the administrative work, so that for all intents and purposes there still remained the four posts. To-day there are three, and therefore there has been some saving, and we hope to carry on with three in the existing organization.

Quite seriously, I should like to mention this. There is extreme difficulty in obtaining suitable recruits to fill vacancies on the professional staff. Whether that is entirely consonant with the idea prevailing as in the very generous terms offered the Civil Service or not, I do not wish to say, but the fact remains that recruiting is extremely difficult to-day. Young graduates who are approached will tell you quite frankly that they can get better terms anywhere else than in the Colonial Service, and I should like that to be put on record.

The only other point, I think, has reference to the supply of cattle for Liebig's factory at Athi River, a matter which has been raised by the hon. members for Nairobi North, Trans Nzoia and Kiambu. The two last named dealt with the subject at great length, and the hon. Member for Trans Nzoia quoted a number of extracts from the report of the Hall Commission.

I am sure that we all subscribe to the views that were expressed by the Hall Commission with reference to overstocking and the need to have some outlet for native cattle, and we have been working to that end ever since the Commission reported its findings. Most of the comments, however, on this subject came from the hon. Member for Kiambu (Major Riddell), and it would be very unusual, of course, if he did not have a great deal to say on matters that affect my department. If I might quote him for a moment, I want to be quite accurate, and if I am wrong I am sure he will correct me.

During his budget speech in the 1936 session, he quoted a sentence from His Excellency's opening speech, and he said he found that "very lean meat" indeed,

[Mr. Daubney]

and did not agree with the opinion which was expressed there. The sentence I quote is from his own quotation:—

"The prices which it is proposed to pay for cattle are, I feel sure, sufficiently remunerative to ensure that once the initial difficulties have been overcome, the native will readily bring forward his stock to the factory."

At a later stage, when I referred to that, paraphrasing it in my own terms, he said:—

"On a point of order, Sir, I said no such thing. Prices are not stated in the speech I quoted."

Well, I do not know, but what I would like to point out is that there is a condition in that quotation: "Once the initial difficulties have been overcome." Government is attempting to deal with those initial difficulties to-day, and I do not think it is helping Government in any way to decry about compulsion from the house-tops and to threaten all and sundry with dire consequences if compulsion is not exercised.

MAJOR RIDDELL: On a point of order, Sir, all I did was to quote the Hall and Carter Commissions on that point.

MR. DAUBNEY: I may have done the hon. member an injustice but I am quoting from Hansard.

MAJOR RIDDELL: So am I, it is here.

MR. DAUBNEY: The measures that we propose to take to obtain supplies for the Liebig factory have been indicated in general terms by the hon. member Mr. Fazan in his speech.

MR. FAZAN: On a point of personal explanation, I have not yet spoken.

MR. DAUBNEY: I am sorry—I meant of course the hon. member Mr. La Fontaine.

We are proposing to apply certain rules under the Crop Production and Live Stock Ordinance, 1926, which we hope will have the effect of bringing cattle on to the market in supplies adequate to meet the demand of the domestic market and the export market; that in effect will bring the prices down to export level.

During his speech, the hon. Member for Kiambu looked sternly at me, and asked me a question as to whether he was right or wrong when he disagreed with the statement of His Excellency at the last budget session, and there was a faint note of triumph in his voice. The answer is, it is impossible to say whether he is right or wrong yet, because he is too impetuous, he is in a hurry. His Excellency qualified his statement by that sentence, "once the initial difficulties have been overcome." From his own speech we know they have not, and until they have we shall not be able to say whether things will settle down and natives will bring their cattle at Liebig's prices.

I notice also that he said when he doubted this statement that I ridiculed him. I did not. I took him very seriously indeed during the last budget session. What few shafts I may have aimed in his direction had, I think, some connexion with the word "ploughing", if I remember correctly. Finally, he fixed the responsibility for obtaining these supplies on the Agricultural Department and the Veterinary Department. There again, I rather thought he would have liked to have fixed it on me, but changed it at the last moment.

But, with regard to compulsion, he was answered very adequately by the Colonial Secretary in his reply to that debate, on page 672 of Hansard of last year:—

"The hon. Member for Kiambu referred to the question of compulsion and, if I understood him aright, wanted to know whether Government was prepared to use compulsion in connexion with the Masai cattle, and why we had not done it in view of Sir Daniel Hall's report. That has to some extent been answered, but I can answer it rather more definitely. The whole point is that we do not like to use compulsion until there is an outlet. It is rather hard to go to a fellow and say, 'Destroy that bit of property.' He may value it a great deal. But as soon as we get Messrs. Liebig's plant here we can say, 'You must either destroy that bit of property or sell it for a fair market value.' That is a fair proposition to put to him, and he can do as he likes about it. When Liebig's are established we shall have

[Mr. Daubney]

every justification for using compulsion. But whether compulsion or not will be necessary is a matter of opinion; none of us can tell at the present moment, but the indications are that it will not be necessary."

I submit that that is a complete answer to all those statements.

MAJOR RIDDILL: On a point of order, it is not in my opinion a complete answer. May I read what I actually said? Is it in order to read from my speech, for the hon. member has quoted it. On page 478 of Hansard I said:—

"I wish to point out also in passing, that whatever was said by the Daniel Hall report or by the Carter Commission might have been prejudiced as far as official members were concerned, since there was not in those days a market for this surplus stock, but that does not arise today."

MR. DAUBNEY: Well, Sir, I think the answer is still in that statement made by the hon. the Colonial Secretary.

In certain playful asides, the hon. Member for Kiambu indicated that he did not think I should have anything to do with such questions as the development of the pastoral tribes and their animal industry. I think he mentioned in connection with a report I wrote on the subject of the Masai that he wondered whether I had done it in my spare time and that I ought to have been treating sick animals.

I suppose there is a general tendency in Kenya to show here to feel that if a man has a scientific training and works most of his life in science, in some curious way he is barred from taking a general interest in the social affairs.

MAJOR RIDDILL: I am sorry to have to raise another point of order, but the use I made of that statement has been twisted in the hon. member's mind. What I said this morning was to be proved against his point when he quoted non-official members in supporting other speakers. I never questioned the hon. member's right to write a report, but pointed out to him and to Council that in the terms of that report to show him in the position as quickly as possible for non-official members and officials.

MR. HARRAGIN: On a point of order, I would ask if the hon. member is in order in constantly explaining away his speech? The point is met quite clearly in May's Parliamentary Practice:—

"A member, however, who has already spoken, may rise and speak again upon a point of order or privilege, if he confines himself to that subject and does not refer to the general tenour of a speech."

MR. DAUBNEY: If I misunderstood the hon. Member for Kiambu I apologise, but I have a distinct recollection of him suggesting that I ought to have been treating sick animals at the time. I shall come to the question of misnomer later on.

I wanted to deal with a suggestion made before, that the activities of my department shall be entirely confined to treating sick animals, and I think I have made my point. I see no reason why a scientist or biologist's training should debar anyone from taking part in general affairs. The hon. member himself has gone out of his way to become an expert on my department! (Laughter.) He has traversed the boundaries of his profession, and I suggest that if he had had a biological training he would have done it in a different way. He would have taken more trouble to get at his facts before he became an expert on the subject. We should have seen him at Kabete Laboratory investigating the work and services we are giving, and I do not think I have ever had the pleasure of seeing him there during the 12 years I have been in this Colony!

To deal with that question of misnomer that arose subsequent to the Moyne report, and it is frankly a misnomer, and I am given to understand it will be changed. The intention is to only convey that there are services other than purely native services.

MR. FAZAN: Your Excellency, from the chaotic corner of Council during most of the year unrecorded, since punctuated by occasional Aya and Noe is what hon. members have become accustomed to expect. If we do not occasionally break out into more elaborate references I fear there is a danger that it may be thought our presence here serves no other useful purpose than to bolster up

[Mr. Fazan] the Government majority! That assumption is so dangerously near the truth that I feel it ought to be rebutted, even at considerable personal inconvenience. I have no wish to be regarded either as a supercilious bureaucrat who takes no interest in these debates except to vote as we are told nor yet to be ranked as one to whom the text of the psalmist might be conveniently applied: "Lo, I am so feeble that I cannot speak!"

Returning to the budget, I need scarcely say how greatly I am in sympathy with several members who have made the statement that the tightest possible control ought to be kept on the Expenditure Estimates, unless perhaps it may be in connexion with certain items which are of peculiar interest to their several constituencies! (Laughter.) My sympathy is the more sincere in that the blue pencil of the Secretary has not refrained from making itself felt in the Nyanza provincial administration estimates; particularly it has caused the disappearance of certain increases for which we ventured to ask in the chiefs and headmen vote and the tribal police vote.

We cannot complain of all the things for which we grieve but I do find it legitimate to ask that those particular items, together with the memoranda by which they are supported, should be read and receive the sympathetic consideration of the Standing Finance Committee.

The hon. Member for Trans-Nzoia asked what loss of revenue had resulted from the raising of the age of liability for native poll tax from 16 to 18 years, and he received the fairly correct reply; that it is impossible to say. However, before this tax was collected, we did make our own estimates as to what we thought we should lose and, in regard to Nyanza Province, we came to the conclusion that if all these people were excused the loss would approximate 7 per cent. That was rightly or wrongly the conclusion we came to, and expected therefore that, the tax being in the neighbourhood of £200,000 for that province, we could expect a loss of £14,000. Actually, in respect of 1937, we shall collect the same amount of tax,

if not slightly more, than we did in 1936.

That is an indication that although we have lost this amount, or something like it, from these exemptions, we have made it up by closer collection from people who still remain liable to pay, and by granting fewer exemptions on account of poverty. That has been rendered possible by the very good economic position of the province at the moment consequent on internal production in the reserve and the earning of wages.

One cannot but be grateful to hon. members on the unofficial side of Council who have invited the attention of Government to the very important problem of the proper utilisation of the land in native reserves. The penalty for misuse of the land will only be disaster for the native reserves and ultimately for the whole country, and if we are to solve this problem the co-operation of all of us is required. It is also necessary that we should be correctly informed of the facts and figures as far as possible.

In this connexion I would pay tribute to the hon. Member for Kiambu who, in my experience—I am sorry to differ with the previous speaker—has taken an unusual amount of trouble to arrive at facts and figures. Whether he is always right or not is another matter, but he does try to get the right facts. He has quoted 750,000 as the number of cattle in the Masai reserve prior to the two years drought, 1934 and 1935, and stated that at the end of the drought, the cattle left were about 450,000 head. He has estimated that the number of cattle annually available for slaughter should be not less than 45,000. I know the source of those figures: the first was given the Kenya Land Commission; the second was from estimates made from inquiries in the Masai reserve from all officers concerned. I believe, I may be wrong, we estimated the number of cattle available to be nearer 40,000 than 45,000.

The point he did not mention, and which should be mentioned, is that somewhere about 18,000 Masai cattle do find their way to markets. The principal buyers are in Nairobi township, Kikuyu natives, and South Kavirondo natives; also, when veterinary arrangements can be made, the Chagga are considerable buyers. The Nairobi market may very

[Mr. Fazan]

likely be glutted in a short time, but the potentialities of expansion of the others is very large. This is instanced by the fact that the South Kavirondo natives are now paying upwards of Sh. 100 for good slaughter animals.

It therefore follows that the number of Masai cattle likely to be available voluntarily to Liebig's is not inexhaustible. It may be in the neighbourhood of 10,000, and it may be less; I do not think it is going to be more. On the other hand, unlike Ukamba, Masai is a real ranching country, and whatever they can provide this year for Liebig they will go on providing. It is not a question of destocking and less and less return every year; it might even be more.

The hon. member touched on another, and I think, still more important point, when he suggested that rules ought to be made in the populous agricultural areas to secure the correct utilization of the land, and where it so happens that customs relating to land tenure are such as to interfere with that utilization there, and where should be made to regulate the system of land tenure. That is an extremely thorny point, and there is a natural reluctance to grasp the nettle. The results of mistakes might be very serious indeed, and it is only right the whole position should be explored first.

But, all that being said, I am prepared personally and without committing anybody else to say that I think he is right, and that the time has come not for the introduction of a full set of rules to regulate land tenure but for some small modifications where they are pointed out, and where we know pretty well what the results will be. With the leave of Council I want to pose a short extract from the Land Commission report.

"The hon. member touched on another, and I think, still more important point, when he suggested that rules ought to be made in the populous agricultural areas to secure the correct utilization of the land, and where it so happens that customs relating to land tenure are such as to interfere with that utilization there, and where should be made to regulate the system of land tenure. That is an extremely thorny point, and there is a natural reluctance to grasp the nettle. The results of mistakes might be very serious indeed, and it is only right the whole position should be explored first.

Nevertheless, we are impressed in an even greater degree with the certain misery which will result if a policy of drift is pursued."

In section 1655 the report says:—

"Government, by the very act of governing, has created the problems, and it is not unreasonable to expect that Government should solve them. It must take and use the power to make rules."

The Commission go on to show by what methods rules should be made, and go out of their way to make an elaborate procedure, so that it is extremely difficult to make any rule until it has been exhaustively examined both by all officers concerned and provincial commissioners and the natives themselves.

I find myself at one with the hon. member in saying that we suffer at the present moment by the fact that no rules yet apply to the congested agricultural areas. It is no fault of anybody's; under the existing Ordinance there is no clause under which such rules can be made.

The Noble Lord has expressed the fear that production in the native reserves is proceeding at such a pace as to be dangerous (a) to the soil of the reserves and (b) to the labour supply.

If I may take the latter point first I think if he will forgive me that his criticism, in the sense in which he meant it, was legitimate and possibly correct, but if it is taken out of its context, as I fear it might be taken by interested persons, it might be read to imply that if the natives are so prosperous in the native reserves as to be reluctant to come outside and seek work elsewhere, then such prosperity is excessive and should be checked. I had certain to do not mean to suggest anything other than that the native reserves, like the rest of the country, should be developed to the greatest extent of which they are capable.

But there is such a thing—and I think he meant to point it out—as that development which, whatever it occurs, is not for the common advantage of the country, and I am disposed to agree with him that where you have a number of administrative and agricultural officers all striving to produce production in the native reserves, there must always be a

[Mr. Fazan]

danger that some people may be over zealous and, for the sake of some temporary advantage, may over-burden the land and may even divert effort from enterprises of more permanent promise. If that is what he meant, I cannot but admit that that danger is very present, and the way to overcome it clearly is the proper co-ordination of all services in the reserve, so that every department works together on a settled policy and programme, aiming at producing a better native living on better land.

If that is done, there need be no fear that the true interests of the settled areas will in any way be adversely affected. It is true that at the present moment, owing to the notable revival of industry, natives are in a position to pick and choose and wages are going up through competition. It is to the advantage of the employer that he shall at least get a better labourer for the increased wages he may have to pay. If we have orderly development in the reserves with a well thought-out procedure, we shall produce a better native, a better labourer, and a better citizen, but I am equally certain that if we indulge in a disproportionate stunt development we shall fail to do so.

A great deal has been done (I do not wish to convey that it has not) in the provinces to produce a strong and well-understood progressive programme, not as getting away from central government but in strict subordination, but worked out by those people on the spot who know what is required. We make the programme at district commissioner's meetings at which agricultural and other officers are present, and if doubt arises it is sent to the Colonial Secretary or the department concerned. It has resulted in very great progress in the reserve for the past few years, astounding progress; but that has made all the more necessary the closer co-relations of the administrative machine.

It is now—many think it may be necessary—it is now recognised to be necessary that there should be a closer definition of the respective functional and financial relations between the central government and local native councils. It was most gratifying to me to see how great an

interest the unofficial members take in this matter. It is an essential matter, and I am glad to see it recognised as such in the speeches of several of the unofficial members.

Before I sit down, there are two small points to which I should like to be allowed to allude.

The first one arose in the course of the very interesting speech by the hon. the Director of Education. What he actually said, I believe, was that it was the aim of his department to keep the natives in the reserves. What I understood him to mean, and I feel convinced he will say I am right, was not that it is the aim of his department to keep natives in the reserves but to keep them based on the reserves so that there will be no interference with any inclination they may have to go outside and earn wages but ultimately having one leg in the reserves, they will come back and finish their lives there.

The other point is again a small one, that I feel I should like to mention, because I feel that the hon. the Acting Director of Agriculture would probably not wish to say anything which may be interpreted to be too much praise of his own name. It has to do with these high-sounding titles—I understood from speeches that there are seven of these titles in the Estimates and that two of them are the senior agricultural officers. These two senior agricultural officers are posted to Nyanza and the Central Province. They have a most important duty to perform. They have under them all the agricultural officers of those provinces, and upwards of 100 native inspectors and agricultural assistants. They work in the very closest touch with the provincial commissioners and help to formulate the provincial programmes. They are the people mainly responsible to see that some particular enthusiast does not break out and go off introducing a new land tenure system of his own, and to see that things are on an even keel. I do not know whether it is right for me to say so or not, but I am delighted that those particular officers have got their promotions.

DR. PATERSON: Your Excellency, I do not think that there is a member opposite who in the course of this debate has not made some reference to medical

[Dr. Paterson]

matters and asked for a grant or a sum of money, or for some information, and that, in this year when in England there is a very great national campaign for health in operation, is, I think, a very worthy matter because if there is need for that attention to health in England there is more need for increased attention here.

The first question I was asked was by the Noble Lord the hon. Member for the Rift Valley, who asked whether the extra pensionable posts of nurses is to come up for consideration by the Standing Finance Committee before they were ultimately confirmed. That is so, but I would like to inform the Noble Lord that I only got these posts through perhaps a soulless, but not entirely heartless, Colonial Secretary, for I was able to assure him that, owing to the ineradicable tendency of the ladies who come out to join our nursing staff to follow the example of the staff of the hon. the Director of Education and forgo all pension rights in favour of permanent settlement on the land, the institution of these extra pensionable posts would have no effect on the pension list, and would only ensure that the standard of finance provided by my department does not fall below that provided by the hon. the Director of Education. (Laughter.)

The next point by the Noble Lord was the question he referred to last year, whether the natives should not make some payment for hospital services. I spoke at length on that subject last year and my opinion has not altered. I do not mean that in time they might not pay in the fashion he refers to, but I do not think the time is yet. Because just as Sir Philip Mitchell said, it is better if possible to leave the money in people's pockets than to tax them, so I think that the position of the African people being as it is, at least, as regards the natives in towns, such that they cannot afford an adequate dietary, then I think also that the money is better left in their pockets so that they can buy that dietary. I think that the correct answer is that which arises out of the proposal which has been made for an inquiry into the relation of the central Government expenditure to the local native dwellers' finances, since I entirely agree, as I think the Noble Lord will

agree, that there must be a limit to the amount of hospital relief to be provided by the central Government and that after a certain amount has been provided, it must remain with the local authority to provide the wherewithal to extend the services, and I do not think that until that question has been fully investigated we should again consider the question of the native actually paying fees.

The only other point was that the Noble Lord said Africans preferred going to the mission hospitals rather than to the Government hospitals. If he means, as I presume he did, that some Africans do go, I am entirely in agreement with him. But I do not think it would be correct to say that my hospitals are only overcrowded by people who cannot get into the mission hospitals.

The next question asked was by the hon. Member for Nairobi North with regard to the group hospital site. I can inform him that the hospital will be built as indicated on the plans which the committee (of which he was a member) discussed, and that extra land from the K.A.R. site will be placed at our disposal for the purpose.

The next question was from the hon. Member for Mombasa, who asked for information with regard to the malaria survey of Mombasa for which he could not find provision in the Estimates. If he will turn to page 114 he will find that the sum of £1,500 has been provided, and in that connexion I would like to say that quite a great deal has been done most certainly by the Railway Administration who took up some of the work most enthusiastically. Early in the year we asked the Railway Administration to take up the question of mosquitoes breeding on their own land, especially in holes in mango trees. Since February the Railway Administration have cemented 26,931 holes in 1,800 mango trees, so that it has not only prevented much mosquito breeding but done much to preserve these beautiful trees and the amenities of the island.

The hon. member also asked a question with regard to the group hospital at Mombasa. That, as I think he must know himself, must await a decision as to whether

[Dr. Paterson]

further loan funds can be procured. He also referred to certain building rules, and that point was, I think, dealt with yesterday.

The hon. Mr. Pandya raised the question of extra hospital accommodation for Indians at Mombasa. The position of course is that the Government is not anxious to spend money at Mombasa if we are going to have an adequate group hospital in the near future. If it is a very urgent matter to get extra accommodation, naturally it will receive consideration, and I hope to put before the Standing Finance Committee certain estimates of costs.

MR.-BEMISTER: On a personal point of explanation—the question I asked was on the matter of a building survey and that was answered by the Commissioner for Local Government, Lands and Settlement. But the other has not been answered.

DR. PATERSON: I looked up the particular rule, and all I can say is that I think it is very sound.

The next question asked was by the hon. Member for Trans Nzoia, who wanted to know if Government would consider putting up £150 to amplify the £150 already available for the building of a maternity ward at Kitale native hospital.

The position, of course, is that Government is met by requests not only from Uasin Gishu, but from Naivasha, Nakuru, Thomson's Falls, almost every place all over the country for extra hospital accommodation, and there are places where the amount of accommodation provided is much less than that provided at Kitale. Just as I said with regard to the provision of medical services in the native reserves, local authorities may require in future to raise money themselves. That now is the position in many parts of the settled areas, and though some districts may have got less than Kitale has, since Kitale has raised this money for itself I shall put the question of augmenting it to the Standing Finance Committee as one of the items that should receive very favourable consideration.

I come to the very large number of points raised by the hon. member Dr. de

Sousa who, I regret, is not here at the moment.

One important one was with regard to the training of Indian boys as laboratory assistants, compounders, and hospital assistants. I am not prepared to take up the training of Indian compounders. I think the standard of education and civilization of the Indian in this country merits a better occupation than that. On the other hand, I shall be very glad to do what I can with regard to training some Indians in laboratory work, and I shall also have great pleasure when an opportunity comes of doing what I can to train Indian girls as nurses.

The hon. member referred to the medical inspection of school children; and offered, if not his own services, those of his colleagues. I have every sympathy and thank him for his proposal, which I will consider, though I am not sure that it is a very practical one.

He referred to the question of dental services for Africans. That, also, I have great sympathy with, provided he really means dental service and not dental disservice and, when the time comes, I hope something will be done. But I should like to make a point here. The provision of one or two dentists is going to make mighty little difference to three millions of Africans. It is a very large number of dentists indeed that is wanted, and Africans are only going to get the amount of dental treatment they require and, owing to their poor nutrition, they require a good deal, they can only get that service as and when there are African dentists to provide it.

The hon. member then referred to a very important matter, the question of venereal disease in native reserves and in towns. Regarding the native reserves, I will only speak of Masailand. There is a good deal of venereal disease there, and it was a matter of interest to me last year to find a certain number of Masai were travelling many hundreds of miles to come into the infectious diseases hospital at Nairobi, where I have an ex-R.A.M.C. n.c.o. who has a very good way with Africans and a very good knowledge of the treatment.

I was so surprised with this that it suggested a line by which something

[Dr. Paterson] might be done, and next month I am sending this officer into the Masai reserve purely on a treatment campaign for venereal diseases. I do not know whether it will be successful or not. I rather think it will and, if it is, it will show how we can do a great deal of work there at comparatively small cost.

The hon. member Dr. de Sousa then talked of social conditions in town in relation to venereal diseases, and of housing. I am very glad indeed that he raised this general question of social conditions in towns, and of housing in relation to disease. It has been raised quite recently by another member of our profession at the Rotary Club in Nairobi, and I trust that every member here has read what he said. I think that it is an extraordinarily important matter and, if I may, I would read what I said in my last annual report with regard to this matter, under the heading, "Recommendations":—

"In the towns also the sanitary advancement of the people will in the long run depend on their efficiency—on what they can earn—and it is again an educational problem. For the solution of this problem the local authorities have at least some responsibility—a responsibility to press for progress. But progress along that line will of necessity be slow, and in the meantime much could be done by the improvement of housing conditions, and to this question the attention of almost every local authority might now well be directed."

In this connexion I should also like to read a quotation from a letter which I have just received from an old friend of mine in South Africa:—

"In Pretoria we are just about to embark on a scheme costing three quarters of a million sterling for a new native location housing 3,000 persons, complete with dwellings, water sewerage, roads, electric train, tar macadam roads, storm water drainage, schools, playgrounds, gardens, shops, native beer and sour-milk bars, eating houses, and administrative offices, etc. This will give you some idea of the trend of things in South Africa."

I have received another letter which gives an indication of the trend of things in South Africa. It is from an officer of the Non-European Housing and Native Administration, Department, Johannesburg, and he says:—

"The municipality has created a new department of social anthropology and welfare within the Department of Native Administration, and I am its social anthropologist."

So much for towns.

The hon. member Dr. de Sousa then raised the extremely important question of tuberculosis among the Africans. He said it was difficult to suggest measures of control. Of course it is, for control, or rather prevention, demands good housing, good food, doctors, African district nurses.

It is of interest, I think, that within the last year we have endeavoured to institute a system of following up cases of tuberculosis among Africans in one native reserve, but it is very elementary, for it will only be possible to do this work efficiently as and when we have very well educated African women who can be trained to be African district nurses.

The hon. member commented that we had no sanatorium. That is perfectly true. He referred to the fact that we had no instrument for carrying out a particular form of treatment, and he was perfectly right. In the accommodation which we have for that particular type of disease at present we do not consider it proper to carry out that line of treatment, and when it is performed we borrow the instrument.

He referred also to a new and expensive medicine which a patient had to pay for. He was perfectly right. He had to pay for it, and I do not give it away, not because my young men have never heard of it but because it is a very expensive product, and in a very large department we cannot put expensive products on to a general issue list until they have really been proved and accepted, and, naturally, till one can make arrangements to finance the purchase. This drug has now been accepted, and its purchase will avoid the purchase of certain sera, and I have passed over money for the purchase of

[Dr. Paterson] sera next year to the purchase of this drug, when in most cases it will be available free.

He referred also to the question of malaria in Nairobi, and I am very glad that he did refer to it, for there is still much more malaria in Nairobi than there should be. Up to recently the Municipality was in some difficulty because it had not got the trained subordinate staff. It now has that staff, and though it will be a long time before malaria has disappeared from all parts of Nairobi, it should not be a long time till malaria has ceased to be endemic in Nairobi. I trust that the Municipal Council will give every attention to what I think is an extremely important matter.

I am not quite sure that the hon. member is taking quite the right line in not notifying his cases. I think he ought to until the Council gets tired of paying the fees for them.

He then referred to the question of the sale of quinine, and made the accusation that the Government is making a profit on it, because on the revenue side is shown £2,500 and on the expenditure side only £2,000. The position, of course, is that there is a lag and we shall still have certain stocks for sale next year which are now in hand. Quinine is sold at cost price and the Government makes no profit on it whatever.

The hon. member asked a question in regard to the Group Hospital in Nairobi, whether it was the intention of Government to see that the European part would be built. I am in a position to give the assurance that as funds are available this definitely is the Government's intention.

He also referred to the question of consultation with the Indian practitioners on the subject of design. I have already given him an assurance that, now we know we are going on with the hospital, I shall take the opportunity of getting into touch with all the Indian practitioners in Nairobi, in order to ensure making no mistakes with regard to matters about which they know more than we do.

So much for the specific points which have been made and the specific questions asked by all but one of the hon. members

opposite. I have dealt with them one by one and dealt with them as fully as I think is appropriate to the occasion, but it will be clear, I think, that these points and questions taken as a whole indicate the existence of a grave problem, the problem presented by a great burden of ill-health. And if I were to say no more I might be accused, and rightly accused, of ignoring the existence of that problem to which so much attention has been given by the hon. members opposite. I must therefore now endeavour to sum up the position as I see it. I shall deal therein with the important issues that have been raised by the hon. Member for Ukamba and I shall endeavour to give a clear answer to his question, namely, what the policy of the Medical Department of the Government has been and what it is to-day.

To sum up, firstly it is clear that there is much disease, otherwise all these demands would not be made. Secondly it is clear that since the demands are made there is a will not only in this Council but outside of it to deal with disease if it can be done. Thirdly it is very clear that for the moment most of the specific demands that have been made cannot be met.

I should like to summarise these demands, demands not only for hospitals, sanatoria, doctors, nurses, dentists, school medical inspections, but for more sanitary towns and for good housing, demands from the hon. Member for Ukamba for very good housing indeed in native reserves, demands, and very legitimate demands, for a healthy and efficient labour supply by European employers; demands, again very legitimate demands, from European housewives that the people who are in their houses, who come in contact with their children, are healthy and not carriers of disease; and, most important of all, a demand from an ever increasing number of Africans for good health and, very particularly, for good health for their children, for which they are only too willing to work and to pay if only we could show them how it could be done. How, then, is disease, under these conditions and on that scale, to be prevented and the money found to meet all these demands?

I think if we turn from the particular to the general, from results to causes, to

[Dr. Paterson] a generality to which you, Sir, yourself referred in your opening speech to a cause of disease which every animal husbandman, every crep husbandman, every doctor and layman knows, we might find the answer. I refer to the question of nutrition—a question which in England to-day is receiving the very greatest consideration.

You, Sir, quoted from a recent report on nutrition by the League of Nations, which said:—

"Malnutrition which exists in all countries is at once a challenge and an opportunity: a challenge to men's consciences and an opportunity to eradicate social evil by methods which will increase economic prosperity."

and you said: "Let us accept that challenge."

In saying so, you have indicated to this Council and to the country what in the view of Government is one of the main objects of its public health policy—the improvement of the nutrition of the people—an object which, from what he has said, has most clearly the hearty support of the hon. Member for Ukamba, with whose points and questions I have still to deal.

The hon. member asked, what was the policy of my department? He stated that our hospitals were, he understood, full of malaria and dysentery cases, and he asked whether we might not perhaps well give more attention to the prevention of these diseases than to their cure, and he reminded this Council—and, I hope, the larger public, both in his own constituency and elsewhere—that an apple a day keeps the doctor away, and he asked if I agreed. I do, but that is not the whole answer, because I believe a lemon is even better! (Laughter.)

Clearly I am on the horns of a dilemma. The hon. Member for Ukamba begs me to spend more money on prevention, while half a dozen other members petition for hospitals. I have much sympathy with his point of view, because, though many more hospitals are undoubtedly required, it ought as a matter of fact to be no part of a central medical department's business to provide local hospitals: that ought to be the business of the local authority and

in due course, when this country is richer, it will be done in that fashion.

The question is, that is, a policy aimed at an apple a day—that is, a policy aimed at the improvement of the nutrition of the people—be enough to empty our hospitals? Personally, I think it would go far to empty them, if it were sufficiently wide and comprehensive and if it were the case that our hospitals are full with malaria and dysentery cases. But that is not the case. Out of some 40,000 patients treated in hospital last year only about 5,000 suffered from malaria and only, I think, about 1,000 to 1,500 from dysentery. Our hospitals, except during epidemic periods, are hospitals full of people suffering from a great welter of diseases, many of them the same diseases that people still suffer from in England where there is no malaria and little dysentery.

But what the hon. member's policy would do, I think, is that it would place us in a position ultimately of providing these hospitals, even if we cannot provide them to-day. I should like to assure the hon. member that for nearly 20 years this idea of better nutrition of the people has been one of the main planks in the policy of my department, and it is a matter to which year after year we have given even more attention, for the function of the department, as laid down in law passed by this Council in 1921, is "to prevent disease, to promote the public health," and that Ordinance makes arrangements for the appointment of a staff of medical officers, medical officers of health, whose business it is to inspect the country and the people, to co-relate environment and disease, and to advise Government accordingly.

The real question arises, how do we carry out this function, what is our main policy, and is it adequate to the purpose? I am a little surprised at the hon. member asking the question as to "what is the policy of the Medical Department?" because I spent nearly an hour last year on this occasion endeavouring to make it clear, and I thought also it was fairly well known that the native development exhibits at many recent agricultural shows represented the health policy of Government, and I thought they elucidated the

[Dr. Paterson] of the department has been—we have done what we could to inspire the Africans to wish for the type of house which I am so very glad to see is the only type of house which will satisfy the hon. Member for Ukamba for Africans; not merely a poor house of wattle and daub with a kerosene tin roof, but a good house of sound burnt bricks, with a good corrugated iron roof, the type of house which his neighbour, the hon. Member for the Coast, thinks is out of the question for a long time to come, the type of house of which, in fact, there are very many in the Machakos Reserve to-day, many of them built by N.I.T.D. boys. And if there are, unfortunately, many more houses built by these boys that have only got kerosene tin roofs, I am delighted to point out that it is not the fault of the N.I.T.D. boys, because I cannot believe that even they would prefer the immense labour of covering roofs with kerosene tins to the small labour required to put on four corrugated iron sheets. It is only because everybody cannot yet afford to buy corrugated iron that kerosene tins must still be used.

That was our view of the position in 1926. In 1934 I wrote in my annual report:—

"From my experience, first as a doctor, and secondly as a sanitarian, I would recite two facts, namely, that one major cause of illhealth in Africa is a poor dietary and that another is the insanitary conditions resulting from insanitary and wasteful farming."

And Sir Daniel Hall used that extract as the text with which he prefaced his book on "Native Agriculture in relation to Population and Public Health," a book which has elicited, I believe, the admiration of the hon. Member for Ukamba.

In 1934 this department proposed at an official East African Medical Conference in Nairobi, the following motion:—

"That so far as meat and milk are concerned it would be of great advantage if these articles played a greater part in the dietaries of native peoples and (the Conference) held the view that this matter was chiefly a question of distribution as regards meat and of the introduction of mixed farming as regards milk."

in order that there might be more milk for the children and more green food for all the people.

Year after year in every district of the native reserves and at the show of the Royal Agricultural and Horticultural Society we have done what we could—I come directly to what the main policy

of the department has been—we have done what we could to inspire the Africans to wish for the type of house which I am so very glad to see is the only type of house which will satisfy the hon. Member for Ukamba for Africans; not merely a poor house of wattle and daub with a kerosene tin roof, but a good house of sound burnt bricks, with a good corrugated iron roof, the type of house which his neighbour, the hon. Member for the Coast, thinks is out of the question for a long time to come, the type of house of which, in fact, there are very many in the Machakos Reserve to-day, many of them built by N.I.T.D. boys. And if there are, unfortunately, many more houses built by these boys that have only got kerosene tin roofs, I am delighted to point out that it is not the fault of the N.I.T.D. boys, because I cannot believe that even they would prefer the immense labour of covering roofs with kerosene tins to the small labour required to put on four corrugated iron sheets. It is only because everybody cannot yet afford to buy corrugated iron that kerosene tins must still be used.

That is the type of house which alone will provide the cleanliness which will prevent dysentery. That is the type of house which will provide adequate nutrition, because only a well run family farm, a small holding which is not too small, will support that type of house, the type of building which means correct land utilisation and conservation of the soil.

Our policy has, in fact, at every point been based on the need of cleanliness to a degree that to-day is unknown except in very few places in Africa, and on the need for a standard of nutrition far in front of what exists to-day, a policy that has been recognised as essential by all agriculturists if agricultural industry is to be economic, a policy which was summed up very recently by one of the most distinguished agriculturists alive to-day, namely, Sir John Orr, so well known to every animal husbandman in this country. Writing in the *Spectator* only last year, he said, in respect of an earlier report of the League of Nations on nutrition to that to which you referred, Sir:—

"The report I have quoted states that the 'advance in the science of nutrition

[Dr. Paterson] demanded a new orientation of public health activity. But we cannot get the full value of this new knowledge merely by public health measures doling out dribbles of milk and free meals to necessitous children. We cannot get the full benefit of this new knowledge until we have a national food policy which will provide an adequate diet from the point of view of health at a price within the reach of the poorest. This is not impossible. Agricultural economists are battling with the problem of 'over-production' of the very food-stuffs needed, and devising complicated machineries to deal with the glut. If instead of water-tight departments we considered the State as a whole, it would be found that agricultural economic problems and public health problems would cancel each other out to the great advantage not only of agriculture and public health, but of trade.

In conclusion, I should just like to give one or two examples of this cancelling out and so to come back from generality to the particular.

There is one matter with regard to which we have recently heard a very great deal in the Council, that is with regard to the labour supply, though by labour and labour supply I understand people who work with their brains as well as with their hands, and I have in view the reserves equally with the settled areas.

The hon. Member for Uasin Gishu who raised the question said he was not quite sure whether there was a great lack of labour or not. I do not propose to argue that question, because here I am much more inclined to agree with the hon. Member for the Coast. You will remember that in a previous debate the hon. Member for the Coast explained to us how he had worked. I think with pick or shovel or both, for about 16 hours—12 hours during the day and another 4 hours at night—and during that period he had been able to do the work of, I cannot remember exactly how many, Kavirondo, but I think it was round about half a dozen. That is to say, he said he was able to do more work in a day than a large number of labourers from the very best nourished tribe in this country.

Personally, I do not believe that that incident actually occurred! (Laughter.)

MAJOR GROGAN: Am I to understand that the hon. gentleman is accusing me of lying? (Laughter.) If so, I don't mind. (Laughter.)

DR. PATERSON: If the hon. member will wait, I will make clear what I said.

I merely said I am not inclined to think it occurred. I certainly believe the hon. member believes it occurred, but I think what happened was this. I think when he told us that story he was suffering from one of the symptoms of a disease to which he referred in his last speech, a very characteristic symptom of that disease that is known in medical terminology as delusions of grandeur!

MAJOR GROGAN: May I remind the hon. member that my point was, that I wore a hat! (Laughter.)

DR. PATERSON: I am sure at least that there is some foundation for his belief, and if we had a better-nourished African population throughout the country it would reduce the costs of industry very greatly indeed.

To come to that part of the labour supply which is employed by Europeans and to the part the latter can play in improving nutrition.

There are numbers who are employed on small farms and some employed on large farms. I do not think that the employer of 10 to 20 or 100 labourers can do very much to improve their nutrition. That, I think, will depend on the extent with which the natives have been educated in the reserves and on the extent to which their wives have some understanding of new foods, on the extent to which our housing and educational policy is carried out here. But on the larger estates where many hundreds of labourers are employed, I think a great deal more can be done. I am well aware that there has been a great advance with regard to rationing and diet systems in vogue on estates in this country in the last few years, but I think there is a great deal more to do, and I am very sure that if the challenge you asked should be taken up were to be taken seriously by these large employers it would benefit industry in this country.

[Dr. Paterson]

'One last point.'

The question is, how far was the policy of better housing, a policy of asking Africans to be good farmers, been successful? I travelled very recently through the South Nyeri reserve and there, where only 15 years ago there was nothing but small gardens, I went for miles and miles through fenced lanes, I visited small holdings of from 12 to 25 acres, and on those small holdings I found plantations of wattle, I found fenced pastures which in some instances were being planted up with indigenous trees for shade; I saw fenced arable land which was being well terraced; I saw good houses, I saw wells; I saw what one did not see before in that country, the stock being fed and pastured on the holding; I saw pigs, and I saw Angora rabbits, but on not a single one of these small holdings did I see a single goat!

Council adjourned for the usual interval.

On resuming:

MR. WOLFE (ACTING DIRECTOR OF AGRICULTURE): Your Excellency, my participation in this debate will be in the nature of a little dip, possibly into hot water! and I hope hon. members will not mind if I defer certain points raised for consideration by the Standing Finance Committee, as I believe the method of question and answer assists clarification to rather greater advantage than does debate.

The Noble Lord asked what value the country was receiving from the contributions to the Imperial Shipping and Imperial Economic Committees. I will defer answering those because the explanations are rather lengthy and they might be discussed in the Standing Finance Committee.

However, the question of the freights charged by the Conference Lines requires to be ventilated somewhat. There has been a good deal of dissatisfaction at the constantly increasing freights, and the Secretary of State was approached in the matter of an increase in the rates on sisal, maize, and other commodities, and asked to protest at the action of the Conference

Lines. A reply has been received very recently to the effect that, after full consideration of the question in correspondence with the Board of Trade (which took the matter up with the Conference Lines), the Secretary of State had come to the conclusion that no further action can usefully be taken by Government in the matter.

Apparently, from the explanation, it is clear that the freights charged from the east coast of Africa are very much in accord with the increased freights being charged for shipping in other parts of the world. Shipping, after all, is a commodity like every other, and where there is a widespread demand for shipping and there is a shortage the cost is increased, especially as the operation costs of shipping have increased. That, I gather, is the explanation from the Board of Trade. Government agrees, however, there is a case for inquiry into the adequacy of the shipping provided by the Conference Lines in relation to the freights charged and is considering the question of procedure. The matter concerns the other East African territories and concerted action will have to be taken.

I must express my gratitude to the hon. Member for Nairobi South (Mr. Maxwell) for the excellent answer he gave in reply to a question by the Noble Lord on the subject of a grant in aid of the sisal industry. He gave a very complete account of what I consider to be a most progressive step on the part of the industry taken in conjunction with Government. It is an example, indeed, to other industries of the Colony which I hope will be followed. Another industry which has taken very much the same step is the pyrethrum industry, and it has made a substantial contribution towards the cost of services to that industry.

The hon. member Mr. Pandya asked several questions, and I propose to refer to those in Standing Finance Committee.

He suggested that the work of the experimental farm at the coast should be extended. I agree, but it will require more money. There were several questions about crops such as simsim and white oil palm. They are not yet in the commercial stage, but experiments are proceeding. The rice experiments have been success-

(Mr. Wolfe).
ful, and of the short term varieties recommended by the two irrigation experts who visited the country which were tried one has proved most successful and has been bulked, while it is in widespread cultivation up and down the Tana River. Drought resistant crops proved over a number of years have been distributed to natives. Tropical fruits at the Kibarani station have been receiving attention. The work could be extended, but funds are not available.

The hon. member suggested that cotton was now well established at the coast. I am afraid it is not. A good deal more investigation work has to be done before it is on a sound basis.

The hon. Member for Nairobi North, who is not here at the moment, asked whether the Kenya Jews who would be sent to Cedara Agricultural College would be absorbed into the Department of Agriculture here on the completion of their training. I should prefer to be consulted as to where they should go. I thoroughly agree with the principle of sending them to these excellent agricultural training centres in South Africa, which I know myself, having been there.

But we want them for different purposes. One boy should go to Cedara and one elsewhere. One may be wanted for plant breeding work, and he would get a better training in another institution in South Africa.

The hon. Members for Uasin Gishu and Kiambu drew attention to the very large vote for the head office of the Agricultural Department, but I think they have possibly overlooked that of the £12,000 provided just short of £2,000 has to do with it whatever. That sum covers the grants for various purposes, and they appear in the agricultural estimates; they might more properly have appeared under miscellaneous expenditure. The remaining £10,000 covers a variety of services, and one must remember, after all, that Sir Alan Pim and Mr. Milligan depend closely into these, and all the resolutions they proposed are being carried out, although the completion of this process will not appear until 1939, chiefly due to leave movements.

This amount covers a variety of services. The Agricultural Economist is in the head office, in addition to the senior administrative officers of the department; there is a public agricultural library which requires a certain amount of clerical work; the headquarters of the soil conservation services and of the native marketing service are there too, with separate officers in charge.

The hon. Member for Uasin Gishu asked whether the proposed reconstruction of the Board of Agriculture was to be carried out. The board met on Friday afternoon to consider the matter, and appointed a small sub-committee to formulate definite proposals for consideration. The principle of representation by industries was generally accepted.

The hon. member wished to know how much the board spent in 1936: it was £1,475. If he has no objection, I will refer the colonial agricultural scholarship scheme to the Standing Finance Committee; the explanation is given every year there. On the question of the plant breeding service I can give the hon. member the assurance that Government will not allow this service to suffer when the officer in charge goes on leave. As to the "little dip" for Njoro, the department disclaims the responsibility for that term in the Memorandum on the Estimates, which is not prepared by them!

I will now proceed to some of the governing matters of policy which have been raised during the debate. The references which have been made to research on the one hand and native agricultural production on the other lead me to point to the distinction in the policy of the department governing European and native agriculture. For European agriculture the policy has been a research policy; for native agriculture, an administration policy.

The organizations controlling European agriculture are in capable hands and occasional assistance only is required from the Agricultural Department of the Administration, and advice and guidance are given when they ask for them. I know there have been criticisms that head office is more concerned with native than European agriculture. So far as I am concerned, I should like to say that that is

(Mr. Wolfe).
true, but in the sense that native agriculture requires very much more organization and administration on the part of the department than European agriculture.

I have to economise my time, and realizing that the European agricultural organizations—such as the Agricultural Society, Coffee Board, Sisal Growers Association, Kenya Farmers Association—are so ably managed, I have felt that only such assistance is necessary as they themselves have asked for, and I do not think there is any complaint on their part that I have failed them. The senior administrative officers of the department have the interests of European agriculture very much at heart, as those for whom and with whom I have worked know, and the farmers in the areas worst hit by the depression know me rather better than those who suffered less, from my more frequent presence among them, and from the strong efforts I made to assist them towards agricultural reform. If these facts are little known, it is because I have not attempted to publish them.

It is not administration so much that European agriculture wants as research, and I should like to say that every single officer, whether in the laboratory or in the field, who is working for European agriculture, is a research officer, every single one of them. He is giving advisory services as well, naturally, but primarily he is a research officer. I should like to ask the hon. Member for Trans Nzoia how it is possible to carry out his proposal of maintaining research services and at the same time cutting the departmental estimates by 50 per cent? There is a great deal of research under way, and this has produced some valuable results, as any one who has read the last annual report of the department will acknowledge, as it has been acknowledged by correspondence from overseas, including the Agricultural Adviser to the Colonial Office.

The hon. member said that he had not known the department to produce a single result of value to the farming of the Colony: I am afraid he has not read the report or been in those touch with his constituents. More research is wanted to place industries on a sound basis, but it must be largely local and it costs money.

The unfortunate aspect of the matter is that the volume of research we are doing would cover many times the number of farmers who have been served, and a greater number of farmers would bring greater wealth to the Colony and greater revenue to Government, with better prospects of more money for research. That is what I meant when I said publicly two years ago that it was not less expenditure for the settlers that was wanted but more settlers for the expenditure.

That is the need of all needs for the European community in Kenya, and its solution would solve many other problems. Certain hon. members on the other side of Council will recall how I addressed myself to this problem in 1931 and suffered sharp discouragement for my innocent efforts to be of assistance. But these efforts were not in vain, for my scheme, founded on experience in South Africa, is largely embodied in the present Kenya Association scheme. Times are more propitious now, and no one concerned with agricultural advancement in Kenya can hope for anything better than a substantial addition to the Kenya farmers numbering at present under 2,000.

I must now turn to native agriculture. Here, as I have said, the policy has not been one of research, for that has not been the primary need. It has been one of administration, for the natives are not capable of organizing themselves and require it to be done for them. In 1930 there was no organization, of any kind, and native produce was very inferior. We set ourselves first to improve the quality of the produce; and to increase the supply and variety of food crops. Seed farms were established in the reserves of the Central, Nyanza, and Coast provinces on which new crops and new varieties were tried, and the seed of the successful varieties was bulked for distribution.

The next step was to organize inspection services for crops for which overseas markets existed. These have been most successful, and to-day no native produce of the kind suited for export leaves a reserve which is not of a quality highly suited for export and which does not receive the same price as European produce of the same kind and quality.

[Mr. Wolfe]

We then turned to organizing the marketing to ensure that the native received a fair market price for his produce based on export parity. This is now highly successful in the Central Province, and its introduction will be made in Nyanza. The organization of native agriculture is well advanced, and we should be turning our attention to research for native industries. But, here again, research costs money, and because it should be purely local it will cost a good deal.

I must come now to the controversial question of increased production in the native reserves. I think there has been a good deal of misconception on this point. Hon. members have the belief that there has been a vast amount of propaganda and large campaigns to increase production in the reserves. I will say that I do not think any member will attach any blame for the efforts to increase the food crops of the natives to the point of their full requirements. Let us see what has been done over and above that (I have the figures here) for native exports during 1936.

They totalled £471,500, of which hides and skins together totalled £189,000 and wattle products £92,000, or £281,000, leaving £190,500 for other produce. Of that produce, cotton was £150,000, leaving £40,000 only for surplus native food crops. Hides and skins must be left out of this contention that too much is done to increase native production. So must, of course, wattle products, because there is no better preservative of soil fertility than the wattle tree. The excess of native food crops amounts to £40,000, and very little blame will be attached for that small figure.

The only thing is cotton, £150,000. The large increase in value is to be attributed chiefly to the increase in the price of the product which, I regret to say, has declined considerably this year. The total production of cotton in the Colony was 24,000 bales. Compare that with 360,000 bales in Uganda and 70,000 in Tanganyika and the picture reveals itself in its true perspective. We have increased cotton production by some 22,000 bales since 1931. That step was taken as a result of the realization, both by hon. members on

the other side and Government, that too little had been done to develop the native reserves, and the pressure of the unofficial community was very strong.

Our work has not been devoted, except for cotton, wattle, and the food supplies of the natives, to increasing production but to improve the native crops, particularly in the reserves. I should like, if I may, to read one or two extracts from my own reports—

"Apart from establishing a crop, busy agricultural officers have little time for sustained propaganda and will attend to those services which bring higher cash returns as the best kind of propaganda."

"The Department must continue to refuse to encourage, in the closely settled areas, the increased production of crops sold off the farm."

"It is evidently desirable that a comprehensive long-term policy of land utilization in each native zone should be formulated, so that direction of the economic progress of the natives may accord with the needs for permanent welfare rather than with immediate opportunity for increasing wealth."

I have been in charge of native agriculture since 1930, and these views sufficiently indicate the policy.

I must say a word on the subject of Indian agriculture. Although at present it is almost negligible, the little that there is matters a great deal to those engaged in it. They are the sugar cane growers in Nyanza Province, and Government hold specifically to the view that they should receive the same attention in the attempts to rationalize the industry that have taken place as any other producers. That view has been successful, and I think the Indian sugar cane growers have received a fair deal in the recent negotiations which have been completed.

There is little doubt that further Indian agricultural settlement will become necessary for the growing population which cannot be absorbed in trade, and suitable land should be available for them, in the Coast Province particularly. The initiative must come from themselves, and I believe they may rely on a fair share of the agricultural services for new development,

[Mr. Wolfe]

provided it is clear they are to be on a scale to justify Government expenditure.

I will say a final word on the subject of soil conservation. Let us admit to a neglect of this most important subject in the past up to three years ago, but determined efforts are being made now to repair the ravages of the past, and also of the present. I believe hon. members on the other side are not aware of what is going on in native reserves to improve matters in this particular connexion. I believe very few of them ever visit the native reserves. There is a good deal of work going on, but I must admit that progress will not be rapid until a very much larger number of trained staff—particularly trained native agricultural staff—is available.

As far as the European areas are concerned, the problem is chiefly one of erosion methods on cultivated lands. There has been some neglect in the past in those areas as there has been in native areas, but there has been a very marked change in the attitude and a strong response to the efforts of the Department to have that situation corrected, and in the programme of soil conservation services which will come into existence next year, if the experiments in progress now are successful, farmers who have been discouraged, some of them, large cereal farmers, in the past by the cost of operations to carry out these measures, will welcome the contract proposals in prospect for the carrying out of a programme of terracing.

MR. HARVEY: Your Excellency first of all, I should like to acquiesce in the views on the subject of income tax so clearly expressed by the Noble Lord and the hon. Member for Uasin Gishu. Experimental legislation of this nature must inevitably require amendment when defects are revealed in practice, and we are all very pleased to hear that a note is being made of various items which will call for amendment in due course.

On behalf of the mining industry of Kenya, I should like to put in a plea for two matters to be considered by the responsible authority. The first of these is that some allowance should be made to mining companies in regard to the redemption of capital expended in mining

development, which is merely in accordance with the accepted practice of every mining country in the world which has income tax, and that is most mining countries in the world. No less an authority than the celebrated mining engineer, Mr. Hoover, of the United States, estimated the life of the average mine at 5 years. That being so, the justice of my claim must clearly be realized by anyone concerned with the equitable imposition of income tax.

Another matter of some importance which has arisen in mining circles, more especially in regard to the fact that the majority of mining companies have spent large sums of money in quarters making their employees comfortable, very often under somewhat unhealthy, unnatural surroundings, is that the rental value, if it can possibly be assessed, of such quarters should not be regarded in the circumstances of the case as income derived by the mining employee. A simple illustration will be this. A miner drawing £20 a month might quite easily occupy a house which cost £1,000 to build, and I suggest it would be most inequitable and unjust for that miner to have to pay, if being regarded as a portion of his income, on the rental value of the house, as assessed under township conditions.

I have been listening anxiously for an indication from opponents of income tax as to how public services are to be financed and a reasonable reserve created, but so far I have been disappointed. A noticeable feature of all the documents read out by the hon. Member for the Coast was that never once did the elected members express themselves as opposed to income tax. The whole objection was to Government's method of forcing this tax on the Colony in a singularly unpalatable form. In fact, they specifically stated in one of the documents that as a body they were not opposed to the principle of income tax, and in more than one document they expressed their willingness to discuss the ratio of direct to indirect taxation, which clearly implied income tax.

There was no light-hearted acceptance, as alleged, of this measure, which was clearly illustrated by the protracted negotiations which took place, and which have

[Mr. Harvey]

been recapitulated in very great detail in the course of this debate. There was no object surrender. How can it be described as such when the weaker party succeeds in having incorporated in an agreement or armistice, call it what you will, many modifications of the terms and conditions which were originally imposed by the stronger party? But I am very sorry indeed that the Secretary of State for the Colonies steadfastly refused, before income tax was introduced into Kenya, to allow an inter-territorial discussion to be held on this important subject.

I am quite unable, at this stage, to see how income tax can possibly be permanently successful in one of three territories which are the subjects of an inter-territorial customs agreement. As surely as night follows day, as funds accrue from income tax, there will quite rightly be an insistent demand from the payers of the tax and the public generally for some amelioration in customs duties. That is obviously of very great difficulty and complexity if the three parties to the customs agreement are not closely associated in any fiscal change or fiscal reform.

It has been stated on numerous occasions, at public meetings and elsewhere, and once or twice in this Council, that on the introduction of income tax no tax remission took place. This is the only extract I propose to read out, and it is comparatively brief, but I should like to read for public information one small extract from the Noble Lord's speech on the 5th January of this year, in which he said:—

"I want to put before Council the actual figures of what reductions have been made, and I think I am correct in them:—

Excise tax is reduced by £20,000; education tax by £24,000; petrol tax by £15,000; trade licences by £12,000; posts by £200 which makes a total of £85,000. On the other side of the picture income tax is estimated to bring in £43,000 so the result is that the non-native communities as the outcome of this budget will be £43,000 better off so far as taxation is concerned in 1937 than they were in 1936. But actually, if

the Treasurer is correct in his estimates, £20,000 of that £43,000 will, I understand, be new money which will come from non-residents who are not contributing anything at present. I think the hon. the Attorney General was incorrect in his figures yesterday, but I believe £20,000 is the correct figure. If you take that £20,000 off you will then find that the gain to the non-native communities as a whole will be £63,000 in 1937, as compared with 1936."

I merely quote that in order to correct the misapprehension I mentioned a moment ago, and I think it very important indeed that the public should be fully aware of the real facts of the case.

My hon. friend the Acting Chief Native Commissioner accused the hon. Member for Nairobi North of flogging a willing horse. I should like to say quite plainly and unequivocally that nothing was further from his mind, as my hon. friend shares my admiration for the sympathetic and broad-minded manner in which the hon. gentleman, opposite, tackles the difficult problems with which he is concerned. But he is only one member of the team concerned with revenue derived from local native taxation. That team includes a few refractory colts who may occasionally require a flick of the vor-slag!

There is no doubt whatever, as the hon. member Mr. Fazan so nicely expressed it, that an immediate and close investigation into the functional and financial relationship that local native taxation bears to public taxation should form the subject of an early inquiry. The need for that is so clearly illustrated by the fact that in the not very distant past I understand the Masai were granted some remission of general taxation on the ground of poverty, and they at once seized the opportunity to increase their local taxation by the amount of remission from general taxation!

On behalf of the coffee industry I should like to thank the hon. mover for his courteous and sympathetic response to representations from that industry for the introduction of a 5-year research programme and for the necessary finances to be made available. That programme was

[Mr. Harvey]

drawn up by the head of the coffee research team in close collaboration with the Department of Agriculture and the Coffee Board of Kenya. I need hardly emphasise the paramount importance of any research programme being of a long range nature and not being dependent on the swing of the financial pendulum from year to year. We are also most grateful for the hon. mover's promise to recommend that the proceeds from coffee plantation licences shall be paid over to the coffee industry as represented by the board.

The coffee industry contributes to its own services approximately £10,000 a year, and when they are credited with the proceeds of the coffee licences that sum of money is to be increased by £1,200 primarily for fundamental research work in which I am very pleased to say the adjacent territories are closely associated.

In view of the fact that the tea-planting scheme comes up for reconsideration early next year, I should like to urge on Government the very great importance of endeavouring to secure a larger quota for Kenya, with special reference to certain portions of the Kaimosi and Naandi districts, where other crops have proved a failure and tea does remarkably well. It does seem a rather absurd situation that in a young developing country certain districts, richly endowed with fertile soil, generous rainfall and all the other factors necessary for successful economic production, should be denied the right to devote their land to the purposes for which it is pre-eminently suitable. I therefore sincerely trust that the strongest possible representations will be made to the authorities concerned for a larger planting quota to be allotted to Kenya when the subject of tea-planting restriction comes up for reconsideration in the course of a month or two.

I am glad to see the increased vote for civil aviation. The only thing I wish to say in connexion with that is this: I think it very, very important, in view of the extremely valuable part this new service is likely to play in the development of Kenya, that certain Crown land in suitable places should be reserved for landing grounds in order to avoid the costly re-acquisition of that land when it has been

dedicated to other uses some time in the future.

There are two items of policy which affect the Estimates and any long range plan for constructive development, on which I wish to say a few words. These items are land policy and labour policy.

Most people know that the Crown Lands Ordinance, Chapter 140, Revised Edition of the Laws, section 26, states that:—

"Leases of farms shall, unless the Governor shall otherwise order in any particular case or cases, be sold by auction."

As long ago as 1921, a very representative Land Tenure Commission advised the direct alienation to properly qualified and approved applicants. The objection to the auction system is that the longest purse usually acquires the land at the expense of the genuine farmer. Capital diverted from the development of land to its purchase is one of the chief curses of rural economy, and it so often happens that the genuine farmer who has to pay an excessive and uneconomic price for his land in competition at auction lacks the necessary funds to develop that land, which I think is a thousand pities. I suggest that the right policy is to let carefully selected applicants have the land at the lowest possible figure, preferably for nothing, but insist on a programme of fairly intensive development.

In support of the Land Tenure Commission's recommendation on this subject, direct alienation has frequently figured in debates in this Council, and during recent years it has been the sound and wise policy of Government in many cases to alienate land in that way and this has worked well. Now I understand that the Secretary of State has thrown a spanner into the works by objecting to proposals quite rightly made by the local Government, that direct alienation of land to approved applicants should form the normal rather than the exceptional mode of alienation in the future, largely, I understand, on the ground that Government lays itself open to the charge of favouritism. I think it is a poor sort of Government that cannot stand up to that type of criticism. They have been doing this, as I mentioned, for a number of

[Mr. Harvey] years. I have, as a member of the Land Board, been prominently associated with it, and I have never yet heard one word of criticism or any charge of favouritism which would bear the slightest degree of scrutiny.

It is well to point out that Government has the advice and assistance of an Advisory Land Board, consisting of the Commissioner for Local Government, the Director of Agriculture, Captain F. O'B. Wilson, and my humble self with alternatives in the hon. Member for Ukamba (Sir Robert Shaw), Colonel Tucker, and the Chief Surveyor. They in turn, in any doubt whatever, solicit the advice and assistance of the accredited local representatives in the form of district councils. In view of that very close examination and scrutiny given to every case, I think it highly improbable that the executive Government, with whom the final decision rests, will do other than the right thing.

On general grounds, especially in view of the widely expressed desire for closer settlement, I consider that the Secretary of State's views are ill-founded and should form the subject of the strongest possible representations from the local Government.

I trust that in the interests of water conservation, if such is at all possible, future leases will include some sort of provision to preserve the natural vegetation around springs and watercourses. There is nothing original in that suggestion, but we hear that all over the country springs are drying up, water is getting less and less, and I think we have reached the time when Government should take whatever action they find possible in this connection.

On another matter, on the subject of land to which I would ask the hon. member to reply in the course of his numerous occasions during the last few years we have been promised by Government a definite and an inquiry into the conversion of leasehold plots, both in urban and rural areas, to freehold titles. Many of us are strongly of opinion that the time for that inquiry is overdue, and we shall be glad to know when we may expect Government to implement its promise in that connection.

On the subject of labour, one aspect was mentioned this morning which has not risen previously in debate. I should like to say how sorry I am that the hon. the Acting Chief Native Commissioner dashed so prematurely into the arena of debate, as I should like to have heard his views on the matter. I propose to ventilate, and also on other matters connected with his Department which have been introduced into the discussion since he spoke. I can assure him that elected members never get the last word, although they sometimes get the last laugh! (Laughter.) I give him full marks for his plugging efforts in stopping leaks, and sincerely trust that his supply of solder has not yet been entirely exhausted!

There is one departmental activity in my district which is having the most serious repercussions, and I refer to the excessive zeal of the police under the Native Liquor (Amendment) Ordinance. I know that speakers generally eulogise the police, for reasons best known to themselves, but I have a duty to my constituents which I intend to discharge, and although I share the almost universal admiration for the police as a force, that does not debar me from criticising them if I wish to. Even at the risk of being apprehended for driving a car with an insufficiently bright tail light, I propose to make my criticisms! That is what I am here for.

I am really quite tired of hearing that owing to shortage of staff the police are quite unable to impose some check or rapidly moving heavily laden buses and lorries which are such destructive agents to the roads of the Colony. I cannot imagine what increase in staff is necessary to do what probably every member of the Council does once or twice a month, drive behind these law-breaking vehicles which not only seriously damage the roads but are a source of very grave danger to all other road users. I see no difficulty, whatever, we have all done it and do it nearly every day, going behind these vehicles on any public road of the Colony and checking up their speed. Actually, almost invariably I have to accelerate to between 50 and 60 miles an hour to pass buses in the Rift Valley, and there are many buses in the Rift Valley,

[Mr. Harvey] though the legal maximum speed for them is 20 miles per hour.

I cannot seriously accept the police contention that out of £141,200 they are quite unable to find the funds necessary for what the whole public regard as a very, very essential service in the interests of road-protection and of the public generally.

Now, Sir, I have had many complaints from my constituents that natives working on farms are being harried and persecuted with a ferocity seldom heard of since the days of Nero! and the form of the persecution takes the form of raiding the homes of inoffensive natives at any hour of the day or night in order to discover evidence which may entail conviction under the Ordinance I have mentioned. Let me say that native beer, which is the beverage concerned, is pretty harmless stuff. It has a very low alcohol content, and it is not even remotely related to Nubian gin and *tembo kali* which we hear a great deal about at odd times in this Council. I have heard of no case of drunkenness being recorded nor of any public request for police intervention having been made. I suggest that the police action in very many cases of this nature is oppressive and the sentences unusually severe.

I should like to read a brief extract here from a letter from one of my constituents, dated the 5th November, in which the following passage occurs:—

"The police raided the Lumbwa huts yesterday while the boys were at work at 10.30 a.m. They found some sprouting grains in two huts. There was a terrific alarm. All the boys ceased their work, retired from the *shamba* where they were working to the huts to see what the row was about, and I think it is highly improbable that they will return to work for a great many days."

I have heard since that for this serious offence two boys were flung into gaol for no less than two months.

Everybody knows that natives can get a permit from their employer to brew and consume this essential article of native diet. But boys will be boys, and I think it is grossly unfair and unjust and harsh

that they should be flung into gaol for two months simply because they have omitted to secure the written permission of their employer to make a glass of beer. How can a native earn his tax if he is harried and oppressed in this manner? Farmers lose their labour, Government its revenue, the native his faith in the administration, and seizes the very first opportunity to return to the native reserve where there is little interference with his social habits.

No, Sir, the Ordinance was not designed for that purpose. My recollections of the debate when the Native Liquor Ordinance was passed are very different indeed. I voted for it on the perfectly clear understanding that some check and control was necessary in the interests of the public to prevent the too frequent occurrence of those unseemly *ngomas* where vast quantities of liquor are consumed and which most people know, especially the Legal Department, lead to the commission of a very large number of serious crimes.

I am surprised at my own moderation in speaking of this question, and I consider my shrieks to heaven for Government action, which I sincerely trust will be forthcoming in the interests of the unfortunate natives and employers of labour and the country as a whole, will not be in vain.

I trust that I shall not be accused of treachery to the cause of economy in public expenditure, of which I have ever been one of the most ardent apostles, when I support the plea of the hon. Member for Nairobi North for a small expenditure on better furniture and fittings for this hall. May I remind you, Sir, and hon. members that many years ago a large sum of money was to be acquired from loan expenditure for the erection of a hall worthy of the occasion up on the hill somewhere near Government House; but elected members, and the gentlemen sitting opposite at the time, were unanimously of opinion that such capital sums as were available were better expended on schools and hospitals?

Consequently, we have continued to meet here, and I believe there is a very strong case for reasonable expenditure on better furniture and more comfortable

[Mr. Harvey] chairs, and I would like to see better accommodation for the Press and reporting staff who, I think, do extremely good work under most difficult conditions. (Hear, hear.)

I should like to express the thanks of all elected members for the comprehensive and non-provocative replies that we have received from heads of departments and the hon. the Provincial Commissioners in the course of the debate! (Laughter.) I was particularly interested to hear my hon. friend the Provincial Commissioner for Nyanza (Mr. Fazan) inform Council and, I trust accurately, that the hon. the Director of Education did not mean what he said so far as one sentence in an otherwise most admirable speech is concerned.

The question of holidays to Cedara Agricultural College has been mentioned once or twice in the course of debate. The only school I have in mentioning it is most strongly to congratulate Government on having taken the action it has, and to express the hope that wider provision will as soon as possible be given to this extremely important innovation which is of outstanding interest to all the teachers of the Colony who have boys looking for careers.

There is one other point I was disappointed that in his fairly complete reply the hon. the Director of Medical Services said so little about the plea by the hon. Member for Trans Nzoia for a very small contribution by Government to the Kitale hospital. 50 per cent. of the funds of which have been raised by public subscription. I consider that Government should do all it can to help those who help themselves and contribute to the full the public spirit within the locality of the Trans Nzoia in this matter.

I consider that arising out of this debate a new working committee or sub-committee of our Standing Rules and Orders Committee to the attention of Government's suggestions which has been made that engage with the consent of Council the length of speeches should be limited to a specific period. I should say about 20 minutes, some people would like that as being a standard time that this suggestion will engage the time of the members of Government and I believe

it will meet with the enthusiastic support of the great majority of members of Council.

In conclusion, I should like to say that I support the motion as, unlike my hon. friend the Member for Mombasa, I have complete confidence in the Standing Finance Committee!

ACTING DIRECTOR OF PUBLIC WORKS (MR. WALMSLEY): Your Excellency, I am pleased to find that I have not so much to reply to as is customary on this occasion. Whether the reason is that given by the hon. the Director of Education I do not know!

The hon. Member for Mombasa asked why Appendix O was not included in the Draft Estimates. I have been unable to find any particular reason for its omission. It has not been done for the last year or two and, such being the case, as far as it lies with me I will see that it is prepared in time for inclusion in the future.

In regard to other details of Appendix O which the hon. member brought forward, it seems to me these are details which can quite properly be brought before the Standing Finance Committee, and I have been in consultation with the hon. the Acting Treasurer with a view to representations to that effect.

The hon. Member for Trans Nzoia suggested that my department is not carrying out the policy of Government laid down for it some years ago, by which all works should be carried out by contract. I do not know why the hon. member really considers that we do not carry out that policy. For my part, I am a great believer in that policy, and always have been. There are times when works cannot be carried out by contract and these are the only times when we do not carry out works by contract.

It appears to me that the hon. member is somewhat incoherent in calling my department to task for that, for in his next breath he suggested that it was not, decidedly not in the best interests of Government to pay out to contract the north coast ferry services. As I said, I am a believer in contracts, and I presume the hon. member generally means contracts for works. I maintain, however, that the contract for the ferry services is equally

[Mr. Walmsley] well carried out in that way, and should be carried out by contract.

My department is a technical department, and in the matter of running ferries, where a fee is charged for the use of them, it means that there is an awful lot of petty detail in collecting those fares. I contend that a department like mine should, as far as possible, be removed from all other activities than purely technical ones.

With regard to that contract, the hon. Member for Mombasa suggested that all was not well with the tendering and letting of the contract. He also stated that it was quite wrong to have shown in the Estimates of Revenue the sum of £450 when he and everybody else knew that in that particular year the receipts would be in the neighbourhood of £800. The facts are perfectly simple.

In the middle of 1936 the whole matter of the operation of these ferries was under consideration by the Central Roads and Traffic Board with a view to recommending some sort of change to Government. The Estimates are prepared in the middle of the year, and, at the time they were prepared, it was more than probable that the board would suggest a reduction of the fees. That necessarily meant a reduction in the amount of the tender, and therefore in the revenue. With regard to the actual tender, the fact that the board made no recommendation with regard to a change, either in the method of operating the ferries—that is, departmentally or by contract—or in any other way until the end of the year means that that figure could not very well be altered.

Tenders were called for in December of last year. The hon. Member for Mombasa has suggested, if not in this Council I know he has elsewhere, that there is a ring of contractors. This week-end I have been to Mombasa and have made some inquiries while I was there, and I have satisfied myself personally that there could not possibly have been a ring.

The other suggestion made that the contract was sub-let I am also satisfied is not correct. That contractor has to collect his fees, and he, or one of his relatives, is the only one ever seen doing it. If he sub-let, certainly other people would be

doing that. Regarding the actual tenders received, I will only read three, because the hon. member said there was an Englishman among them. The first tender was that of Noor Abbas Gulam Hoosein Essajee, of £819 for the privilege of running these ferries. The second was Omar bin Athumani, £810, and the third was W. H. T. Homer, £768. Naturally, in a matter of this kind, it is the highest tenderer who gets the contract, if nothing is known as to why he should not. In this case, nothing was known, and the contract went to Noor Abbas Gulam Hoosein Essajee.

The hon. Member for Mombasa also raised the question of the provincial commissioner's house at the coast. The designs for this house are, of course, in the preliminary stages, and there is only one method of pricing such a house, and that is, by the well known method of cubic capacity. Various designs have been prepared, and the design considered the most suitable is one which will cost out at a reasonable rate, and, having regard to the higher cost of building necessitated by the advance in building costs, it is estimated it will cost £6,210, including all overheads but with no allowance for the materials. I believe that may have something to do with the cost of the house referred to by the hon. member.

Comparisons are always odious, of course, but the hon. member did compare the cost of this house with another one. The latter is definitely smaller—we will leave out the question of whether the design is the same or is less suitable or anything like that, but I am given to understand that that building is more in the nature of reconstruction, and I understand also there is some *quid pro quo* in the matter of materials to be purchased.

MR. BEMISTER: We are confusing the two houses, that is all.

MR. WALMSLEY: However, if it is a fact that tenders in Mombasa are considerably less than might be expected in view of the current advance in building costs, then if this design goes to the extent of being tendered for Government will get the full benefit of that and local contractors, provided they are building houses to sound specifications and with

[Mr. Walmsley] good inspection, will have a chance of proving that they are building for a good deal less cost than I have estimated in coming to that price per cubic foot.

The hon. member Mr. Isher Dass mentioned the case of an electrical contractor who sought registration with my department and was told that he could not be registered because he was not employing Europeans. I can find no evidence of that whatever but if the hon. Mr. Isher Dass will state his case I will have it investigated. Meanwhile, I did verify that such a contractor has been on our books for years and that he has never employed a European and has never been asked to do so.

There is only one more thing I have to say and that is that the hon. Member for Ukamba in drawing attention to the fact that the estimates of my department are greater in 1938 than in 1936 by a large amount appears to have overlooked item 84 in these Estimates which is the item for the contribution of renewals to Water Supplies. It was not provided in our estimates for many years. He also mentioned the new item of £2,640 for the Hydrographic Survey to get that under way again, so therefore there is actually a net decrease on 1936 of £1,441.

COL. KIRKWOOD: Your Excellency, on a point of order I raised a question in my speech and asked the hon. Director of Public Works to answer it when I spoke with reference to the two ferries north of Mombasa. I quoted from my information that they had tendered for—and successfully tendered for—£450, and I understood that the successful tender was now over £800. I drew from those facts that the Director of Public Works was making money out of running the ferries.

HIS EXCELLENCY: I think a member can only raise a point of order or explanation. I think this is rather becoming in the nature of a second speech. If the hon. member wishes to raise a point the simplest way would be to ask a question.

COL. KIRKWOOD: Your Excellency, I am very sorry. I was trying to get an answer and that which I have been given

is not an answer at all. If he does not wish to answer it I shall move a motion later on.

MR. HARRAGIN: Is that a point of order or explanation?

MR. WALMSLEY: I am quite ready to answer as soon as I understand what the hon. member wishes to know.

HIS EXCELLENCY: I think to get the thing in order the simplest way would be to ask a question. I am quite certain the Director of Public Works will answer it.

COL. KIRKWOOD: Your Excellency, on a point of order I asked a question in my speech which has been avoided. I saw the Acting Director and he asked me exactly what I wanted and I told him exactly what I wanted and I have not had an answer to that question.

MR. MORRIS: Your Excellency, with your permission may I make a point of explanation to the hon. Member for Nyanza. What I intended to say on Friday was that the education of the African must be related to his environment, that is to say his reserves. Of course I did not intend to imply that he should not be perfectly free to leave his reserve. In fact, he should often be encouraged to leave that reserve and go out and obtain employment and maintain himself and his family.

MR. PILLING: Your Excellency, I feel sure that hon. members will have a sigh of relief that we are now reaching the last stage in this very long and tedious debate. I do not think that there is very much for me to say on the general principles raised in the Estimates.

As regards the Revenue Estimates, various points of view have been expressed. The Noble Lord stated that he regarded the Estimates as conservative, one of the hon. Indian members said he thought they erred, if at all, on the side of safety, and other hon. members regarded them as somewhat optimistic. As hon. members are aware, these Estimates are framed some considerable time before they are presented to Council, and my own view is that in the light of recent information they may be optimistic. I hope they are not, but all I can say is that when

[Mr. Pilling] framed they were honest Estimates and were framed without any ulterior motive.

With regard to the Expenditure Estimates, the principal criticism has been that the expenditure figures are too high, and that Government has been in danger of forgetting the lessons of the past. Listening to the various speeches made by hon. members, I thought I should hear in what directions I and my colleagues who were entrusted with the preparation of the Estimates had erred and had allowed extravagances to creep in. But what economies were actually suggested during the course of the debate?

The hon. Member for Nairobi North spoke for an hour and did not make one single suggestion as to how economies could be effected. One or two hon. members did make suggestions on broad lines such as that the Agricultural Department headquarters staff should be reduced by half. The hon. member Mr. Isher Dass suggested a saving of £1,000 by altering the system of payment of fees to members of Council to a paid salary of £250 a year. The hon. Member for Ukamba suggested that the Public Works Department estimates should be reduced—I think that point has been quite admirably met by my colleague the Acting Director of Public Works, who says that on actual administrative expenditure on public works there has been a reduction.

One or two hon. members placed their finger on the real explanation as to why it is almost impossible to introduce estimates which do not show an increase in expenditure. The hon. Member for Trans Nzoia compared the Estimates to Topsy. I submit that even Topsy had to have a new and larger pinafore every year if she was to appear respectable! (Laughter.) One thing—Sir Alan Pim's report did clearly prove. It was that Government, with the aid of Economy Committees—and I give full credit and thanks to the unofficial members who formed part of those committees for the very careful way in which Government expenditure was gone through, almost with a tooth comb—had already eliminated extravagances commensurate with the carrying on of services in an efficient manner.

It follows therefore that any growth of services, any expansion of services—I do

not mean exactly expansion but the normal growth of services, however small—must be reflected in increased Expenditure Estimates. There are services, as various hon. members in their speeches pointed out, which must expand, otherwise they would deteriorate. One hon. member correctly said that the Colony must either progress or it will go backwards; it cannot stagnate. That is exactly the position. Certain services, such as education, postal facilities, roads, must grow with the growth of the Colony or the Colony itself will definitely retrograde. It is impossible in a young and growing colony to keep expenditure stationary, but I shall be most ready in Standing Finance Committee to consider any practical suggestions for reduction of expenditure, unnecessary expenditure that is.

My colleagues and I on what is called "the blue pencil committee" did our best to curtail expansion of services, and when we did give a vote it was in the hope that the additional provision would be productive in the very near future. It is true that we were not wholly soulless entities, but I am sure we were regarded by many heads of departments as extremely hard-hearted and obstinately dense in our failure to understand how money could best be spent in the interests of the Colony!

I would like to say a word in regard to the criticism the Draft Estimates have been subjected to. I add the blue pencil committee naturally expected to be subject to criticism from the opposite side of Council, but it does seem to my view at any rate a new departure to be criticised from this side of Council. (Laughter.)

Returning to the speech of the Noble Lord, in the first place I should like to congratulate him on his very able and reasoned speech. I have already dealt with the Noble Lord's views on the Revenue Estimates and on the increase in the Expenditure Estimates. There is just one small point regarding the proposed changes in titles of posts. Several of my colleagues have referred to details of that criticism, and I wish merely to say that I shall endeavour in Standing Finance Committee to justify each and every one of those new proposals. I would, however, remind hon. members that in most depart-

[Mr. Pilling] permits deputy heads are necessary, particularly having regard to the circumstances of this Colony, where Government is, in practice governed by committees, boards and councils. It is necessary therefore there should be deputy heads in many departments so that the work of a department may proceed smoothly while the head of the department is engaged on those various committees and boards.

Referring again, shortly, to the Expenditure Estimates, the Noble Lord drew attention to Sir Alan Pim's recommendation that the administration cadre should be reduced in numbers, and asked what Government's policy in that matter was. I submit that he did not in his criticism on this point display his usual fairness, in that he suggested that Government had decided not to give effect to that recommendation because it was distasteful to them, the real fact, however, is that Government considered, and I submit quite rightly, that local opinion should be consulted before the various recommendations were put into effect. A committee was appointed by Government for this purpose, and the members investigated each recommendation in the district concerned in close collaboration with elected members. That report was published in April of this year.

I know, however, the Noble Lord was not in the Colony at the time of its publication. May I for a moment invite his attention to the following paragraph on page 16:—

"The following Elected Members have endorsed the Recommendations moved against their names:—

The hon. C. W. Harvey; Recommendation XIII.

The hon. A. C. Hoy; Recommendations Nos XI and XII.

The hon. J. G. Kirkwood; Recommendation XI.

The hon. Sir R. de V. Shaw, Bt., M.C.; Recommendation IX.

The hon. E. H. Wright; Recommendation X.

The hon. Shamsul-Deen; Recommendation IX.

The hon. F. A. Reister; Recommendation V."

These recommendations referred to covered the whole of the reductions proposed by Sir Alan Pim except those which Government had been able to put into effect.

A small point in regard to the Agricultural and Veterinary estimates. I quite agree that it is absurd, of course, to put the heading "non-native services" at the head of the section relating to headquarters-staff. I am sorry I overlooked the matter in the preparation of the Estimates, and readily give the assurance that it will not be repeated.

The hon. the Acting Director of Agriculture dealt with the contributions to the Imperial Shipping and Economic Committees, but I would point out that these votes did appear actually under a one line vote in the last year's Estimates, and there is only an increase of £37 under the combined heads in the present Estimates.

On the subject of soil conservation services, there was a point raised, and I do not think any of my colleagues have answered it specifically. Several hon. members have asked whether it was the intention of Government to send officers to other countries which have had experience in regard to measures for the preservation of the soil. I am authorized to say that it is your intention, Sir, shortly in the new year, to send one or more officers to South Africa, and that it is quite likely that at a later date an officer may be sent to the United States. I can, therefore, give the Noble Lord an assurance that every advantage will be taken of the knowledge and experience gained by other countries in dealing with the same problem, so as to ensure that any expenditure which may be incurred in this country will not be thrown away.

My colleague the hon. the Postmaster General has dealt with the question of including the meteorological services under the head "Civil Aviation." He did say that agricultural forecasts enter very largely into the activities of the meteorological staff and it would not, therefore, be quite proper to include meteorology under civil aviation, but I am prepared to consider the matter in Standing Finance Committee.

My colleague also dealt very fully with the financial side of the Empire air mail

[Mr. Pilling]. scheme. He did in fact show that the Colony was very much the gainer financially. Even if Government expended a bit more the people of this Colony do actually gain by the saving of postage on air mail rates. But there was one question which the Noble Lord asked to which I must reply, and that was whether that scheme was pushed on to this Colony from above—without prior consultation with this Colony. I would like to explain what happened.

The main principles of the present scheme were first conveyed to this Government in October, 1934. At first, the proposals were, naturally, of a very confidential nature. After examination of the financial implications, the question of the participation of East Africa in the scheme was discussed at the Conference of East African Governors in January, 1935. It was then agreed in principle that, subject to agreement on matters of detail, the East African territories should participate. In June, 1935, various Air Ministry officials visited Nairobi and conferred with official representatives of the Governments of Kenya, Tanganyika, and Uganda. The agreements reached at that conference were subsequently endorsed by the Executive Council of this Colony.

I have here a note about the capital expenditure being met by the Imperial Government. The hon. the Postmaster General gave details the other day. It amounts to between £20,000 and £30,000, all of which is being met from Imperial funds. It is not correct to say that the scheme was hoisted on to this Government from above; it was only accepted by Kenya in conjunction with the other East African territories after the fullest consideration and discussion.

Under the head "Military," the Noble Lord asked the reason for the inclusion of provision for a second staff officer. The Secretary of State has intimated that the work of the Inspector-General and his staff has increased considerably in recent months. Closer liaison with the War Office has been instituted, and the work has been increased due to the development of the local forces and coast defence. Hon. members are aware, of course, that the Inspector-General is not only con-

cerned with East Africa, but he also has charge of the West African forces, and East Africa pays a proportionate share only of the total cost of the office. You must remember that the Inspector-General and one staff officer are on tour for six months each year, and the remaining staff officer is often unable to deal single-handed with the volume of work; nor is there any provision for relief in the event of the officer remaining in England becoming incapacitated by ill health.

Government was consulted, and agreed that in these circumstances an additional staff officer was justified.

Under the head "Local Government," the Noble Lord referred to the restoration of the basic grant. This was dealt with by the hon. the Commissioner for Local Government, but I should like to take this opportunity of saying how grateful Government is to the local authorities for not insisting on their statutory rights during the period of financial stringency and for their forbearance in this matter. It was of very great assistance to Government in making both ends meet. (Hear, hear.)

Under the head "Treasury" the Noble Lord asked for an assurance that when income tax statistics relative to the yield, incidence of the cost of collection of the tax, etc., were available, they should be referred to the Standing Finance Committee for consideration. I am authorized by Your Excellency to say that that assurance is readily given.

Also on the question of future loans, I am authorized to say that Your Excellency will, before reaching any decision in regard to raising a further loan, or if and when a loan expenditure policy has been adopted, any decision in regard to the terms for inclusion in a loan, consult very fully with the Standing Finance Committee and Executive Council. (Hear, hear.)

The hon. member Mr. Pandya drew attention to the need for the closest control over expenditure. I think I have dealt with that but, if I may say so, Government entirely agrees with the need for strict control over expenditure, and it tries, as far as practicable, to exercise it at the present time. That control will, if it

[Mr. Pilling]

is possible to do so, be intensified in future on the appointment of the Financial Secretary, one of whose main duties will be the supervision of the spending departments.

The hon. member also referred to the need to provide for expenditure on essential services. May I remind him that there is very little or no expenditure included in the Estimates which someone or other does not regard as essential? My experience is that expenditure is essential or non-essential, according to the standpoint from which it is viewed and the interests it concerns!

He also said that, in building up a surplus, Government was in danger of overlooking the taxpayers. I am not quite sure what the hon. member intended to imply by that. If he agrees with the policy of trying to build up reserves, he surely cannot say that in budgeting for revenue slightly in excess of the estimated expenditure Government has overlooked the interests of the taxpayers? It is a question of degree. If the policy of Government were to aim at a surplus of say £200,000 a year, it might be correct to say that the interests of the taxpayers were being disregarded. I sincerely believe the policy to be followed by Government should be that adopted and so successfully carried through by the Railway Administration; that is, to build up reserves gradually as opportunity offers, and then, when a sufficient surplus is available to pass on the benefits to the taxpayers in the form of reduction of taxation.

I endeavoured in my opening speech to emphasise that the process of accumulating reserves should be gradual, and that it should not eliminate the possibility of gradually improving the services, but it will be impossible to adopt a policy of accumulating reserves unless there is an unexpected influx of prosperity at the same time Government has to reduce taxation every year.

The hon. member also referred to high-sounding titles and I have already said I am prepared to defend their inclusion during the Standing Finance Committee stage.

The hon. member Mr. Pandya also asked what was the position regarding the

Highlands order in council. I am authorized by Your Excellency to state that a memorandum will be laid on the table of Council in the very near future setting out briefly the contents of the proposed order and also of that relating to native lands. This will afford elected members an opportunity of stating their views, either by a motion in Council or otherwise.

He also said, in regard to the settlement and development policies, that he hoped Government would not be indifferent to Indian interests. I am authorized by Your Excellency to state that provision of suitable land for agricultural development by Indians on the coast will be one of the matters to be considered in connexion with the development programme.

The hon. member also asked when Indian participation in the defence of the Colony would be considered. The question of providing for Indian participation in the defence of the Colony has not yet received consideration by Government since any extension of defence proposals is precluded at the present moment by the limited amount of money which can be allotted to defence in the present financial circumstances of the Colony.

A further request by the hon. member was that the coast should not be forgotten when any development programme was being framed. I can assure the hon. member that the coast will not be forgotten; in fact, I think I am safe in predicting that it will receive special attention.

The chief point made by the ven. and hon. member representing native interests was that only a small proportion of the proceeds of direct taxation of natives was spent on native services. That is what I understood him to mean. It has been generally accepted that in view of the greater extent to which revenue is now being received from natives through indirect channels—by means of customs, etc.—it is not equitable to adhere closely to the Moyne formula, but that formula does still provide a yard stick for the purposes of comparison.

According to my calculations, the natives this year are receiving £32,000 more in expenditure on direct services than they would have done had the Moyne formula been strictly adhered to.

[Mr. Pilling]

The hon. the Acting Chief Native Commission has dealt with the question of the investigation to be held into the financial relations between Government and local native councils, and it is not necessary for me to go into that subject again.

Both hon. members representing native interests have inquired as to the position regarding the institution of a provident fund for the Arab and African Civil Service. I have nothing to add to what was said by the Colonial Secretary, Sir Armigel Wade, in reply to a question asked by the ven. and hon. member Archdeacon Burns on the 9th March last. It is reported in column 177 of Volume I, new series:

"It is not the intention of Government to introduce any pension scheme for this service but the introduction of a provident fund scheme will receive consideration in due course in the light of experience in the working of the provident fund schemes recently introduced for the European and Asian Local Civil Services."

I think that was a perfectly reasonable answer. It would be impolitic for Government to go ahead with a very large scheme such as would be required until it has been seen how the other schemes work in practice and what the financial effect, at any rate, is.

The hon. Member for Nairobi North was rather bitter in his criticism of Government in regard to the increase in the Expenditure Estimates, but he did assist me in replying since, later on in his speech, he put his finger on the real explanation of the increase by saying that a colony must either progress or deteriorate, it could not stagnate. He also alleged that this was not a consolidation budget. I admit that consolidation is rather a loose word, but I submit that as far as it possibly could be it is a consolidation budget since it does not reflect any great expansion of services and only provides for additional expenditure when such expenditure is thought likely to be reproductive. A real attempt, which I say is perfectly genuine, has been made to overtake the arrears of expenditure required to maintain the assets of the Colony, such as departmental equipment

—I refer to camp transport and equipment, roads, buildings, etc.—and also to provide sufficient staff as for example, in the case of the Education Department to cope with the actual volume of work which now has to be performed.

The hon. member also referred to the question of economic development. I agree with him that two of the best means of aiding development is by encouragement of (a) private enterprise, and (b) leaving as much money in the taxpayer's pockets as possible.

As regards (a), I do not know whether the hon. member had in mind any actual instances in which this Government had not assisted private enterprise to the best of its ability. I cannot recall any such instance where the enterprise has been in the real interests of the Colony. There have been proposals such as one for distilling spirits in the Colony which I think Government quite rightly set its face against.

As to (b), that leaving as much money in the taxpayers' pockets as possible, Government officials are taxpayers, and I have no doubt they thoroughly agree with that principle! But I think the hon. the Acting Treasurer was quite right when he said that if Kenya had as great a surplus as Uganda, it would have given a Kenya official the greatest pleasure to make a similar statement, similar to that referred to by the hon. member.

The hon. member also touched on the infrequency of meetings of the Standing Board of Economic Development. Hon. members will of course realize that the present position is that a number of heads of departments are acting, and I personally found my time, since my return to the Colony, fairly fully occupied with the preparation of the Estimates. The secretary, however, informs me that the reason why a meeting has not been called lately is because of the difficulty in arranging dates suitable for all members. This was a difficulty, discussed at the last meeting of the board. Although the board has not actually been convened the work on which it is engaged has proceeded and the collection of reports and data is being continued, on the subject with which they are now chiefly concerned; that is, soil

[Mr. Pilling]

conservation and the prevention of soil erosion schemes. That work is actively proceeding although no meeting of the board has actually been called.

The increased cost of the Inland Revenue Office was also drawn attention to by the hon. member. All I can say is that the question of the staff which was considered necessary to carry out the work of the office was considered and approved at a meeting of the Standing Finance Committee held in the middle of the year, and all I did was to include the *au fait accompli* in the Estimates.

The hon. the Director of Medical Services has given the necessary information regarding the group hospital site.

The hon. member expressed alarm at the idea of local native councils taxing themselves to assist Government in providing additional services for natives. He asked where the policy of allowing local native councils to tax themselves for this purpose was leading to. I can only hope that the result will be that the European district councils will also see how beneficial the policy is and follow the example by taxing themselves to provide some of their own amenities!

The hon. member referred to what I understood to be the unsatisfactory state of the Game Department. I have not received any representations on that subject, and hope if the hon. member has any particulars to give me he will communicate them to me for attention, and I will go into the matter. I can, however, give him my assurance that if Captain Ritchie does not return—he is due to return early next year—the question of the appointment of a Game Warden will be gone into.

The hon. member also hoped that opportunity would be given for the enrolment of Europeans in the K.R.N.V.R. The position regarding that is that it was the original intention it should be a European force. Some Europeans did enrol but, owing to the somewhat peculiar circumstances at Mombasa where the young male population is mainly a floating population, here to-day and gone to-morrow on transfer, there was no real enthusiasm on the part of Europeans in this force. It was therefore considered

that, if the force was ever going to be satisfactory, it would be better to enrol natives for the rank and file. It is the present intention of Government to enrol ex-naval officers resident in the Colony and to give them a refresher course from time to time with the force, and the petty officers will also be Europeans.

Under the heads "Military," "Police," "Secretariat," and "Treasury," the hon. member hoped that Government would be able to see its way to expend a little money on drill halls for the Kenya Regiment, additional police supervision, more suitable furniture for this Council, and a statistical department. I agree that all are most desirable matters on which the Colony should expend money. I am sorry the hon. member is not in his seat now, since I should have been glad if he would explain to me in greater detail how it is proposed to find this additional money to provide additional services without at the same time increasing the Expenditure Estimates in future years and without rendering Government open to the same criticism of extravagant expenditure which we have heard this morning. I wish hon. members would have regard sometimes to the position of Government in the framing of the budget. I am glad to say that this is the last year when a Colonial Secretary will have the pleasure and that the task will in future be the responsibility of the Financial Secretary! It would, however, assist the officers responsible for framing the Estimates if hon. members would realize the difficulties Government have in keeping down the Estimates of expenditure and at the same time endeavouring to meet reasonable requests for improved services.

The hon. Member for Mombasa raised the old hoary question of Mombasa water supply. I had thought that matter was dead and buried when Government agreed to refund to the Municipal Board two-thirds of the net profit for the previous year as explained in paragraph 234 of the Memorandum.

My colleague the Commissioner for Local Government has dealt with the question of the municipal elections and elected representation.

The hon. Member for Mombasa also dealt with the provision made for the

[Mr. Pilling]

Mombasa telephone exchange. I may say that, subsequent to the inclusion of this provision in the draft estimates, the hon. the Postmaster General has explained that he would have to have the whole provision during 1938, as it would be little use putting in part of the provision, since the whole exchange would have to be purchased in one transaction. That is a matter to be considered in Standing Finance Committee as to whether we should take out the half which is in the Estimates or add the other half.

The hon. member also asked, what is the use of a settlement scheme if the police can stop a passenger, who has a first class return ticket, from landing? I have made inquiries of the Commissioner of Police, who has no knowledge of the incident, but he would be glad to make inquiries if particulars of the incident are furnished. At the same time, the Commissioner of Police pointed out that the possession of a first class return ticket did not necessarily imply that the holder should be exempt from the provisions of the immigration regulations. I think that is quite obvious.

The hon. member asked for information regarding the European provident fund. He was quoting from the balance sheet as on the 31st December, 1936. If he will refer to later balance sheets he will find that the investments have been strengthened, and he will no doubt realise that it is always necessary to retain an adequate amount in cash to meet withdrawals from the fund.

The hon. member asked the position in regard to the Civil Service building scheme. I have a note here from the Treasurer—who, unfortunately, owing to the jockeying tactics of some members had to speak at an early stage of the debate so as to keep the debate alive!—in which he writes that the scheme is, in a healthy condition, and the advances are amply covered by the value of the properties. In two cases, houses have been taken over by Government on valuations which were approved by the Loan Works Building Committee. In neither case was any loss sustained by Government.

The hon. Member for Uasin Gishu laid stress on the need for cutting down ex-

penditure. His suggestion was that the headquarters agricultural staff should be reduced. That suggestion, I think, has been amply dealt with by the hon. the Acting Director of Agriculture. I may say that from investigations I have made personally, I have no reason to believe that the establishment in the head office is excessive.

The hon. member drew attention to two factors causing uncertainty in the future. One, the low prices obtaining on the sisal and coffee markets. I have already stated that I agree that in the light of these factors the Estimates may be somewhat optimistic. Two, the shortage of labour. As regards the latter, statistics show that actually there is more labour in engagement at the present time than for many years past and probably at any time in the history of the Colony. The fact is there has recently been a greater demand for labour than there has ever been in this past.

I gathered from the remarks of the hon. Member for the Coast that he was not in favour of the principle of income tax! (Laughter.) As regards the cost of collection, the hon. member stated that I was endeavouring to hoodwink the public by stating that the late Treasurer's estimate was not a firm estimate and that Mr. Walsh had also omitted to state that the expenditure was additional to the cost of the collection of the graduated poll tax. The late Treasurer made the estimate to which the hon. member referred on the 4th January of this year. It is on page 995 of Hansard, and I will read what he says:

"I believe the figure of £3,000 which appears in the Estimates is a proper figure, particularly having regard to the fact that the Revenue Office is already in existence."

The implication is that the sum was to be an additional £3,000 over the cost of the Revenue Office as it then was, but I am credibly informed that he increased the estimate in select committee as a result of amendments to the Bill proposed in that committee, and he cannot be held responsible for the change in the position when he gave that estimate to which he is being held now.

[Mr. Pilling.]

The hon. Member for the Coast called the budget an unimaginative budget because, as far as I understand, there is not an item of five million pounds on the revenue side—or both sides probably—representing a grant from Imperial funds.

In the course of my opening speech I pointed out that the Colony had received very substantial assistance from Imperial funds through the Colonial Development Fund, something in the vicinity of £65,000 over the 12 months to 31st October last. I admit that that is not nearly in the neighbourhood of five million pounds, but Imperial funds are not funds which fall like manna from heaven but are the proceeds of taxation. I have thought over the subject, and have not yet found a satisfactory reason why taxpayers who are prepared to tax themselves up to Sh. 5 in the £ very largely in the interests of Imperial defence, should be asked to contribute five millions to Kenya either to develop the amenities of life which many of us who now live here consider to be infinitely superior in many respects to the amenities enjoyed by the people who pay the taxes at home, or in regard to defence.

The hon. member knows as well as I do, although it is unpleasant to admit, that whatever happens in Kenya during the next war will have little or no effect on the ultimate result of the war which will be won or lost in Europe, and if there are five millions available to be expended on defence it is much better spent on defence in the home country.

His statement that the Colonial Office is opposed to the best interests of the Colony is another instance of the loose thinking which characterised his speech, and is so fantastic and ludicrous that it really calls for no comment from me.

The hon. Member for Kiambu asked whether income tax applies to all races. The answer is yes. The Commissioner of Inland Revenue informs me that if and when he finds a native who shows signs of having a taxable income, he will send him an assessment form!

The hon. member also referred to the unsatisfactory position of the Game Department, and I have already replied to that. He asked a specific question in regard to Nairobi Commonage, whether it

was to be turned into a game reserve. He asked the same question last session. He was then informed that the matter was under investigation, and that—

"Investigations into the numbers of cattle which could reasonably be expected to require grazing on the commonage and the circumstances under which this grazing should be provided are at present being carried out in active consultation between the District Commissioner, Nairobi, and the Municipal authorities. It is hoped that an early solution to the problems will be found."

I may say for his information that the District Commissioner, Nairobi, submitted the results of his investigation to the Commissioner for Local Government on the 28th October, 1937, so that the matter is quite alive and is under consideration.

The hon. member referred to the Labour Department, as did the hon. Member for Nairobi North. All I can say on that is that I wish to thank the hon. member for native interests (Dr. Wilson) for the very able way in which he dealt with the criticisms levelled against this department and I feel sure that on reflection those members could not have meant their criticism seriously.

The hon. Member for Nairobi South also stressed the need for economy, and proceeded to show that a greater grant was needed for the sisal industry! I am grateful to him for relieving me of the necessity of explaining why provision has been made for the increased grant but, as I say, one cannot give these small sums here and there without these small increases being reflected in a considerable increase in the Estimates.

I am not a Scotsman, or otherwise I would give them little shift!

The hon. member asked that stamp duties and traders' licences might be reduced. I can give an assurance that these matters will come under review when the position regarding income tax is known.

MR. MAXWELL: On a point of information, I only asked that stamp duties be reduced this year.

MR. PILLING: That is a matter which can be considered by the Standing Finance Committee, but I think it better

[Mr. Pilling]

that the whole question of taxation should await a general review in the light of the income tax yield.

He again criticised to some extent the Estimates in that no provision had been made to improve the amenities for tourists. I quite admit that would be an admirable thing to spend money on, but let us be consistent: how is the Financial Secretary to include provision for all these things in his budget without increasing his expenditure estimates?

The hon. member Mr. Isher Dass, if he reads my speech, will not, I think, find that I ever referred to the Colony as prosperous. I did, it is true, refer to a period of prosperity, but that was in contrast to the period of stringency through which we have just passed. Throughout my speech I did endeavour to sound a note of warning.

The hon. member also referred to the expense of compiling the particulars of income tax which have been asked for by the Noble Lord. I can assure him that these figures can be obtained without additional cost. It is merely a matter of efficient organisation and a proper use of mechanical equipment.

He referred to a particular item in the Estimates, Head II, Item 12, and asked what was the explanation of there being less provision for the same number of clerks. He referred to it as a conjuring trick. The explanation is a simple one. Three senior clerks have been promoted or left the Service, and have been replaced by juniors on a lower scale of salary.

The hon. member referred too to the Treasury and Inland Revenue Department. He said there had been an increase of 14 European clerks and only two Asians in this office. The explanation is that in connexion with income tax collections it is only proposed to employ European clerks on European returns and Asian clerks on Asian returns, hence the disparity in numbers.

The debate was adjourned.

Council adjourned at 1.15 p.m.

Council resumed at 2.30 p.m.

The debate was resumed.

MR. PILLING: Your Excellency, before I continue with my speech I should like to correct some of the figures I mentioned this morning. I had written them correctly in my notes, but altered them in the light of what the hon. the Postmaster General said. The amount of capital expenditure in regard to civil aviation which had been borne by Imperial funds, I stated, was between £20,000 and £35,000, the same figures which the hon. member gave. He was referring, of course, to figures concerning his own department. The actual figures so far as this Government is concerned as a whole are between £40,000 and £50,000, a material difference.

When we adjourned I was referring to the speech of the hon. member Mr. Isher Dass, who under the head Civil Aviation had asked that there should be Indian participation. I am not quite clear as to what the hon. member was referring to when he mentioned this. Because the sum of £300 provided under Head V, Item 30, is to enable the A. o. Club of East Africa to give grants to members of the club under a flying subsidy scheme, which was started and is administered and largely financed by that club. At present, as far as one can see, there is no opportunity for Indian participation in civil aviation so far as that particular grant is concerned.

MR. ISHER DASS: On a point of explanation, Indians are debarred from becoming members of the club, even those who hold flying certificates.

MR. PILLING: That is a matter for the club and not for Government.

Under the heading of "Police" the hon. member referred to the question of begging. I went into that matter with the Commissioner of Police, and he assures me that begging is not common in Nairobi. It is true there are four or five chronic offenders who are lame or otherwise incapable of maintaining themselves. They do constitute a problem, and the Native Affairs Officer attached to the Municipality has been discussing with the Commissioner of Police the possibility of providing a hostel for this type of people.

As regards the prisons, the hon. member hoped that Government was not entering into competition by prison labour with

[Mr. Pilling] employers employing labour, I gave him a specific assurance in reply to a question asked a few days ago, that Government endeavoured as far as possible to prevent competition with private employers who provide labour except in respect of the supply of articles to Government and His Majesty's Forces, when it was obviously in the interests of the community that articles should be supplied as cheaply as possible.

Under the head "Secretariat and Legislative Council", the hon. member suggested the time had now arrived for the direct representation of native interests by natives. In reply to that, I would only say that Government are fully satisfied that it would not be in the best interests of the natives to change the present system of representation.

The hon. member made the unwarrantable assertion that Your Excellency and Government officers were opposed to the interests of the Indian community. It should be unnecessary for me to say there is no foundation whatever for this allegation, but possibly there is some loose thinking on the part of the hon. member. The fact that some Indian interests may be affected by measures taken by Government to improve conditions in the Colony is not an indication that Government is opposed to Indian interests. What it is an indication of is that Government are opposed to those unsatisfactory conditions and desire to remedy them.

The hon. Member for the Trans Nzoia was, I am glad to say, one of the few members prepared to face facts. He realizes that, like Topsy, expenditure estimates must normally grow. The hon. member referred to the increasing vote under "Pensions." I am afraid that that increase is inevitable until an equilibrium has been reached. Sir Alan Pim stated that the equilibrium on pensions, that is, the amount going off and coming out being equal, would not be reached until approximately 1946. Government has, however, realized the seriousness of the situation, and to some extent has remedied it by instituting the Local Civil Service for which there is a contributory provident fund and not a pension scheme.

The hon. member also hoped that the Standing Finance Committee would help in the preparation of the Estimates in future. That would not be wholly practicable but Your Excellency has already announced your intention of taking the advice of Executive Council in the preparation of the Estimates. This, of course, will associate the unofficial community very largely in the responsibility of the preparation of these Estimates.

In regard to the head "Military", the hon. member referred to mine-sweeping and the provision made for only one vessel, and asked what use one vessel would be for this purpose. I can give the hon. member the assurance that the vessel for which provision has been made in the Estimates is required mainly for training purposes in peace time, and that one vessel is sufficient for that purpose.

The question of the restoration of the basic road grant has been dealt with by the hon. the Commissioner for Local Government.

The hon. member referred to the need for reduction in taxation to assist the agricultural community. Your Excellency stated in your address from the chair that, while no reduction of taxation was proposed in connexion with the present Estimates, one point that would have to be borne in mind in connexion with a policy of constructive development would be the effect of tax reduction on progress.

The hon. member Dr. de Sousa asked for an assurance that Indian interests would not be overlooked in formulating a programme of economic development. As has already been stated, they will not be, and it is hoped to make some provision for agricultural development by Indians on the coast.

He also referred to the fact that petty crime was on the increase in Nairobi. This is a regrettable fact, recognised by the Commissioner of Police, and if the hon. member will turn to page 45 of the Memorandum he will see that provision has been made for a police station at Muthaiga. The institution of a police station there will give the Parklands police more time to try and deal with crime in the Parklands area.

[Mr. Pilling]

On the question of immigration arrangements at Mombasa, the hon. member's grievances have been inquired into, and a copy of a report by the Commissioner of Police dealing with various matters raised at the interview which the Commissioner of Police and I had with the hon. member is being, or has been, sent to him. It is unnecessary for me, therefore, to take up the time of Council by going into details.

He also referred to very grave abuses in betting in Nairobi. I have no knowledge of the allegations which he brought forward, but Government will investigate the question of betting in Nairobi and are also prepared to take action if grave abuses are found. I would, however, remind the hon. member that no legislation which it is possible to enact can protect a fool from his own folly! (Laughter.)

The hon. member spoke of some difficulty which the Goan community is apparently having with the Consul for Portugal regarding the emigration of Portuguese subjects. The facts which he represented during the course of his speech are quite insufficient for Government to take any action on, and if he has material which he would like Government to consider I shall be very glad if he will write me, setting them out in a letter, and I will see what can be done, but I am unable to give him any assurance that it is a matter which Government can properly take up.

The hon. member referred to the Liquor Licensing Board and the Film Censorship Board, and suggested that members should be given remuneration for their services on these boards. I have discussed the matter with the chairman of the former board, and he informs me that no request has ever been made to him for remuneration in connexion with services on that board. He has no reason to believe there is any general desire on the part of members for remuneration for their services. Government, therefore, does not propose to move in the matter.

As to the alleged hardship in connexion with the posting of Asian clerks, I would refer the hon. member to a letter written to him in January last by the then Colonial Secretary refuting those charges:

It is difficult to refute a general charge of this nature, and if the hon. member has any definite information or particulars of such hardship, if he will bring them to my notice, I can assure him they will be sympathetically inquired into. The long grade system about which the hon. member appears to complain was brought in to stop the blocks in promotion concerning which representations had been received from the Asian Civil Servants Association. It has its analogy in the long grade service for local Civil Servants, the European officers of the Administration, and works satisfactorily. I think the hon. member referred to an officer, I believe in the Attorney General's Department, being sent out as a cashier to a district station and others. I have particulars of all those cases and am prepared to discuss them, but I do not think I need take up the time of the Council in going into them.

The hon. the Director of Medical Services has already given an assurance that, in connexion with the grouped hospital, it is proposed to proceed with the proposal for a grouped hospital, and that only financial considerations have necessitated proceeding with such part of the plan as it is possible now to do with the funds available. As soon as more funds are available, it is proposed to proceed with the European part of the hospital.

The hon. Member for Ukamba referred to the excessive expenditure under the heads "Agriculture", "Public Works Department", "Medical", and "Education". I have nothing to add to what my hon. colleagues have said regarding these votes. As I have already said, I am prepared to consider any practical suggestions for the reduction of any extravagant expenditure under these or other heads during the Standing Finance Committee stages.

The hon. member made one statement regarding income tax which I think should not be allowed to pass unchallenged. He said that income tax was, if I understood him correctly, incapable of taxation and that Government could increase it by a stroke of the pen or a crack of the whip. All I can say is that if a budget which contains no increase in taxation can give rise to such a debate as we have just had in this Council, I shudder to think what the debate would be like on a budget in

[Mr. Pilling] which Government had increased taxation by a mere stroke of the pen!

SIR ROBERT SHAW: On a point of information, I would not like it supposed that I was suggesting that that was Government's intention. I was merely describing that form of taxation was proverbially considered to be of that type, but I explained that there was some misunderstanding which my ven. and hon. friend seemed to have.

MR. PILLING: I have already tried to explain that the country is in no very grave danger of Government taking any arbitrary action of the nature indicated.

The hon. member Dr. Wilson referred to two matters which I have already dealt with, the Labour Department and the African-Civil Service Provident Fund. The only other matter to which he referred was to draw attention to the large increase under Item 7, import duty, of Head I of the Revenue Estimates. Government and the unofficial members of the Standing Finance Committee do recognise that the native community contribute more and more every year to revenue through customs and other indirect ways and this consideration does justify a departure from strict adherence to the Moyné formula.

The hon. Member for Nyanza referred to two matters in connexion with income tax. The first was that more allowances for mining companies for redemption of capital expended on development should be given, and that the rental value of quarters for the staff should not be regarded as income derived by mining employees. I can assure him that these matters will be considered by whatever body the amendments to the Income Tax Ordinance will be referred to in due course.

It was also contended by the hon. member that he could not see how income tax would work satisfactorily when it was only imposed on one party to the customs agreement. I am afraid I cannot give the hon. member a reply to that query at this stage, but I have no doubt Government will give this matter careful consideration if any anomalies are found to arise through that circumstance. It has been

repeatedly said on more than one occasion recently in this Council that the adjoining territories have given a quite definite assurance that if they notice an evasion of income tax through any transfer of capital or whatever it may be between the adjoining territories, they will take steps to stop that evasion.

The hon. member referred in rather glowing terms to the action I had taken in the agreement reached tentatively between Government and the Coffee Board. Of course, that agreement is subject to the approval of the Standing Finance Committee.

He asked that Government should give an assurance that they will make representations for the allotting of larger areas to Kenya under the tea quota system for the next period of restriction. I can give him that assurance. Government is considering the representations which have been made in that matter most sympathetically, and will take every action possible to protect Kenya's interests in this respect.

It would be a wise action on the part of Government, the hon. member suggested, to reserve Crown land now for aerodromes before land became valuable. That matter will be given most careful consideration.

The hon. member also referred to negotiations which have been going on in regard to the auction system of land. That matter is very much *sub judice* at the moment, and I prefer not to make any statement at this stage.

He asked that some legislation should be enacted for the preservation of foliage and herbage in the vicinity of water supplies. My office at the present moment is investigating the legislation of other countries with a view to drafting or, any rate, drawing up preliminary details for the Attorney General's office to translate into law.

The hon. member asked for a statement from me as to when Government was going to implement its promise to hold an inquiry into the question of converting leasehold into freehold tenure. I agree that this problem must shortly be faced, but the office chiefly concerned is involved in a great deal of work at present in connexion with the draft orders in council

[Mr. Pilling] and in giving effect to the recommendations of the Land Commission, and it would be impossible for that office to undertake this added investigation at the present time. However, the matter will not be overlooked, and will be taken in hand as soon as it is at all practicable to do so.

He made some criticisms of the Police Department regarding their lack of control over traffic and wasting of time in connexion with beer drinking among natives. The attention of the Commissioner of Police will be drawn to his remarks, and if the hon. member will give me particulars of the instances to which he referred I shall be glad to have reports called for to see whether any action on the part of Government is necessary or not. (Mr. Harvey: That will be done, Sir.)

With regard to his remark that no reply had been given by the hon. the Director of Medical Services regarding assistance to the Kitale hospital, I can say on my hon. colleague's behalf that the question of assisting this hospital will be considered in Standing Finance Committee.

I quite agree with the hon. member as to the necessity of revising our Standing Rules and Orders, but whether it will be practical to give effect to that suggestion is a matter on which I am not prepared to express any opinion at the present time. I am sure the hon. the Attorney General will be prepared to look into it and see if there is any precedence in other legislation.

The question that the Draft Estimates for 1938 be referred to Standing Finance Committee was put and carried.

K.U.R. & H. SUPPLEMENTARY

ESTIMATES, 1936 AND 1937—

GENERAL MANAGER, K.U.R. & H. (SIR GODFREY RHODES): Your Excellency, I beg to move that the Second Supplementary Estimates for 1936 of the Kenya and Uganda Railways and Harbours be adopted.

Hon. members will see that there are three motions on the order paper in my name. The first two are of a formal nature, and I do not propose to say anything at all with regard to the first motion,

I will say very little in regard to the second, but I will reserve my main speech on railway policy in connexion with the third motion. In accordance with previous practice, I believe it would meet the convenience of Council if the debate on railway policy took place under the third motion.

The Second Supplementary Estimates now before Council refer to the past year, 1936, and all we require now is legislative authority for the figures which have been presented to Council. The figures for that particular year have already been covered in my annual report, and therefore I do not propose to say anything more about them at the present moment.

MR. WALLACE seconded.

The question was put and carried.

SIR GODFREY RHODES: Your Excellency, I beg to move that the First Supplementary Estimates for 1937 of the Kenya and Uganda Railways and Harbours be adopted.

These Estimates, for the reason I have explained, are of a formal nature. They are very useful at the present time as they will help us very much in considering the Estimates for 1938, the subject of the next motion.

Hon. members will see that these Estimates are rendered necessary by the fact that we have had a great deal more traffic to deal with this year than we had expected when we prepared our Estimates for 1937. The expenditure has gone up by a net figure of £43,277. Practically the whole of it is accounted for by the increased cost due to the extra traffic carried, and also by the cost of fuel, mostly in connexion with coal. I shall refer to that again later in my next speech. Briefly, the position is that we have had to obtain coal from England at greater cost, and that has put up the expenditure considerably.

The additional revenue we have gained from the extra traffic is £188,945, which compares with the extra expenditure.

The only item to which I should like to draw attention is the item under the head "Depreciation on Investments." Under this head an excess of £70,000 has had to be incurred owing to the fact that all our

[Sir G. Rhodes]

investments depreciated in value at the end of the year or will have done so at the end of the present year.

I have nothing more to say except that corresponding changes and alterations have had to be made in the combined net revenue appropriation account. All the heads under which the balances have been allocated had to be increased to deal with the extra revenue obtained.

If any hon. member wishes detailed information regarding these Estimates I will endeavour to supply the necessary answers.

MR. WALLACE seconded.

DR. DE SOUZA: Your Excellency, as the hon. member said he would answer any questions of hon. members, I would like to refer him to page 1, in connexion with excess under Abstract H. That question, I understand, is linked up with premature retirement of certain sections of his staff, and I should very much like to have information about this particular point.

On page 2 I should like to know why receipts on account of branch line guarantees were provided as a reduction of loan charges instead of being a receipt in the net revenue account. On page 4 I renew my objections to one item as I did last year when it was introduced, the £16,000 to pensions reserve account.

Another question arises on page 5, in the net revenue account for 1937, the writing down of stores, £2,000. Why does the hon. member provide for depreciation when everything is appreciating?

On page 5, under the same account, there is provision for interest on cash balances, investments and advances. Why is no amount provided for in the Harbour net revenue account? I should like the hon. member to give an explanation now or in the course of his budget speech.

LORD FRANCIS SCOTT: Sir, there is one point I should like to raise. There is a large increase in revenue from passenger traffic of over £55,000. It would be interesting to hear what the Hon. the General Manager attributes that to, whether to reduced fares or what other cause?

SIR GODFREY RHODES: Your Excellency, I am afraid that I could not hear all the points raised by the hon. member Dr. de Souza. I will try and answer him, and if I do not make myself clear perhaps he will bring up his points again.

On the question of gratuities, there have been no accelerated retirements that I can think of at the moment, but as old servants reach the age limit they retire and the amount we had to spend this year in that respect has been greater than we expected.

The other point regarding the increase in loan charges, owing to the fact that the branch line guarantees were reduced is due to the fact that as a branch line improves as regards the net revenue position so will the deficit come down, and the charges that have to be met from the guarantee are therefore reduced, and the amount that is paid in by Government in the way of guarantees being smaller therefore, has an effect on the loan charges that have to be met by the railway in connexion with that branch line.

On the question of writing down of stores actually, I think, on the point in question—the writing down of stores and stocks on account of obsolescence and depreciation—we have shown no change in the revised estimate during 1937. This sum of £2,000 was in the original estimates, and it has again been shown in the revised estimates. Just exactly what the final figure will be at the end of the year we are not, of course, sure of, but we think the figure is about right.

As to the question of interest on cash balances, the cash balances have in fact all been railway balances. The harbours, as you know, until last year and this year, were not in a position to show any surplus, and the small surpluses shown have been put to harbour betterment funds.

I can inform the Noble Lord that the whole of the increase in the passenger traffic has been due to the third class passenger travel. There was a slight decrease of £900 on the first class passenger travel and a small decrease of £379 on the

[Sir G. Rhodes]

second class as compared with 1936, but there has been a very substantial increase in the third class.

The question was put and carried.

K.U.R. & H. ESTIMATES, 1938

SIR GODFREY RHODES: Your Excellency, I beg to move that the Estimates of Revenue and Expenditure for the year 1938 of the Kenya and Uganda Railways and Harbours be adopted.

Hon. members will have in front of them the figures contained in the First Supplementary Estimates for 1937, and that will be a very useful guide by which to check up the figures for 1938. May I ask hon. members to turn to the first page of the memorandum printed with the Estimates, to paragraph 3, under the heading "Revenue".

It will be seen that we are budgeting for a railway revenue of £2,562,300 for next year, and that is after making allowance for a substantial sum in respect of rates reductions and passenger fare reductions. I shall speak on that point later on in the debate. But the figure shown makes full allowance for these reductions, and we expect it will be possible to introduce them at the end of the year. This estimate of revenue is based on an assumption that our traffic for next year will be, to all intents and purposes, the same as it has been this year.

We recognize that there has been a drop in prices in connexion with one or two commodities, cotton in Uganda particularly, and coffee in Kenya, and to some extent also maize in Kenya, and that this will inevitably result in the communities of these two territories having less money to spend next year. In fact, we estimate the probable reduction in the spending power of the community in Uganda will be no less than one million pounds next year. That very substantial reduction must, of course, have some effect on the traffic we shall be called on to carry, particularly in connexion with imports, during the year. Furthermore, the political situation at home and in the far east, may have a somewhat serious effect on our revenue position next year.

On the other side of the picture we find that the crop prospects in Kenya, and also

in Uganda, are very satisfactory at the present time, and we hope that bumper crops will be realized. Prices generally in other respects, except the particular commodities I have already mentioned, are reasonably good. Another item affecting our revenue is, of course, the standard of wages paid to labour. The standard of wages has gone up, which means that natives will, we hope, have a good deal more to spend, and that will result in extra travel. Furthermore, there is a number of other minor developments taking place in both territories which we hope will help from our point of view.

Taking all things into consideration, and bearing in mind the latest reports we have had, we feel, or I feel, that our revenue estimate is probably rather on the optimistic side. It is very difficult, of course, for me to judge at the present time, but I should not be surprised if we did not realize the full amount we show here. In fact, in Uganda there should be any difficulty with the weather and the cotton crop, suffers from lack of rain or too much, or too much sun, as seems possible during December, then certainly our revenue position will not be realized but, on the whole, with our reserves as they are, we feel it is a reasonably safe estimate to put before Council.

I will refer to rates reduction later on, and the only other point to mention in connexion with the revenue side is possibly a further increase in third class passenger travel. The increase I have just commented on in connexion with the first supplementary estimates for 1937, we hope will be maintained during the coming year and possibly even increased, which will have a steady effect on the revenue position.

May we turn now to the expenditure side of the estimates?

At the top of page 4 you will see the expenditure shown there is an increase of approximately 12 per cent on the original estimates for 1937, but if we compare them with the figures of the first supplementary estimates just passed, hon. members will find that they are closely comparable and, with the exception of one or two special points to which I will refer, there is not a great deal of difference

[Sir G. Rhodes].

between this expenditure estimate and what we have to meet during the present year.

The chief reasons for such increases as are shown are labour costs, which have gone up considerably, and will go up during the present year. These include wages, to which I have already referred in connexion with the revenue side; the cost of materials has gone up very considerably indeed; all imported articles are very much more expensive than they were a year or so ago, and it is quite probable that the expenditure during 1938 will go up even further than we have shown here.

One of the biggest items of increase is coal. We have, as you know, had to depend in the past on South Africa for our coal supplies, and we get a very good type of coal from Durban, which has met all our requirements here, at a very reasonable cost. Unfortunately, however, South Africa has got into difficulties. They have had their own traffic troubles, a tremendous increase of traffic all round, which has meant that the railway has had to commandeer every ton of coal which would otherwise be made available for export purposes. They have maintained their bunker contracts, but so far as export is concerned they have had to shut down almost completely in the past 6 to 8 months in allowing coal to go out of their country.

While we have made every possible representation to South Africa with regard to this particular trouble, we have not been able to do anything about it, and in consequence I had at rather short notice to place contracts for a considerable quantity of coal in England. The landed cost out here of the English coal will be more than double the landed cost of South African coal. That will, I think, show hon. members how our fuel costs will go up very considerably during the coming year. I have had an assurance from the manager of the South African Railways that their difficulties are now about over, and they hope at the end of next month, December, that the position will be more or less normal again in South Africa, and we shall be able to make our future coal arrangements with them as in the past. It is very unfortunate that this

extra expenditure should come on us at the present time, but we could do nothing about it, and we had to place contracts at home on rather short notice.

I do not propose to go into the expenditure side of the budget in any great detail, although I shall be very glad indeed to answer any questions in debate.

As is usual, these estimates have been very closely examined by the Railway Council and the Harbour Advisory Board.

May we turn now to the net revenue account which hon. members will see referred to on page 5 of the memorandum under paragraph 5, and the total position is shown on page 9: railways, net revenue account.

No new items are shown, and the account follows what has now become a more or less standard practice. The only change is in the amounts shown opposite each head. I think the only item to which I should draw attention is the last item, showing the balance transferred to the combined net revenue appropriation account, £288,782. If we now turn back for a moment to page 5 of the memorandum, at the bottom of the page we find Harbour Services. The principles adopted in calculating the harbours figures have been exactly the same as the principle adopted in connexion with the railway. No particular comment is required at the present moment.

The harbour net revenue account will be found in the table on page 10 of the estimates. This again contains no new item, but shows a small balance of £37,000 carried forward into the combined account. That figure represents the estimated profit on the work of the harbours during 1937.

Now I would like to turn back to page 8, where we see how these two surplus balances from the railways and harbours are to be allocated. We call that the combined net revenue appropriation account on page 8. On the right hand side are the two balances to which I have already referred, while on the left side of the table we show the four heads to which these sums have been allocated. Again in this table there are no new items. They follow previous practice.

[Sir G. Rhodes]

But perhaps I can say a word or two on the figures I have shown you.

Under the head "Reserve for depreciation of investments," we have increased the contribution from the figure of last year, £5,000, to £20,000 for the coming year. The reason is the amount of money we now have invested has increased very considerably, and therefore the possibility of depreciation has increased also to a corresponding extent. Hon. members will remember that I have already drawn attention to the fact that at the end of the present year we expect to have to meet under this head a depreciation of £70,000. We therefore think the increased contribution to £20,000 is justified at the present time.

The next item is "Betterment fund, railways £100,000," which represents what we consider to be the normal average expenditure under the betterment head each year. We calculate we shall have to spend roughly £100,000 under the betterment head. I will refer to this question in more detail later on, because of the important principles involved on which I know hon. members will like more information.

The next head is "Betterment fund, harbours, £37,985," which shows that the whole of the surplus balance from the harbours for next year has been credited to this betterment fund in the harbours section.

We then have the final item, "Balance unallocated, £168,782." That figure is a mere guess at the present time, and for that reason we have not made any attempt to show any definite or final allocation. That matter will receive consideration by the Railway Council towards the end of next year, when we shall know more closely what the figure will be. As I have already stated, there may be nothing there to allocate at all; it will depend entirely on how traffic materialises during the coming year.

I will pass over the details of the various abstracts shown in the printed Estimates, and will ask hon. members now to turn to page 81 which shows Abstract "L," estimate of expenditure on works in progress and proposed. This particular abstract refers only to the railways, road, and lake marine services.

On the left hand side we have the various heads under which this expenditure is summarised, some eleven heads altogether. The first group comprises the estimated total cost of works already sanctioned but not completed, and proposed new works. In other words, that is the full schedule of works in hand or proposed. Hon. members will see this realises the very considerable total of nearly £1,800,000.

One of the biggest items is item 7, rolling stock, which accounts for almost £700,000.

The next group of columns deals with the estimated amount required during 1938 in respect of works already sanctioned. These are revokes, and the total to be revoted on works already sanctioned but not completed reaches a figure of nearly a million pounds. Hon. members will see that the main culprit in these columns is rolling stock, where £581,000 has been authorized but not spent. The reason for that is well known to hon. members. It is because of delay in getting deliveries of materials from England. Rolling stock orders have now been placed in some cases for nearly two years, and we are just beginning to get delivery of our first orders but, as will be seen, there is a large programme outstanding; the remainder we hope will be forthcoming during the year.

The next set of columns refers entirely to proposed new works during 1938. There again the total is just under £300,000, a very small portion of the total programme to which I have already referred.

There is a point in connexion with this expenditure which I should like to make here. Hon. members will see that a large sum is devoted to the permanent way. That includes new rails, sleepers, ballast, and other items of that sort. In connexion with the supply of sleepers, owing to the fact that the price of steel has gone up considerably in England, I have given instructions that the question of the possible extension of wood again as sleepers is to be inquired into during the coming year. It is quite possible that wood may again come into the picture, whereas in the past it was found much cheaper and more

[Sir G. Rhodes]—satisfactory to use steel. At any rate, an inquiry will be carried out in that connexion.

If we turn to page 82 we find there similar figures for the harbours but, of course, these figures are much smaller. The harbour works, as hon. members know, are comparatively new, and at present a very small expenditure is contemplated. I need not say very much more regarding that total.

Taking the next page, 83, we come to a very interesting statement indeed. This is called Appendix I, "Statements showing the approximate position of renewals and betterment funds and capital and reserve accounts." This is a table which is of great interest to the public generally, and I should like to examine it rather closely here in Council.

If we may take the first three columns concerned, which refer to the railways side of the Administration, we will see that the first column deals with the renewals fund. It includes the estimated balance at the end of this year, and contributions during the coming year, and then below that you see the withdrawals which we expect to make during the coming year and which are based largely or entirely on the programme of works we have just examined.

There is one point which hon. members will notice, and that is that our withdrawals are very much in excess of our contributions during the year. That, I think, illustrates very clearly the particular use of this fund. We put into the fund each year a fixed amount calculated on certain definite principles, but we take out of the fund our requirements in accordance with our needs to replace withdrawals. In some years the amounts may be small, in others large. In the year in question, the withdrawals will be nearly double the amount we shall put in. In other words, this fund is an equalisation fund for renewals.

The next column shows a better position. The estimated balance at the end of the present year is shown plus contributions in the coming year. I have already referred to the £100,000 we propose to put in next year. The withdrawals from

this fund are approximately double the amount put in. That again illustrates the particular use of this fund; it is an equalisation expenditure fund upon which we can draw as required.

I am going to refer again to the betterment question a little later on.

The next column is headed "Capital account." This is a column that requires some explanation. I did deal with it last year, but it is as well to repeat what I said. As I pointed out before, the figures include loan balances (you will see the total at the end of 1937) and amounts to be written off at the end of the coming year, which will have the effect of reducing the balance to be available at the beginning of next year. In addition, there are also moneys contributed to this account from the writing off of assets which have not been replaced. Where an asset is replaced expenditure is carried out directly from the renewal fund, but where we are able to write off an asset and do not require replacement we take that money from the renewals fund and put it into this capital account. It then remains available for any particular form of capital expenditure that may be advisable later on.

I think I explained last year that, during the slump, we took advantage of the position to examine all our assets on the railways, and find out all that did not exist any longer or had been removed during recent years and not written out of accounts, and in that way contributed quite considerable sums to this particular head. That work is now more or less completed. We are bound to have a few cases where assets require to be written off during coming years, but most of the work is done, and we anticipate that this head will eventually practically disappear.

The next three columns refer in exactly the same way to harbours, and I will say nothing about that, because the same principles are involved and the figures very similar.

May we turn to the last group which shows our reserve accounts? These are our reserve accounts proper. The other accounts I have referred to are not reserve accounts. The first column shows depreciation of investments; I have already spoken about this subject so that I

[Sir G. Rhodes]

need not add anything more to what I have said. At the end of 1938 there will be a total of £40,000 in that account. Just how far we should go with that account remains to be seen. At the present time, we think we should put in probably £100,000 before we stop contributing to that particular account. This year we have written off £70,000, and next year it may be more or somewhat less.

The next column refers to the widows and orphans pension scheme, which I explained in detail last year, and I have nothing new to report. The total contributions to the fund amount to £62,347, and by making a contribution each year it will take care of future commitments.

In the next column is the amount for pensions. As I explained last year, the average amount each year is roughly £30,000, of which £14,000 go directly towards the payment of pensions. Therefore £17,000 is credited to the reserve, and we shall have a total of £32,000 available at the end of the year.

Now we come to the final column under this head, called "General." That refers to general reserves of the railways, and there we see the total sum of £655,045. It will be noted that no contribution is shown for next year; the reason being that we do not at the present time know what sums will be available, but an amount is shown as unallocated, in the next column.

That brings me to the final column of all, the total of all the funds, and it will be seen that the final balance next year is going to be considerably less than the balance at the end of the present year by approximately £588,000. The reason for that is that the withdrawals, as I have shown, will be greater than the amount contributed.

Having gone through that table, I would like to say a word or two about the general financial policy of the railways, because this generally attracts a good deal of public attention.

In the recent time of depression, the condition into which we got was due to the fact that we had no money at all, and the condition we are in now is that we have got too much, at least that is what is said! The renewals fund question I do

not think I need say any more about; we have debated it in the past, and I have referred to it to-day, and the question of that fund is fully understood and appreciated by everybody in this Council, and also outside.

But we have had considerable criticism of our betterment fund, and I should like to refer to that in some detail now.

Hon. members will remember that during the boom period between 1925 and 1929, we had very considerable surpluses not budgeted for or altogether anticipated. Advantage was taken of the situation to contribute considerable sums of money to the betterment fund, and a good deal of expenditure was undertaken out of that fund in consequence. A great deal of that was due to the fact that when the railway was taken over from Government in 1921 it was in a very depleted and generally run down condition, and a good deal of arrears of expenditure were necessary and had to be overtaken. That could not be done until money began to come in during this particular boom period.

In addition to that, considerable additional facilities and assets had to be provided to meet the very rapid expansion that took place in the Colony at that time.

In my annual reports, the full amount expended in that way has been shown. I will just quote the figure, because it is a very important one; it amounted to well over £2,000,000 at the end of 1936. The total spent in this way and from other sources of revenue non-interest bearing is rather more than £2,398,000. That was the figure at the end of 1936.

We have been criticised for that type of expenditure, that we are taking too much money from the users of the railway and spending it in the form of capital expenditure which should have been taken care of by loan. Of course, there is something to be said for that generally, and of course we have also made very full use of our loans from time to time. But our loan balance when our present programme is completed will be very low indeed, and we shall not have more than about £50,000 left in loan balances.

But it is contended that none of this expenditure should have been incurred in this particular way. I should like to contest that criticism for this reason. At that

[Sir G. Rhodes] time, everybody was doing well, conditions in the country were prosperous, this money was unexpected, and also arrears of expenditure which should have been met in previous years had not been dealt with, so that it seemed quite right and proper for my predecessor Sir Christian Felling to use this money in this particular way, and I suggest it has proved of inestimable advantage to the present users of the railways. That particular expenditure saved no less a sum than £188,000 in loan charges per annum, which would have had to be met if we had not spent the money in this particular way, I therefore suggest that the users of the railways now are benefiting directly from this policy.

I want to use that as an example, because all realize that during the boom period rates reductions were not required nor needed by the people at that time and, if introduced, we should have been completely sunk in 1932. We just escaped this as it was, but if we had gone in for a more liberal policy of rates reduction during the boom period we should have been in real difficulty in 1932. For that reason, we consider that policy to have been very sound indeed.

Is it not sound now to contribute in this way? I maintain it is, when money can be put into that fund from what I have called in the past "fortuitous revenue" which we did not expect to get or look for in any way, and where it is permissible, we put in small sums comparatively for this type of expenditure. In other words, we have "ploughed in", to use an agricultural expression, some of our profits in this particular way, which has enabled us to provide facilities of a capital nature without incurring an expensive policy of floating additional loans or using loan money. We do that with great care. We have not influenced our rates policy in any way by using this policy, because now that we have our reserves it is our policy to give everything back by way of rates reductions that we can possibly give. If we do happen to earn additional money because we get a good year, we claim that this is a very satisfactory way of investing that money in the interests of the users of the railways.

When we can—and we have been able to do that this year—put a rather larger sum into that fund than we otherwise would have done, our object in doing that is to have a small betterment reserve available when the next slump comes along. Hon. members will remember that, during the last slump, we had to cut down on our expenditure in every possible way; just at the time when we could have carried out works cheaply and everybody in the Colony wanted work we were unable to do it. We have got now in our reserves a three years betterment expenditure which we hope will carry us through any slump that may come in the near future. I suggest that that is sound business.

The next criticism is with regard to the size of the general reserve. It is just over £600,000, and we have been very much criticised in technical expert quarters elsewhere at the smallness of the reserve. There are various points taken. Some say that our reserves should be at least equal to three years loan charges. If that were agreed to, we should have a reserve of £1,600,000. We feel that this amount (as shown in the table) in all our circumstances here, is reasonably adequate, but we will gradually add to it as and when circumstances permit. But, from my point of view, I have to record my opinion that our reserves are adequately established and we can now go ahead with our rates policy quite safely and without any fear of financial difficulty.

I should like to add this at the present time. The question of the allocation of surplus funds in future is going to receive very careful consideration during the coming year. I hope to put before the Railway Advisory Council at its next meeting a comprehensive memorandum dealing with this question, and a sub-committee will probably be appointed to go into it with us and we can thresh out our policy in this respect for future years.

I think, taking all these figures into consideration, that hon. members will agree with me that our financial position is now quite satisfactory; in fact, extremely satisfactory.

With this cursory review of the budget figures, I will leave them, and turn to

[Sir G. Rhodes] other matters about which I should like to say a few words.

The first subject is in connexion with rates reductions, which I think always interests hon. members here and the outside public. I do not propose to give you any details as to how we propose to give away our revenue, because the final form has not yet been decided. That will be dealt with by the Railway Council at their next meeting next month in Uganda. Details will then be published in time for the 1st January. But I can say that the amount will be between £150,000 and £160,000. I suggest that that is a very satisfactory figure again, after what we have done during the past two or three years.

I remember last year speaking on this same point, and I said I did not expect we could give away any large sum again. I am glad to say that I was wrong, and as a result of the development during this year and the actual revenue earned it has now been possible to recommend a considerable sum for this purpose. I think I must repeat what I said last year: I do not think we shall be able to do it again. But it does depend tremendously on what takes place in the two Colonies. When development goes ahead traffic grows and increases; without increased traffic we shall not be able to do much more than we have done, except to deal with incidental points of hardship, though that can always be done. But any large scale reductions such as have now been given cannot be repeated unless greater development takes place during the coming year. We can, however, now take some risk, because we have got our reserves established and can carry on, even if it be a bad year or two.

The next point to which I should like to refer is the transport legislation. This Council recently adopted the Transport Licensing Bill, and I must repeat to hon. members that this Bill will bring about a considerable change in the position of the railways from the point of view of the safety of our revenue position. I explained during the debate that we are giving up a definitive prohibitive form of legislation which now adequately protects us, and accepting a form of legislation which

forces us to take our case to an authority which hears our case and may give a decision against us.

However, with the rates reductions we have been able to carry out during the last two or three years and in the coming year, I believe that the railways will be sufficiently secured to enable us to come into line with other transport interests. We are taking a risk; but I think hon. members can rest assured that the risk is not a very great one. We shall, of course, contest applications for transport where we think we are already giving sufficient adequate transport, but in the majority of cases I am quite sure we shall not be very much interested.

I explained that we would welcome improved transport facilities, particularly in connexion with passenger transport, and that if we could get organised transport it would enable us to co-ordinate transport, work out through booking arrangements, and give facilities to districts which cannot possibly be contemplated at the present time. If subsequently organisations are created as the result of this legislation, we may be in a position ourselves to invest money in such organisations and so again help to bring about better co-ordination. I have referred to that point on several occasions in my annual reports, and I believe this legislation which is now being brought in in all three territories will be a tremendous benefit to those territories from the transport point of view.

I believe it is a remarkable achievement on the part of the three governments in bringing in this legislation at the present time.

I have said nothing about operating results. I believe that the Railways and Harbours Administration is working satisfactorily, is moving traffic rapidly and, as far as I know, giving complete satisfaction to our users. Practically no damage is done; in fact, our claims bill is the lowest of any railway that I have seen lately.

I should like to take the opportunity of paying public tribute to the railways and harbours staff in this connexion. We could not achieve these results without their very loyal and efficient co-operation, and

[Sir G. Rhodes]

I am very glad to have the public opportunity of conveying to them my appreciation of their work.

In that connexion I should like particularly to mention four people who are leaving us next year, who have been with us for a good many years now and are well known to all users of the railway: Mr. Browning, Superintendent of the Line, who leaves half way through the year; Mr. Strahan, Chief Mechanical Engineer, who goes in April; Mr. Higgins, and Mr. Vanhegan, both of whom leave next year. They have given of their best to East Africa and your railway, and I am very glad indeed to pay my own personal tribute to them for their work in our interests.

The only other point to which I should like to refer briefly is the question of branch line guarantees. Hon. members will see that these guarantees now disappear from the estimates. They referred to Thomson's Falls and the Butere lines, and the amount involved would not exceed £15,000 a year, and may be somewhat less than that. That amount has been taken from the amount otherwise available for rates reductions. I know hon. members opposite will welcome the removal of that particular item from our budget, but as General Manager I cannot help viewing their disappearance with somewhat mixed feelings.

It means, I think, that we must consider the question very fully should the subject of guarantees ever come up again in connexion with future branch lines. Probably it will not arise again.

This, I am afraid, is a rapid and rather inadequate survey of the railway position as portrayed in the estimates before Council. I think it is the desire of hon. members that I should not spend too much time talking about details, but if they wish to know more about any particular matter I will do my very best to answer them.

MR. WALLACE seconded.

The debate was adjourned.

ADJOURNMENT

Council adjourned to 9 a.m. on Tuesday, the 23rd November, 1937.

Tuesday, 23rd November, 1937

Council assembled at the Memorial Hall, Nairobi, at 9 a.m. on Tuesday, 23rd November, 1937, His Excellency the Governor (Sir Robert Brooke-Popham, G.C.V.O., K.C.B., C.M.G., D.S.O., A.F.C.) presiding.

His Excellency opened the Council with prayer.

MINUTES

The minutes of the meeting of the 22nd November, 1937, were confirmed.

ORAL ANSWERS TO QUESTIONS

No. 62—AGRICULTURAL INDEBTEDNESS COMMITTEE

MR. HARVEY asked:—

1. When does Government expect to receive the Report of the Agricultural Indebtedness Committee which was appointed in 1935 to explore the possibilities of lightening the burden of agricultural indebtedness?

2. What has this Committee accomplished since its Interim Report, dated 23rd of December, 1935, was issued?

MR. HARRAGIN: 1. Government does not expect to receive any further report from the Agricultural Indebtedness Committee. In view of the fact that other committees have considered or are considering problems (such as the bond issue) which were originally the subject of discussion by the Agricultural Indebtedness Committee, Government is given to understand that a formal meeting for the purpose of winding up the Committee will be held in the near future.

2. Government is not aware that this Committee has accomplished anything since its report dated the 23rd December, 1935.

K.U.R. & H. ESTIMATES, 1938

The debate was resumed.

LORD FRANCIS SCOTT: Yesterday, Sir, we heard a very clear exposition of the position of the railway from my hon. and gallant friend the General Manager, with his usual lucidity in putting up a very powerful argument justifying what has been done. Now, Sir, I do not wish to make a speech in the way of what I would call a contentious criticism, but I

[Lord F. Scott]

do feel very strongly—that as the Kenya and Uganda Railway has become such a very separate entity from the country generally and from, anyhow, this Council and the Government of Kenya, that it is very important an occasion, which comes only once a year, when the estimates are debated in this Council, that we should give expression to our views on the general policy which is being followed.

It think it is out of place and a waste of time for members to discuss the details of the internal management of the railway, but I do consider that the question of policy is one we have got to consider and on which we should air our views. I feel particularly that this applies to the Government of Kenya, for after all Kenya represents the majority of the shareholders in this railway. We are the senior partner, along with Uganda, and therefore I think it is very necessary that the Government of Kenya should take stock of the position and see whether they will stand by the policy which they have had in the past, or whether there is any need for that to be modified or altered in any way, and that they should be very clear cut in their views as to what should be done.

Obviously, whatever happens, the railway vitally concerns the interests of the two countries concerned: It is not our business here to look after the Uganda interests—they can do that themselves very efficiently without us having to bother about them—but we are very immediately concerned here as to whether the railway is benefiting Kenya to the utmost extent which is possible. I think it is sixteen years ago when the railway was divorced from being a Government department and became a business on its own, and there was a very definite policy laid down at that time, and that was a policy that everything should be done to help production and help the export of products produced by low rates—the lowest possible for export and high rates for imports. That obviously must be the only possible policy in an agricultural country such as this.

If we do not have exports and if these exports are not produced on a basis of profits, you cannot expect to get the resulting imports, which are going to help

the revenue of the railway—and I can think of no better justification for that than the remarks of my hon. and gallant friend yesterday when he said, "We might possibly be budgeting optimistically this year," in view of the price of cotton falling so much and that the position of the coffee industry is somewhat doubtful at the moment. So, in other words, the prosperity of the railway as well as the prosperity of the country is entirely dependent on the prosperity of the producers.

Going back sixteen years—I think it is about that time—no large bulk products were being exported as they are to-day. And it was decided that for the benefit of the railway it was essential that there should be this export of bulk products. Up to then there was practically no maize exported, or very little, and cotton seed was burnt in Uganda because it was not economic to move it on the railway. That was altered, and it was decided that the least possible charges should be made for the export of these cheaper products. And that policy has been followed, except that in the case of maize the charges were increased a few years ago.

During the last two or three years we have had large surpluses which have been available for the reduction of rates. The first lot of reductions to the rates were applied to the export of various commodities, but since then a larger number of means have been applied to the reduction of top rates of the imports of consumption goods. It must be admitted that these top rates were high—I have heard them described by the General Manager as unbalanced in character—and no doubt it was right when possible to do so to reduce those rates to a certain extent. Then a complicated factor arose—this question of road transport. And the recommendation has been made, to enable the railway to compete with road transport, that the highest rates should not be more than 50 cents per ton mile. I understand that probably this coming year that will be the case.

That may be right; it may be sound. I am not certain in my own mind whether it is or not, but supposing then it is so, I do want to hold out a word of warning. I think it may be very unwise and un-sound to go on continuing very large

[Lord F. Scott] rates of reduction on these imported consumption goods when any further money which is available for rates reductions should be applied to the other end of the picture—that is, the export of commodities and to anything in the nature of internal charges in the country which are a handicap to production and to the general business of the country, such as siding charges, handling charges, and things of that sort. I do not want to go into any great detail on this, only on general lines of policy which I think should be followed, and I think the time has come when the Government of Kenya have got to decide very carefully for themselves.

During the last few years we have felt that the management of the railway were tackling a very difficult job, and tackling it very efficiently. It was not many years ago when the railway was on the verge of bankruptcy. To-day, after a few years, I think we can congratulate ourselves that it is in a sound financial state, and for this we must pay our meed of congratulations to the hon. and gallant General Manager. He has been criticized for his methods, and certainly there are all sorts of schools of thought which can very justly put up an opposing view; but I think he is the most persistent man I have ever met in my life, and when he has an object in view he is not going to be deterred until he has achieved that object. You may stop him one way and go round and stop him another, but he will turn your flank and he will get through! He has got the railway on a basis with what he considers sufficient reserve funds, and he has got the whole thing showing each year big profits.

This leads one to this subject of what he calls fortuitous surplus revenue. You might also call it, if you like, excess profits, but unforeseen excess profits. How is that to be disposed of? He tells this Council that he is preparing a very full memorandum which is going to be submitted to a sub-committee of the Railway Council for their report. The Government will naturally be represented on that sub-committee, and they have got to make up their mind as to what is the right way of using these overhead assets or surplus revenue. Last year, when I spoke on this subject—and I do not seem to have made

myself very clear; that is, judging from letters in the Press and so on—I seem to have been misunderstood.

The point is, it has nothing to do with rate reductions. Rate reductions are for the general welfare, and they are fixed for the future. In other words, the rates are reduced so much on the 1st of January, in view of what is likely or anticipated to happen, but at the end of the year there is bound to be a variation from that anticipation. You cannot on a big concern like this railway estimate very closely as to what the actual results of the working of the railway are going to be at the end of the year. It may be too optimistic and it may not achieve the results hoped for. But, on the other hand, as has happened during the last few years, they have got a very much bigger surplus than they anticipated. These surpluses cannot be given back retrospectively in the form of rate reductions. They are there, and the question is what is to be done with them. This year, 1937, there has been a surplus, at least it has been anticipated to be at the end of this year, of £479,000, and that is disposed of with £351,000 to the Betterment Fund, £28,000 to the Harbours Betterment Fund, £5,000 to depreciation, £16,000 to pensions and £78,000 to general reserve. That, I understand, has been decided on, and that is the way in which it has been disposed of.

We now come to this question of the Betterment Fund. As the hon. and gallant General Manager explained yesterday, it is not strictly in accordance with the correct methods of finance that you should finance and keep the works for the future out of fortuitous revenue of the present. In other words, the present users of the railway are financing the capital expansion of the railway for the future. That is a question that can be argued. He put up an argument that in the past it had paid the country to do this, and as he had the money at the present moment it would again pay us to do this, rather than finance capital works from further loans. I hope, perhaps, that my hon. and gallant friend will further explain this when he comes to speak later on on this question, because it is a question on which he is particularly a master. But I do say that it is not the right way in the future of disposing of this fortuitous surplus revenue which we

[Lord F. Scott] may have, and we have got to be prepared that this may happen whenever there is a favourable period, and it is bound to happen. I think it is one of the questions which the Kenya Government must keep their eyes on—the disposing of these balances.

There is one way which might be considered a sound way, and that is to have a rates equalization fund which can be kept in reserve in case bad times come again. That is one way it can be used and an arguable way.

There is another way which was put forward last year when the hon. and gallant Member for the Coast and I suggested that this fortuitous surplus money should be paid out in the form of a dividend to the shareholders of the railway. When I say that, it is quite obvious that it cannot be paid to any individual and therefore can only be paid to the people who are in fact the shareholders of the railway; that is the peoples of Kenya and Uganda. I do not know if there is any legal obstacle to this, but my idea is that when all the necessary amounts have been put to the various reserves which sound finance demands, whatever is left over should be paid out to the Governments to be put in a particular fund; in other words, a development fund. I say that because I do not suggest that it should be drawn into the Colony's general revenue just for balancing the budget; but I do suggest that it would be of enormous value to the Colony of Kenya and also to the Kenya and Uganda Railway if there was some such fund which could be used for any legitimate and proper development purpose, which, in its turn, would result in increased revenues going to the railway.

I do not want to go now into details as to what it should be used for, but I suggest that among other means it might be devoted to further improve the roads of access to the railway, or something of that sort. I believe it is a legitimate way of using these funds. I do not know quite what the legal aspect is with regard to the Order in Council, but it would have the effect of rather linking the railway with the country more than it has been in the past. I submit it is worthy of consideration, and I trust will be one of the pro-

posals perhaps which are to be discussed in the memorandum which the hon. the General Manager is going to lay before the Railway Council.

To go back to the question of road competition. The railway asked for, and I think legitimately, and were given protection against this competition. They have had it for some years now in the form of prohibition. In the future they relinquish prohibition, and it is going to be dealt with under the Bill that we were recently discussing here, and I do suggest that when these reduced rates come to a top rate of 50 cents a ton mile, and the railway has got the protection afforded them in this Bill, that that is all that should be required, and we should not allow any more of this boy's road competition to affect the general policy controlling the funds of the railway.

I have already referred to the fact that there should be some alleviation in things such as siding charges, but after all I think this is a matter of detail, and I do not want to deal with that any more. There is one subject to which the hon. and gallant member referred, and that is the question of branch lines. I would like to express my appreciation with this now with what has been done, and particularly I would like to express my appreciation of the Uganda members of the Railway Council for having agreed to this. In connection with this I was particularly asked by my hon. and gallant friend the Member for Nairobi South to have his appreciation expressed, because he was actually acting for me on the Railway Council when this was done.

As to this question of coal, I think everyone was a little perturbed when he heard of the difficult position we had got into with regard to the coal question. And I would like to ask the General Manager this. Certain firms, I believe, by contract have provided coal for a great number of years. Is there no condition in that contract, any penalty clause or anything of that sort if they fail to provide the coal as they have undertaken to do under the contract? Does the railway have to bear the brunt of anything which goes wrong; or do the contractors bear their share?

Another point which arose in the course of the debate was the question of wooden

[Lord F. Scott] sleepers. It is most interesting to hear the remarks in connexion with this subject. It takes my mind back a good many years when it was the definite policy of this country that wooden sleepers should be used so as to use the local timber in the country instead of sending money out of the country to buy steel sleepers overseas. I think I am correct in saying that a certain concern went to considerable expense in insituting a creosoting plant and so on. Then the railway changed the policy and told us they must have steel sleepers because they were so much better and more efficient, and that there were certain defects in the wooden sleepers which made the change in the policy advisable.

I am delighted to hear that there is now a chance to revert to the wooden sleepers, because I know that the General Manager would not recommend them if he did not think they would be efficient, and the thing I do wish to emphasize is the advantage that will be derived both by Uganda and Kenya by thus giving employment to the many timber mills which have gone through a bad time. It is also a means of keeping money in the country rather than sending money out of it to buy steel sleepers. I do not know much about these sleepers, I believe the hon. and gallant Member for the Coast does know a good deal about it, and may go into it in more detail.

Finally, I was very disturbed to hear yesterday the General Manager say that during this year we were losing the services of Messrs. Browning, Strahan, Higgins and Vanhegan, and I should like to take this opportunity on behalf of the European elected members to associate ourselves with the remarks the General Manager made in expressing our appreciation of the great and valuable services of these four gentlemen for their services to this country over a long period of years.

I have only dealt with what I consider the broad and general lines of the policy which I think it is important that this Council should consider and an important aspect which Kenya should consider. I am not going to take up any more of your time. I think it is wrong and out of place for this Council to deal with the

details of the internal working of a very efficient machine.

MR. PANDYA: Your Excellency, with regard to one or two points which the Noble Lord made just now in his very forcible speech, I should like to go a little into the point he made about the railway rates.

I think we all agree that a reasonably low rate for exports should be given in this country, but I think it should not be forgotten that this country does enjoy to-day very low rates for exports in comparison with other State railway systems, and therefore I think the first attention should be given to a low rate on imports.

That has a little bearing on the next point which the Noble Lord made, namely, the disposal of the betterment fund. This fund is used, I believe, for capital expenditure, because there is money available. We have the renewal fund which looks after the renewing of assets of that transport system. This betterment fund is the result of the surpluses credited to a betterment account, and is the result of the rating policy of the railway, which means that high rates are charged on the imports. We should not forget that to-day the policy of the railway is to charge about whatever it costs them to transport in regard to exports. Therefore, whatever profits have been made in this undertaking which we dispose of as a betterment fund are mostly made from the import traffic.

If we analyse it further we find that this import traffic and the revenue is mostly contributed by Indians and natives to a very great extent. That leads me to another point which the Noble Lord made, namely, the disposal of these surpluses in the future.

At the present moment they are disposed of in the form of the betterment fund or capital expenditure, but in future it is expected that some other system will be evolved for the disposal of these funds. One of them, which the hon. member advocated last year and again mentioned this year, was that the surplus balance should be distributed in the form of a dividend to the two countries. I have no quarrel with that principle, provided it

[Mr. Pandya]

was a fair distribution going to the credit of the revenue of the country. That revenue we control in this Council, and also we have the opportunity to say what we feel in regard to the disposal of that revenue. That revenue in that form might lead to a reduction in taxation, in which we all benefit, but I would not agree at all to that revenue being credited to a development fund which can be used, as it can only be used, for the support of a European settlement scheme.

As I said just now, I think it would be unfair on that basis to apportion the main portion of that surplus for the benefit of one section of the community. I would, however, support the other method of disposal, namely a rates-equalization fund, because that would mean we should not have any chance of railway rates being increased in future.

I wish I was in the happy position in which the Noble Lord found himself when he spoke. He said that he would not like to waste the time of Council by going into any details with regard to these estimates. It would have been quite possible for us to follow that procedure if we had the inner knowledge of the working of this railway system which he has, but having been debarred from taking any intelligent interest in the shaping of the railway policy I think it is only fair that we should request Your Excellency to allow us to indulge in a little more criticism of the details than we would otherwise do. We have no representation on that august body called the council of wise men, the Railway Advisory Council. It is therefore generally very difficult to criticize constructively the railway policy in this Council.

The hon. the General Manager may be quite satisfied with the undertaking under his control and the manner in which it is run. I entirely agree that it is being run efficiently, but I submit that that running efficiently is not necessarily everything. The hon. member himself paid a tribute to the efficient working of his staff, and I hope that the human element, particularly the Indian human element (which makes it possible for the machine to run efficiently) will receive more consideration and sympathy which it deserves.

He paid a tribute. I consider it an empty tribute. In this connexion I would draw attention to Abstract D, traffic expenses, pages 35 and 36. On page 35, item 18, there are 125 assistant station masters, Asian, Class V, whose wages are from Sh. 185 to Sh. 240. On page 36, item 28, are 107 Asian clerks, Class V, whose wages are Sh. 105 by Sh. 15 to Sh. 240. I understand that many of these clerks have been on their maximum for the last six or seven years. Some of them, I understand, are filling responsible posts which were formerly filled by clerks drawing salaries of Sh. 500 or over. As a result of a petition from those clerks in 1936, the General Manager amalgamated Classes IV and V in the budget, which made it possible for them to go to the maximum of Sh. 295.

If we refer to the printed estimates, pages 35 and 36, we find in 1936 there was only one item for both classes, but we find this year that the two classes have been separated. There are 232 clerks of Class V who have no chance of further promotion. I should like to ask the hon. the General Manager if it is possible for him to inform me as to how many clerks are on the maximum and for what period, and I should also like to know his reasons for reversing the previous policy or decision in this matter about the amalgamation of these two classes? Now that they have been separated this year, I should like to know whether it is intended in future that a number of posts will be provided in the higher grade for these unfortunate people?

If we go further into these details, so far as I can make out, if all these clerks on the maximum have been given a chance for promotion, the expense to be incurred would not be more than £1,000 per annum, and I think that £1,000 will be well spent, because it will take away the sense of grievance and injustice from which they are now suffering. What happens in the outside world in any business concern is that when that business is not making a profit the employees are usually satisfied with what they get. When that concern starts making profits and is in a prosperous condition, it is only natural for them to expect a little better treatment than what they had in the past.

[Mr. Pandya]

It cannot be denied that we have been complimenting the hon. the General Manager on the fact that this undertaking is now profit making and is a very prosperous one, and if that is so it is only natural that these people do expect and must be given more consideration in regard to their wages. It appears that it has not been done in the past. We have heard also that the Railway Council is a body which is composed of wise men who look after the details of these estimates. I should like to know whether this question has ever been considered by those wise men?

We have four of them from Kenya on that body. It is usually asked, why do we want racial representation on these bodies, why is it necessary that Indians should be given any representation on bodies which are dealing with economic matters? Here is an instance, I say with all confidence, I do not blame anyone, that if there was Indian representation on that body this state of affairs would not have been allowed to go on without it being brought to the notice of the General Manager in a very forcible manner, or by convincing the remainder of the Council and getting justice for these men.

That is one reason why we always say it is not possible to do justice to us without giving us an opportunity of being represented or having representatives on such a body.

There is another small matter also. There are clerks formerly on the B grade drawing a salary of Sh. 300, and they are still on the same scale, for they have not been transferred to a higher grade and given promotion. Another complaint is that the Indian staff is usually kept on the maximum of the grade indefinitely without promotion, whereas it is not so in regard to other races. I should like to refer to page 3, Abstract A, where it says:

"The provision for promotions, normal increments, and relief staff accounts for £2,731, whilst £2,825 is necessary for additional staff to enable the increase in maintenance, renewals and betterments works to be carried out. Increased provision to the extent of £7,274 is necessary in connexion with

maintenance of permanent way, mainly to meet increased costs in respect of native labour and rations."

I am very glad this £7,000 is being given to natives in the form of increased wages, but at the same time I do not think it is in the form of generosity by the hon. member, because I think he appears to have done that from absolute necessity. I suppose he would not have got any more labour if he had not done that.

In regard to other staff, we find on page 34, item 1, European clerks. There are two additional posts of senior clerks of special grade. Again, in Abstract E, page 44, item 1, we find two more posts for senior clerks of special grade. There are many instances which I would like to quote, but it is sufficient for my purposes to point out that here are these instances with regard to natives who are getting increased wages and opportunities provided for the European staff which I have just mentioned. I am not jealous; I think it only natural that that should be so, but I should like to appeal for more generous treatment to be meted out to the Indian staff.

What do we find in connexion with the Indian staff? If we refer to Abstract D, page 34, item 11, there is one post of an Asian senior clerk abolished, and most of the staff in Class V are kept on the maximum of Sh. 240. I hope that this will be looked into by the hon. the General Manager and also by the Railway Advisory Council.

There is one other point I should like to make. On page 4, Abstract B, it is mentioned that "These increases are offset to the extent of £3,005 in respect of savings under running allowances." I should like to ask for some information in regard to this item. Have these allowances been reduced, and, if so, to what extent, and when did they come into force? Would it be possible for the hon. member to say how this affects the European, Asian and native staff, and what are the reasons for reductions in running allowances?

The hon. member also referred in his speech to further reductions in railway rates which are going to come in next year. I should like to mention one item, and I hope it will receive sympathetic

[Mr. Pandya]

consideration from the Railway Council. It is the item jogree. I mentioned this point last year, and I think the local rates were to some extent reduced, but since then circumstances have changed. Jogree is now an export article, being regularly exported to the United Kingdom, and it is very necessary that some reduction should be made in the export rate, in which jogree and sugar are treated as one for export. As far as their sweetness is concerned, both are sweet, but I think in value jogree cannot afford to pay the same rate as sugar. This should receive the consideration of the hon. member.

I should like to say a few words in regard to the passenger traffic. The hon. member mentioned that the passenger traffic has gone up and the revenue has increased, mostly from the third class passengers. No doubt he is going to reduce the fares, and I hope that the third class fares will be substantially reduced.

I should like to bring to his notice again the question of the introduction of an intermediate class on the railway. This is not a matter to be brushed aside by reasons which were advanced by the hon. member last year. Only very recently, at the meeting of the Federation of Indian Chambers at Thika, this question was again brought up. We placed the railway case before that meeting, and also the arguments which were advanced last year by the hon. member against the introduction of this class. Generally, the whole meeting was so emphatic about the necessity of getting this facility which the Indian community need that they again passed a resolution requesting that further efforts be made for the introduction of an intermediate class.

I think, if there is nothing else, I should like to plead for an experiment, that at least one bogie should be turned into an intermediate class, in order to see what the results are for a year or two. That should satisfy the railway as well as the people who demand it, and we can then see whether its continuance in the future is justified.

I should like to say a few words in connexion with the third class passengers. I think that to-day on the railway they are not treated fairly. In the first place, we

see the third class bogies with bars in the windows and an askari looking after the carriage, and immediately the train leaves a station the carriage is turned into a prison, as all the doors are locked. It might have been necessary a few years ago, perhaps, when the railway travelled through jungles, and it was necessary to protect the passengers, but I say it is not necessary now, and it is not fair to treat these men and women as animals or criminals, which is the way in which they are treated to-day.

It is really scandalous that in this country to-day we should treat respectable people who happen to travel third class in the way in which they are treated. I have even found them begging and requesting the askari in charge, who is a very important person on this train, to open the door for them at a station, and he, naturally clothed with authority which he exercises, and feeling himself most important, keeps the people in. I think that definitely should not be allowed at all, and I should like to know why it is necessary to-day to lock the doors of these third class carriages and to have bars on the windows. I have never found it on any railway in India or elsewhere, and it is time it was done away with here.

I have only one more point to make, and this is the last point. The hon. the General Manager referred in his speech to the Transport Licensing Bill. I will not say anything in regard to the Bill, but there were one or two points which he made in his speech which I should like to deal with.

He mentioned that as a result of the passing of the Bill the railway, in his opinion, would be running some risk, and he qualified it by saying that there was not a very great risk. What are the facts?

At the present moment there is no doubt complete prohibition of the roads parallel to the railway of motor traffic. But under the new arrangement he is going to enlarge the area and is going to have further control over the roads over which he has no control to-day. I do not mean the hon. member personally, but the railway will have much more to say in regard to the traffic on the roads.

I think he knows as well as I do that the railway will be better off under the new arrangement than under the old, and

[Mr. Pandya] it would be unfair and ungenerous not to give him that credit of knowing whether railway interests are safeguarded or otherwise. If it were not so, he would not be occupying that responsible post and worthy of the high pay he receives! He is worth all the compliments given him this morning, and I join the Noble Lord in them, because I know full well that he fully realizes the railway is going to be better off under the new system than under the old.

But I should have been very happy if he would have boldly stood up and said, "Gentlemen, I am very glad you are giving me that control." Instead of that, he is trying to wriggle down, but time alone will show if my contention is right. I have no quarrel against that, but I think it far better if should have been publicly acknowledged that the railway is going to be further protected in this country. It is a prosperous institution, and what is more, it has a million pounds at its disposal, whereas the poor struggling transport owners cannot find ten pounds to pay for their petrol. Yet Government still think this is co-ordinating the transport system. Where is the transport that can stand competition with the railway in regard to capital and facilities? We prohibited the motor transport system from Mombasa to Nakuru, but they were coming via Lamu to Nairobi, but that will be stopped under the Bill.

On the whole, I am afraid that the hon. member is not quite right in his contention that he has no interest at all; on the other hand, I am sure he will be better off under the new scheme.

DR. DE SOUSA: Your Excellency, in reply to the debate last year, the hon. the General Manager described the debate as a rambling debate. I expect he remembers that. I do hope he will not have occasion to call this debate another rambling debate. (Hear, hear, and laughter.)

I shall follow on the lines of my hon. friend Mr. Pandya, as our function as representing a large section of the community is not so much to deal with the general and very high principles of the Railway Administration but to deal with the day to day questions that affect the large number of people engaged or served

by that Administration. In that respect you will probably find this morning that I have very little to say about general principles. I will not, however, repeat the details my hon. friend has already mentioned, but I do want to go into several details affecting that particular class of people, the railway Asian staff. I have been dealing with these points for the last two or three years, and I shall again deal with them now.

As I said last year, and several hon. members have said, this is only a courtesy, the presentation of the railway budget. We have no voice in it, and all we say is in the form of a glorified petition to the most-honourable the General Manager of the Railway! I cannot possibly move an amendment to any item, so that in that respect we have to present a petition in the name of this Council.

I am not forgetful of the improvements that have taken place in regard to the Asian staff. Last year I referred to the sick leave, and I am glad that the hon. member has improved that condition. Again, there is an improvement in the special leave granted on account of urgent private business, with salary and passage. Again, a great improvement has taken place in the lower minimum wage-earners. Until the beginning of this year, Asian officials drawing Sh. 140, although entitled to gratuities and provident fund, were not allowed overseas leave, but I understand that has been corrected and those who earn less can take advantage of it.

The questions now affecting the Asian staff are mainly concentrated on the question of leave, and in connexion with that I would like again to divide that leave into two or three parts, so that the hon. the General Manager is able to follow how his staff is affected. I am going into details, because I want him to understand, and you, Sir, as High Commissioner, will be interested in knowing the small details of which no one of the eight members of the Railway Council have any idea. They do not know, but if they did I am sure they would meet this very reasonable requirement of the people concerned.

The hon. member will remember that last year, in reply to my request, he said:

"The Asian staff did make certain requests whereby some of their conditions should be raised to an equality

[Dr. de Sousa] with the conditions applicable to the servants of the Government of Kenya. We offered these servants, through their association, the acceptance of the conditions as a whole; the leave and passage conditions of the Local Civil Service. That would have given them 18 days' local leave, together with other conditions applicable to passages, privilege leave, etc. They found when they went into it that that would not satisfy them; some of the Government conditions were better than ours, but some worse. They therefore declined our offer, but again pressed that we should give them the concessions that were in their favour. The most we could do, after considering the matter very fully in Railway Council, was to agree that their local leave should be raised from 10 days to 14 days, and I omitted to say in my opening address that these estimates have been based on that assumption, that local leave will be increased from 10 days to 14 days from the 1st January next. That is the most we can do at the present time, and we feel that the conditions as they stand now as a whole are eminently fair from every point of view. If we are to run this railway for the sake of the staff and put up salaries and conditions of service and so on whenever they ask for it, well, our working costs will go up and rates reductions will go down."

That was the statement made by the hon. member last year. What was, in fact, the actual state of affairs? The hon. member offered his Asian staff the terms affecting the new Service in the Kenya Government which, as he knows and everybody knows, are very inferior to those affecting the old staff, and the hon. member expected that his offer of those terms and also the grading of clerks would be acceptable to the whole of his staff, the old and the new. I am not surprised that they refused to accept his offer.

I have a suggestion to put to him this year. Will he give an assurance to this Council that he will offer the same terms of the Asian Civil Service to his staff? The old terms for the old staff and the new terms for the new staff? That seems a very simple matter, and the Railway

Council, I think, should consider that very sympathetically.

That, again, leads me to another statement made here over and over again; that the railway is a commercial institution, and as he says it cannot have representatives of a particular section on it especially. If it is worked on commercial principles, how does he justify that in the case of the European staff? It has entirely new terms of service, as I can show him. If he wants to run the railway strictly on commercial lines, how is it he, for the same work, is giving double the salaries and privileges to a certain section of the community? This is not a commercial institution at all, and the railway Europeans to-day have the same conditions of leave and other privileges as the Europeans in the service of the Kenya Government. The difference only comes in when the Asian staff is concerned.

The other question is of overseas leave, and I am glad that I cannot say there is that amount of discontent in this respect as in regard to other questions. Even then, the railway Asian staff have asked that they should revert to the old terms of overseas leave, 30 days after 11 months, bringing them in line with the same terms given the Government Asian staff.

I say that the leave is not sufficient, but I think you will agree with me that over and over again the Asian staff, when going to India on overseas leave, ask for extension of that leave without pay, so that thereby the railway saves a lot of money. That is a very serious thing, and it does show how one section of the railway staff is treated.

Another kind of leave is sick leave. I am glad there has been some improvement in that respect, but again, as regards the Civil Service comparison, in the Civil Service there are three full months on full pay allowed for sick leave, and three months on half pay; in the railway they are allowed two months on full pay and two on half pay, but when a man has been sick in the country and he is medically boarded and sent overseas on holiday he is not given anything. In the case of the European staff they get three months on full pay and three months on half pay, and when they are sent away they get all the other privileges even if

[Dr. de Sousa] they have been medically boarded. That is another unfortunate feature of this Railway Administration.

Then, again, the hon. the General Manager has discretionary powers in this respect, and I have yet to be told that he has in one single instance exercised these discretionary powers in the case of his Asian staff, while in the case of the European staff they have been exercised over and over again. I am not grumbling that he is giving it to a certain section of the staff, but I do say he cannot make such glaring distinctions between your staff.

Immediately a case of this kind occurs the sanction of the High Commissioner is obtained. I do not know, Sir, whether you have had these things to deal with, but in the course of your duty you will.

Another section of leave is what is called local leave, and that seems to me to be one of the greatest grievances of the Asian staff at the moment. I think even in the interests of better feelings by the staff towards their master, the General Manager, that it is very essential, apart from other considerations, and as it is purely and simply a commercial institution, to have a fully contented staff because they do better work. In Government the local leave is 18 days. From January of this year the local leave for the railway Asian staff has been increased from 10 to 14 days. There were several representations made and a petition sent to the Secretary of State for the Colonies, and only a few months ago a question was raised in the House of Commons by one of the members.

It was not necessary that there should be that amount of publicity on an ordinary thing like local leave, especially if so many private firms can give it to their employees. I understand that one of the reasons given by the hon. the General Manager, and possibly transmitted by him to the Secretary of State in dealing with this subject I should like the hon. member to contradict or confirm my statement—for the leave not being raised to 18 days was that the Asian staff have five religious holidays. His contention will be that the 14 days and the 5 days make a total of 19 days. I think he has put that in an official document, and said that they were better off than the Civil Service.

That is not true. The Asian Civil Service get 18 days local leave and also the religious holidays, and if you add 5 to 18 that makes 23, as against 19. What are these religious holidays that such a big thing has been made of them? Not 5 per cent of the railway Asian staff have religious holidays. I make that statement, and I should like the hon. member to tell me if it is a wrong statement. Not 5 per cent of the Asian staff take religious holidays. What happens to the station staff all along the railway? They do not know what a religious holiday is or an ordinary Sunday. What about the running staff? They have no religious holidays. What about the Christians themselves in a Christian country run by a Christian nation? Christians do not get religious holidays. The only ones who get it are possibly the Jews, who get four religious holidays. Those are the facts, and I should like the hon. member to contradict them.

You see, Sir, when getting into details it is a dirty job, and you know the value we should place on these glowing reports which we get here. It is not only putting the finger on the actual score but squeezing the pus out, and that is what I am trying to do this morning. My submission is that the local leave should be 18 days, and if the hon. member thinks 14 days local leave and 5 days religious holidays make 19, why not propose that the staff should have 19 days local leave and no religious holidays? If they do want certain religious days, those holidays should be included in these 19 days. That is a reasonable proposition and in the interests of the staff should be adopted.

One of the reasons advanced against this local leave is that they have other privileges, that they have railway passes and that sort of thing, and that that is enough and they should not be given any more. In this respect the Civil Servants and the European railway staff are in the same position. The difference only arises when it affects the interests of the Asian staff.

Another argument is that the Railway Asian Union has accepted the principle of new terms for the new service. That means, according to the hon. member, that if those terms have been accepted, why should they grumble? In the railway European service similar terms apply to

[Dr. de Sousa] Europeans who have been in the service for less than nine years; but improved conditions apply after they have been there more than nine years. My contention is that the same should apply to Asians, and that no differentiation between the two sections of the staff should be made.

Last year, I proved in this Council that certain information had been supplied to the Secretary of State which was not quite true. I am not going to refer to that, but to one statement made in this connexion by a former Secretary of State, Lord Passfield, who said that the conditions of the railway staff would be improved which the finances of the country improved. I made the point last year that now the finances of the railway were improving these questions should be dealt with. It is said now that the finances of the railway are improving and the amount involved in this leave according to the railway, is £5,000, but according to the staff, which has worked it out, it will not be more than £3,000. That amount is not a big amount, but it will bring a little happiness to a large section of the staff, and I do put it to the hon. member that it is time to give effect to a promise made by a Secretary of State.

Another question is the differentiation in the treatment of Europeans and Asians. For example, there can be no engagement above the fixed establishment, nor must they be over age in the case of Asians, but I know the hon. member will confirm the statement that, in the case of Europeans, there is no question of age or being engaged above the fixed establishment. Only recently he has been taking on above establishment people who have been invalided. That is a statement I should like him to confirm or otherwise, that over age does not obtain in the case of Asians.

Again, the question of differentiation in overtime. In many instances it has been given in the case of Europeans who work in the accounts section. They are working at a very high rate, and it is given only for this particular section, but the European staff get overtime and the Asians do not. The hon. member will confirm that the people who work every Saturday afternoon until five, six or seven o'clock

do not get a cent. I am also sure he will confirm that several people who spend the better part of their Sunday mornings in the railway offices do not get a cent.

I think that if the staff cannot do their work during the proper hours and it is necessary for them to go in and work beyond fixed hours, they should have some sort of remuneration. An exceptional case is a different thing, but not when it goes on every Saturday afternoon and Sunday morning.

My hon. friend Mr. Pandya has referred to the congestion that has occurred at the top of the Asian grade, the first grades. That is the same thing which is happening in the Asian Civil Service. During the last one or two years, three or four special clerks have retired, and in not a single instance have people at the top of the first grades been allowed to take one of the vacancies. In these circumstances there are, less than seven such special grades provided for in the case of Europeans, but three or four Asians who have left have not been replaced. I understand it is the intention of the General Manager to abolish altogether those special grades in the railway Asian service, and if that is so it is a very unfortunate thing.

I am coming to another topic which has been before this Council for five or four years. I have brought it up myself, and have been refused consideration by the hon. member, but I think other Indian members will bring it up every year, and that is the question of artisans on daily wage. These are very small points, but I want the hon. the General Manager to understand that he cannot keep people on a daily wage system for four, five, six or seven years. He told me last year that this system was adopted all over the world. I am not concerned with all over the world at all, but with the K.U.R. & H.

What did his predecessors do when the railway was being built? Did they not bring very many artisans from India on consolidated wages? It is their descendants you are treating in a different fashion. Can you say that the same men should be kept on the daily wage system for specialized work, as artisans' work is, for five, six, seven, eight and some ten years? It is an injustice! They get no pay

[Dr. de Sousa] for Sundays, and they have no privileges; they have two railway passes, which is a farce for people who get no privilege leave or pay for holidays. They are made to pay rent for their houses. Housing has improved now, but it had not three or four years ago. They pay rent, and in that respect their condition is much inferior to the condition of the African and other labourers working under them.

This is a question which has got to be faced; I am afraid the hon. the General Manager, after repeated recommendations, has made no move to remedy conditions. What is the result? These people are suffering, their children cannot be educated; there are 250 of them in that state of degradation just because you want cheap labour.

Then again, the question of apprentices which I have been bringing up all these years. I get a very vague reply. The difficulty is that I cannot contradict the hon. member when he speaks, and I may lose further interest in the stages of the debate! Last year the hon. the General Manager said there were about 20 apprentices somewhere in the railway, which extends from Mombasa to the Ripon Falls. I did ask him where they were. I am talking of Asian apprentices in the local workshops, as there are European apprentices. That is what I am asking for. Where are they? There is not a single Indian boy apprentice in the workshops, and I am given to understand they will not allow it for the reason that if they are brought up in the railway workshops as apprentices, when they know their job it will be a job to engage them.

I want these Indian apprentices to be trained for railway service and service in the country generally. The railway as a State concern has that function to perform, and with European boys they do it.

With regard to the railway housing, that is a matter on which there has been a lot of adverse comment recently. It was in 1927 or 1928, when I was on the Municipal Council, that the then General Manager put up his first block of Asian residential houses. The railway is in an exceptional position. It is not only a State railway, but it can go and build without the sanction of the Municipal Council of

Nairobi or any local authority. Plans prepared for the housing of its officials cannot be turned down by the municipality.

I may be wrong, but I know it was so in 1928, for when plans were brought up I objected to them. Since then, activity has increased to a great extent, and to-day the General Manager is engaged in a very extensive housing scheme. We are grateful to him for his attention to the housing of his staff; it is the least he can do.

But these houses which are being built—I wonder if Your Excellency, as High Commissioner, has been to see them, and what impression you would get of them? I am not talking of the internal accommodation, but of the tremendous alteration they make in the amenities of the locality. The railway has a very valuable piece of land, and instead of adding to the beauty of the town in the heart of the Asian residential area they are producing a type of building which is a bad example, to say the least of it, and yet the local authority have no power to turn down the plans.

There is no land, however small, reserved for the recreation of the children, yet a few yards away are examples of how the Government Asian staff housing scheme has been carried out: pleasant-looking houses, pleasant surroundings; but just across the road we have this terrible state of affairs produced year in and year out for the last four years. There is nothing like a road; some of us who go there two or three times a week on professional duties cannot get our cars in but have to wade through. Yet hundreds of people are living there. It is the duty of the railway in the municipal area to have lights in the streets, but here there are none. And there are open drains smelling all round the houses, actually producing in the best residential localities the worst conditions of River Road and Canal Road. It is a most disgraceful state of affairs.

In Mombasa I visited the railway quarters, and there again it is the same thing. In addition, for some reason or other, in spite of representations made by the Mombasa Asian staff, the houses are not provided with the ordinary amenity of electric light. I have seen

[Dr. de Sousa] people with my own eyes using kerosene oil lamps.

This question of the railway Asian staff is going to give Your Excellency as High Commissioner and the hon. the General Manager a lot of trouble. I expect there will shortly be some representations made to the Secretary of State, and some questions in the House of Commons, and I expect there will be some misunderstandings over questions which can be settled in less than twenty-four hours without affecting the railway finances. If you want a good staff, give them good pay to live on. Is it not possible for these evils to be remedied? Or is it not possible for us as business men to sit down together and improve conditions and have a staff as contented as Government's staff?

I ask the hon. the General Manager to ask the High Commissioner for a comparatively small inquiry, so that he can go through all these questions.

I have a very few things more, Sir, and I shall finish—

On page 23, item 4, Abstract B, the increase in the assistant locomotive superintendents, one is raised from a lower grade and one is a new post. This is at headquarters. What is the need at headquarters to have one loco. superintendent, one assistant loco. superintendent, and another additional one, and one with promotion? What is the need of all these supermen? I should very much like to know. What is happening at headquarters for this staff to be increased to such an extent, and the nature and condition of the work that it is necessary to have such a large additional staff?

On page 28, item 3, assistant works superintendent, an additional post. What is the necessity? As it is, you have one C.M.E., one works superintendent, four senior foremen, and 22 foremen, supervising some other foremen. What is the staff doing in the loco. workshops?—I think the Council would appreciate figures representing the value of the turnover of work in the loco. workshops.

If we are going to pay such a lot of money, it brings in the question of private enterprise. There are several civil firms here who can do all these odd jobs, who have invested capital, and who have men

experienced in that particular branch. I would like the hon. the General Manager to give me the value of the output from the railway workshops for 1937, and then we can appreciate what it costs the railway to repair these little odd things here and there.

That raises the question as to whether we cannot reduce the staff of the loco. workshops so that private enterprise may have a share in the profits of the railway.

On page 45 another superman is being given £150 more. I objected to this last year; I think it was in connexion with the C.M.E. His salary was raised from £1,350 to £1,500. I think it was one of the hon. European members who took it upon himself very ostentatiously to discuss the hon. the General Manager and said, "We want specialists who need specialists' salaries." The question is that these increases are brought in every year without any fixed policy. Was it not possible for the hon. member five or ten years ago to lay down the maximum limit to be given these supermen in the railway? Is the question of increased salaries only arising now? Are they doing more than they did before, that they want a bigger staff under them? I cannot move a reduction of this, because this is only a courtesy presentation of the estimates, but I would like the railway to delete that item.

As against that, when there is a progressive increase in the salaries of the European staff, why should the Railway Administration have another policy concerning the increments of the Asian staff?

Page 50, head 7, postal, telephone and telegraph services. I am not sure what this really means. I take it this amount of £2,300 is payable to the Postmaster General? I am interested in this item from the point of view of the station masters who perform the duties of local postmasters. I think it would be well for the hon. the General Manager to tell us whether these people who do all kinds of work connected with the station, day and night, get any allowances for doing the work of the postal department and for which I think an item should be included.

Page 60, item 1, provident fund and gratuities. This is said to be a "normal increase and additional contributions following reduction in salary limit." It would

[Dr. de Sousa]

take me a long time to understand what this means. It is a little technical, and gives members no idea whatsoever of what is meant. I understand, however, that this applies only to Africans, and I should very much like the hon. the General Manager to confirm whether that is so. When the Africans were included in the Civil Service, the limit was raised from Sh. 60 to Sh. 80 as regards Asians for provident fund and gratuity purposes. My suggestion is that it should be reduced, allowing several members of the staff to avail themselves of the privilege of the provident fund and gratuities. This seems to apply only to the African staff.

Then item 10, investigations in connexion with standardization of railways in Africa. I am not quite sure whether the hon. member gave me a reply in connexion with this matter last year. I asked whether any grant was given from the Colonial Development Fund, whether it is free of interest for the period it is given, and why it is not shown in the estimates and is not shown even in the annual report?

That is about all I have to say, Sir. I may add that the hon. member's speech yesterday was a dull one, and not very interesting as is usually the case. And conditions were somewhat worsened by the somnolent state of hon. members, most of whom were in the lap of Morpheus!

Council adjourned for the usual interval.

On resuming:

MAJOR RIDDELL: Your Excellency, the remarks I have to make to the Council will be purely on the question of policy because I believe that the details of the debate can safely be left in the hands of the very efficient machine as described by the Noble Lord the hon. Member for the Rift Valley. In discussing matters of policy, I do not think anybody can fail to be struck, taking it on very general lines, with the disparity between the railway estimates and the general estimates, a disparity which has happened for the last three or four years. If you listen to the statement of the General Manager, for the last two or three years you find that he has an enormous profit or surplus or

whatever you choose to call it. At the same time the administration is struggling in every way it can to acquire sufficient revenue to balance its budget.

I will give you a small illustration of that. Certainly three or four speakers in the previous budget debate had a good deal to say as to whether we should not eliminate the fish warden, or should not, on the recommendation of Sir Alan Pim, whereas the General Manager comes into a debate of this sort and takes such a thing as the changing of the whole line at Limuru and building a new station in his stride, and nobody speaks about it. I think it is just a matter of comparison and interest.

But the railway, as I say, is only one cog in the transport system in this country. We have heard, quite rightly, a great deal lately on the subject of the co-ordination of transport: The co-ordination of transport is the co-ordination of the railway and road system and of other systems in this country. It is not road versus rail, it is road and rail.

It will be interesting to compare for a moment the financial differences between the railway and the road system in this country.

The railway can come forward in this debate and can show a profit approaching half a million, and be able to give back, in some form not stated, £160,000. Compared with that, in what sort of a position do we find ourselves as regards the roads? The roads are taxed, or rather the roads are not taxed, but the transport system is taxed, and that amount goes to general revenue. I think I am right in saying that not half of that amount is returned to the roads. Now the transport system in England is sufficiently powerful to prevent that from happening and always has been, and when the transport system of the roads is taxed the parliamentary representatives demand that that money should be returned to the roads, and only when that is accomplished does the surplus drift into general revenue in terms of a raid on the road fund. We, on the other hand, put the amount received in general revenue and dole out less than half for the roads. In my opinion, co-ordination of transport is complete only when we can adjust that anomaly.

[Major Riddell]

The transport system in England has caused a new ministry to be created—the Ministry of Transport—in order to deal with this question. We have no representative of transport from the co-ordination point of view in this country, sitting on the opposite side. But we do actually have among us a Minister of Transport, because the Governors are *ipso facto* our High Commissioners of Transport. And this question therefore seems to be a question for a Governors' Conference. But in dealing with it, I have one suggestion to make, and that is that with regard to this £160,000 which is going to be returned, would it not be feasible—I ask in all humility—that our share of that be returned to the roads. Are they not as large a part of transport as the railway, and is it not just as important for the protection of the primary producer that the roads should be as efficient as the railway? The roads are not actually at the present moment efficient. The railway of course we know is highly efficient. I only throw that out as a proposal and I suggest that it should be examined by the Governors' Conference.

In support of that I should like to point out the sympathetic reference made by the Colonial Secretary to the fact that district councils had kindly helped the administration in balancing the budget by going without even the basic road transport grant. Now that basic road transport grant is very significant because you will remember that it is basic, and so I hope we shall manage to get this surplus, which is going to be distributed in some way unknown to us at the moment, for the needs of the roads and the road system in this country. It seems to me that there is a certain amount to be said for it.

I should like to add my meed of tribute, if I may, to the hon. and gallant General Manager of the Kenya and Uganda Railway in the terms of the co-ordination of transport. I was a member of that committee, and it is with pleasure that I recall the fact that I thought in my own mind that the General Manager took a long view in acceding to the report we made. The short view would have been to say, "Oh, I must continue to receive protection in the terms of the existing law." And the fact that he did not do that but took a

broad view of it, which stands of course over a period of years, is I think a matter of congratulation. It is also a matter of some risk. I listened very carefully to what he said, and he said that there would be some risk, and I do think he is taking a certain amount of risk in the interest of the co-ordination of transport as a whole.

That is all I want to say on the matter before us, but before I sit down, as the hon. the General Manager has given us the offer that if there is anything we should like to ask him as to details he would be only too glad to answer, I should like to ask him one small detail. It is not intended in the form of a criticism at all. It is on page 37, and it deals with the guards and ticket-examiners, Europeans, 6 and 10. Their salaries are from £240 to £300 per annum, and I see of those salaries half have risen to the maximum.

I should like to ask him whether those guards and ticket-examiners have reached a dead end, whether they have got to the only amount they are entitled to draw, or whether there is for them a promotion to a higher grade in the service with a higher salary grade, and, if so, what it is. I would also like to know whether, when they are recruited, they are recruited from the people locally or whether they are imported from elsewhere.

SIR ROBERT SHAW: Your Excellency, in rising to support the motion before Council, I shall not keep hon. members very long. The only reason I am rising at all is perhaps because it is more in the nature of a formality, it that during the past few months I have held the somewhat unusual appointment of an acting wise man!—(laughter)—which I find something of a strain. My acting appointment lasted until the session of the Railway Advisory Council at which these estimates were examined in detail, approved, and submitted to Your Excellency and for submission to this Council.

Consequently, I should not like to miss the opportunity of giving my support here in public to proposals to which I gave my approval, for what it is worth, when they were discussed in private conference. If I have now acquired a little superficial knowledge of the working of the Administration, I confess when I first went to the

[Sir R. Shaw]

Railway Council I was in the position of the ordinary man in the street who, when he looks at these astronomical figures, is in doubt whether to feel great pride in the railway or to regard the General Manager as a sort of mechanized super-pirate who springs out on users of the highway and orders them to stand and deliver! But whatever decision he may come to in the matter, neither he nor anyone else will grudge for one moment that a full measure of credit is due to the hon. the General Manager and his staff just for this one fact: that to-day we have a railway which is a very great and valuable asset to the country instead of being a very dangerous and disastrous liability, which it nearly became in 1932.

I think every layman's interest, at any rate, must inevitably centre in the end of Appendix I of the estimates, and there are a few special features regarding our railway which, I think, are worthy of a moment's examination as leading up to some attempt to form some conclusions on the figures shown in that appendix.

The Noble Lord has already referred to some of these, and I am going to shortly. Primarily, I think I am safe in saying that the primary function of our railway is to enable our producers to put their various forms of produce on the world's markets at remunerative competitive prices, and in order to do that we have had to adopt a special rating policy with special facilities for exports and get it back on higher rates on consumption goods, in order that the railway may work at a profit, which of course is essential. If that principle is recognized and accepted, we know it is a policy which must be very uncongenial to the dyed-in-the-wool railway man; we realize the next point, that our railway, for all its traffic, directly or indirectly, is dependent on agriculture and the vagaries of agriculture, with its ups and downs of seasons, and possible disasters that may occur in one year—drought, insect pests, or whatever it may be.

At that point, I should like to draw attention to what I think is the failure of the attempt made by the hon. member Mr. Pandya to try and locate where eventually the railway profits come from. The special betterment fund, he said, was

created out of the earnings from imports. It is impossible to regard the thing in that way, because quite obviously if there were no exports there would be no imports. So fundamentally I come back to my statement that the whole earnings of the railway from these various efforts are definitely dependent on agricultural produce.

That brings me to the next point, which I think is worth considering, that this question of railway budgeting every year is a matter of considerable difficulty. Subject as we are to these ups and downs of the agricultural industry, it is impossible for the railway to budget for a very small margin. It must budget for a large surplus, as I think I can show simply by asking you to consider what will happen supposing next year we budget for a nominal surplus of £3,000 or £4,000, and then, for one or other of the reasons which the hon. the General Manager drew attention to, such as a collapse in crop or the market for any crop, railway rates fall accordingly, with the result that at the end of the year we have a heavy deficit. We then have to raid our reserve funds, which, he explained, are not kept at a very high figure, and get the consent of the Secretary of State to making a raid on those funds to make up the deficit in the year, not necessarily a bad agricultural year or one in which farming is difficult all over the country. There would be an immediate cry from all sides of bad management, and it would be bad management.

For that reason it is necessary to realize that we have to budget for these comparatively large surpluses. I think I am right in saying that the net figures next year are £168,000, which, compared with anything like the Colony's surplus, is a large figure.

Again, in a good or normal year, that surplus may be very much larger than is estimated, and it fines down to this: in a good agricultural year it is practically impossible for the railway not to make a very big profit.

That brings us to consider the question as to what we should do with the surplus funds which we cannot help accumulating if the country is doing well, as all hope and expect it will. These are the figures

[Sir R. Shaw]

which we find in this Appendix I, divided into reserve funds of one kind and another.

The renewals fund requires no comment; we all understand that and how it accumulates. The general reserve fund was mentioned by the hon. the General Manager, who explained the position. What does require a little examination, I think, and it is obvious from the remarks of everyone who has spoken that there is keen interest in it, is the betterment fund. I find one very important point to be considered in regard to that, and that is the question of the steady diminution of what is called in this appendix the "capital account".

The hon. the General Manager has explained to us how it is that that fund must necessarily become smaller and smaller; in fact, from what he said, I take it he is in effect telling us that that account will shortly assume insignificant proportions. If one looks at Abstracts L and M, which show the works which have to be undertaken and carried out during the year, and some of the works go from one year to another, one must realize that funds to carry out works of that kind are necessary; and if the capital account disappears out of the picture altogether, to all intents and purposes, to my way of looking at it the establishment of a betterment fund in order to provide for the continuous carrying out of the various capital works becomes a necessity.

The whole point lies in the extent to which that fund and the moneys allotted to it are to be used to build up and create a capital asset for the benefit of posterity, or the extent to which these funds are legitimately used to improve the services for the benefit of the present railway users. There are a great number of items which, if examined, I think one must admit are definitely for the benefit of the present railway users. One or two I will mention briefly and quickly, such as Nairobi station.

Everybody knows that at present when the mail train is drawn up there there are three or four coaches in the middle where the passengers can shelter, and both ends are in the open; there is no cover to the station approach, and if you drive up on

a wet day yourself and your baggage are covered with wet mud. I do not think the present users of the railway will object to the expenditure of money to improve those conditions. Take such a thing as the improvement of the port facilities around the Lake. Where there has been a small pier in existence for some time and traffic increases until there is a demand for better accommodation from the railway, if that demand is justified by traffic coming forward it has to be met. That costs money. Take improvements to the permanent way. They are necessary in order to enable it to keep to the standard for carrying ever-increasing heavy-goods traffic.

I do consider that these things are forms of capital expenditure which are definitely necessary for the benefit of the present railway users, and, consequently, I think this betterment fund is a necessity. For all those reasons I gave my approval on the Railway Council and am supporting now the allocation of this considerable sum to place the betterment fund in a position, as the hon. member told us, of meeting, possibly even up to three years' bad times when all these various capital works would be knocked on the head if funds were not available to finance them.

The policy as disclosed here is that out of each year's earnings a sum of approximately £100,000 should be voted to the betterment fund to keep it up to somewhere about the figure shown now, and the unallocated surplus which we find in the last column but one of Appendix I allows for that contribution of £100,000. As I have said, it may be quite possible that that unallocated surplus may even be larger than the figure shown here.

Then we come to the question of what should be done with the definitely surplus balance. I would like to urge very strongly that an inquiry should be undertaken by a sub-committee of the Railway Council, or whatever is the best body, and undertaken now, to investigate the various proposals which will come within the four corners of the Railway Ordinance and Order in Council, and which would definitely be of benefit to the county. I am not going to attempt to make any suggestions of the uses this fund should be put to, but I think Your Excellency can obtain very sound advice on that subject if

[Sir R. Shaw.]

some proper inquiry is instituted. But I would like to suggest that one possible use of the surplus funds should receive very close attention. It has already been mentioned by the Noble Lord. That is the question of something in the nature of a rates equalization fund.

We all remember when the depression overtook us, and our railway was in a very difficult position, and just at the time when the producers could least stand it, they had to face an increase in rates. We do not want that to happen again, and I do not think it is possible to assume that we will never have another slump. There is no doubt that a rates equalization fund put aside for the purposes of assisting exporters, that is the local producers here, in really bad times, is a matter worth very careful consideration.

I want to say another word there, and it refers to some remarks made by the hon. member Mr. Pandya. In his attempt to consider all this railway policy and earnings and so on from the point of view of sectional interests.

You cannot regard the matter from the point of view of sectional interests. If, for instance, the Uganda cotton crop fails and the railway loses a great deal of revenue, that loss affects the whole of the agricultural industry of the two colonies. I go so far as to say that, apart from the actual years of general depression, if you had a rates equalization fund and in any given year any one particular industry might be in serious difficulties—such as, possibly, the coffee industry—I would not have the slightest hesitation in assisting that particular industry out of that fund, because the repercussion goes right round the agricultural industry, labour supply, and everything else.

I am not trying to lay down the law and say that such a fund must be created, but it ought to be carefully considered by any committee Your Excellency sees fit to appoint to go into these matters.

I have nothing more to add, except to ask the hon. the General Manager if he will be good enough to add one more question to his list. It refers to one column, the depreciation of investments. I think I heard him make the proposal that a fund of £100,000 should be created

with a view to meeting this item from year to year. I did not quite understand the position, and at the moment it struck me as being something alarming to make another fund of as much as £100,000. We hardly notice matters of less than £100,000 in railway affairs these days, but when the £100,000 mark is reached it does become alarming, and I should like a word of explanation from him in his reply.

COL. KIRKWOOD: Your Excellency, I rise to support the motion before the Council, and first and foremost I should like to congratulate the hon. the General Manager and the Railway Council on the results shown in the budget before us.

I have a grudge towards the Noble Lord which I should like to express, a definite grudge, and it is not the first and I do not expect it will be the last time. It may be because great minds think alike, but I found after he had sat down that he had robbed me of most of my cues!

I do not propose to go into details, and I have had a lesson or two this morning about details in listening to two hon. Indian members. The hon. member Mr. Pandya referred to the members of the Railway Council as wise men, and then proceeded to dispute their wisdom. That may be logic; it may be a good point of debate; I do not know. What I am more concerned about than anything else is the general principles of the railway, and I have not got down yet to them.

The railway was first built by the Imperial Government from two votes by the House of Commons. The first vote when expended had to be followed by another. It was built as a strategic railway, to get to the Lake for Lake communications, a central African communication from the coast. It was handed over, and Kenya carried the baby and the responsibility for the deficit and loans. We have had several general managers—there are still two on the pension list—plus the present General Manager we have now, who is also on the pay list, so that we have in a sense three. The pension list, I notice also, is a very heavy one, and when taken with the Colony's budget is, without going into pounds, shillings and pence, £243,010, leaving out the widows' and orphans' pension fund in our own Colony's budget.

[Col. Kirkwood.]

As regards principles, I stated that I failed to see where they exist, and would like it cleared up before the debate is finished or an assurance given as to what is the policy of the railway. We are responsible for the redemption of the loans, we are in the nature of owning the largest portion of the railway if it came to a distribution of the assets, but we have little control over the line. It is run by the hon. the General Manager plus the Inter-Colonial Railway Advisory Council and Your Excellency as High Commissioner for Transport.

The policy of the Colony has been to budget definitely since 1922 as one function, if you read the economy reports of that time, which I had the pleasure of reading at the Secretariat some days ago, where they laid it down, and it was accepted by Government, that the fiscal policy of the country as regards the railway was heavy inward rates and very low export rates on the railway, realizing the Colony is primarily dependent on agriculture. The same can be said for Uganda, although they are in a more difficult position; for they have practically one crop, cotton, and if they get a bad slump I do not know what will happen to the finances of the railway unless something is done in the way of a fund to stabilize rates against these eventualities.

We have, again, a great deal of interference from the outside. It may be worse in its way, but it cuts across the general principles. We have a report from Sir Osborne Mance accepted immediately and implemented. Classes 1 and 2 disappear, bottom rates still stop where they are, and I think that is the danger there. I do not think we have reached the danger line at the moment; it would be fantastic to say that on account of the huge surplus the railway is showing in the budget. But this rating revision, I suggest, from now will have to stop for some considerable time, because one has to give a great deal of thought and attention and get down to general principles.

What will happen next year, or the year after, if this rates reduction goes on? I have full sympathy with it, but to my mind it can be cut too fine. It then means you either have to restore classes 1 and 2

or put up classes 8, 9 and 10. It also makes agricultural commodities impossible to export at a profit. We have had some experience since 1930. Take maize, for instance, exported at a loss which has fallen on the farming community. They have now got a very large amount of debt. Being optimistic, like myself—we are all optimistic in Kenya—they hope to get out of trouble, but the increase of low export rates would stifle certain agricultural industries in Kenya. If the rates on cotton and cotton seed were put up, it would have a serious effect on Uganda.

I think the hon. the General Manager, Your Excellency, and the Council generally will realize the point I am trying to make. It is only a suggestion, and I hope it will be taken seriously. It is time we put on the brake, and after all the elaborate funds detailed in this budget have been provided for, paying Sh. 20 in the £, and allowing for interest, redemption of loans, and still leaving a large surplus, what is going to become of this surplus? I suggest that you cannot keep on distributing it in reductions in railway rates.

Last year, in speaking to this budget, I had to admit that I was singing my swan song in reference to branch line rates! I will not go into details of that now. I am very thankful that ways and means were found to abolish branch line rates; they were iniquitous. I am repeating my swan song on this budget when I refer to page 5 under the revenue account, which shows an increase of £19,769, while the note says:

The increase is due to the decision to abolish Government guarantees in respect of losses on branch lines.

What I would like to know—my deduction may be wrong—is this: It seems to me that that has been charged to loan fund charges when it should be charged to revenue account. Losses on the railway due to rates should go against profits on the railway. I do congratulate the hon. member and the Railway Council—and I am beginning to believe they are wise men—and I think I should offer my thanks for the co-operation undoubtedly given by the Uganda members in abolishing this amount. It will be the last time I shall have the privilege of speaking on branch line rates or guarantees. It was a

[Col. Kirkwood] pigeon of mine for many years, and I am very pleased to see it brought to finality in this budget.

There is another question that I should like to refer to in its proper sense, a question mooted in the Press for some time, the question of amalgamating the Kenya railway and the Tanganyika railway. I do hope that neither the hon. the General Manager, the Railway Council nor Your Excellency as High Commissioner, nor the Governors' Conference—about which I have always had wakeful nights when they are sitting! (Laughter.) For you never know what is going to happen. All the colony representatives I have met in this part of the world are most charming, but when two or three of them get together you never know what their combined action is going to be. (Laughter.) It is a question which will exercise the minds of the people of the territories, and I suggest we have got to go very slow. I do hope if there is any serious suggestion in the future, or the near future, your advisers, Sir, in this Council will be taken into full confidence before the Colony is committed to a policy without having been consulted, whether we agree or not.

Another matter I think I shall be right in mentioning is the suggested realignment between here and Nakuru, the line probably going via the Escarpment to Naivasha. I do not know the details, but I do say it is expensive, and I doubt the wisdom in the near future of committing the Railway Council to heavy expense on that part of the line. I again suggest that this should also be very seriously considered and no action taken without full consultation. I also suggest on general principles again that if the alignment is going to be altered we shall have to consider the road policy anew. It would be a mistake to spend large sums of money on a road between here and Nakuru and the Escarpment if the railway line is to be altered in the next one or two years, to take the top alignment which it should have taken initially, and should have been the main road between here and Gilgil, and not through the Rift Valley. We had an eminent engineer from Australia here years ago, and he came to the conclusion that that was the proper line, and the only difficulty was finance, for it required

a macadamized road on account of the forest soil.

I mention this because the two should be coupled together. If the railway goes that way, we shall have to build a road on account of getting stone taken in by the railway. I understand there is no stone in that area.

Details can well be left to the Railway Council and the General Manager, except when there is a case to be put up to abolish anomalies, if they do exist, and I am sure if they are put up to the Railway Council they will receive due consideration.

MR. BEMISTER: Your Excellency, I only want to ask one or two questions. Before I commence, I think I am the only one this time who has started his railway budget speech with his swan song. I may be that I shall not have the privilege again of speaking on this budget, and I can say what I would like to say, that the part I shall most miss is this railway budget, because we have always had it presented to us in a delightfully courteous manner, and any question we raise always receives due consideration and exceptional courtesy from the hon. the General Manager.

There is one question, I cannot understand his item in the Estimate of Revenue Account on page 10. It says payments to shore handling and lighterage contractors, which I understand has gone up higher than last year. I understand that a new arrangement has been made between the railway and the company whereby the railway takes a certain portion. I believe it is fifty per cent of the profits. I would like to know what estimate the hon. the General Manager makes in regard to that figure, and if there is any benefit going to be given in export rates or import rates at the harbour in connexion therewith. Various people have estimated the profits to the shore contractors at £30,000 and £40,000 a year, and since then the imports and exports traffic have very heavily increased, and in consequence it would seem that there will be a very substantial amount accruing to the railway which they have not had before. I would like to know if anything is going to be handed back over shore handling, because they are to-day exceptionally high.

[Mr. Bemister]

I wish to refer to a most peculiar anomaly. It refers to a place where two railways run. In an ordinary railway working you would find that where there are two railways running to the same station there would be competition to get preference, but in this case, on this railway, where two railways run to the same place, for instance, at Moshi, the rates are higher in comparison with the next station. And I am to'd that it is because the Secretary of State does not agree with competition on the two lines. But if you will for a moment examine the figures you will find that the Tanganyika line is gaining a very substantial amount of traffic because of its competition with this railway.

If coffee is sent from Moshi to Kilindini it costs Sh. 57 per ton, but if it is sent from Moshi to Tanga only Sh. 41/50 per ton. In consequence there is a competition rate there, and a difference of Sh. 13/50 which cuts out the chance of the coffee grower sending his goods to Kilindini and having them treated there and thus giving a little bit more work for the people and the energies of the millers in this country.

I would not mind so much if a man were allowed to send his stuff from Moshi to Taveta at the local rate and then obtain the ordinary Kenya export rate from Taveta, but there is a regulation by which unless they have coffee grown in the neighbourhood of Taveta and Moshi people cannot get such benefit by sending it at the local rate at Sh. 3/36 a ton to Taveta and thence from Taveta to Mombasa at Sh. 18/15, which then only comes to Sh. 21/51 per ton as against the through rate of Sh. 33/60. Now, does it not seem peculiar that to take advantage of the cheap rate and handling the stuff at Kilindini it cannot be sent from Moshi to Taveta, and thus allow people to take advantage of the through rate which the grower in Taveta can seize. The whole thing seems to me a most peculiar position, and I am doubtful if it could be compared with any railway in any other part of the world.

Your Excellency, may I ask these two questions? I would be very glad to have an answer to them.

MR. HARVEY: Your Excellency, I desire quite briefly to reinforce the argu-

ment of the hon. member who has just spoken for the reconsideration of the wharfage and handling charges at the port, more especially in view of the fact that, as I understand it, the revenue during the year under consideration will be £40,575 in excess of the current year, which will lead to a net profit of approximately £27,000 for the year 1938. Now these handling charges, I think I am right in saying, this, were imposed about the year 1928, and were based very largely on the *ad valorem* value of the goods being handled at that time. That being so, it is obvious that, if there has been a very big variation in the value of produce that a reconsideration of the handling charges imposed becomes a logical necessity, more especially in view of the fact that a new agreement we were led to believe has recently been entered into between the harbour authorities and the contractors who do the work, which means a greatly increased profit to a harbour authority by reason of the reduced handling charges.

To illustrate my point, so far as the Government is concerned, in the year 1927 the average value of coffee was £89/6/0 per ton, and the paying of Sh. 12 a ton in that year was a fair rate with the coffee at that price. In the year 1936, when coffee had an average value of £42 per ton, the handling charges must be unduly heavy, and the comparative figures I have worked out with some care and all have already been furnished to the General Manager, are these: Between 1927 and 1936 the per ton value of coffee dropped by 53 per cent, and for the same period port dues, calculated on a basis of £100 worth of coffee, have increased by no less than 113 per cent.

I am only going to quote two other agricultural commodities. On the same basis of compilation it will be found that the imposition in regard to maize increased by 77 per cent, and so far as handling cotton is concerned the increase is as low as 20 per cent. I suggest there is a very strong case for some reconsideration of these port dues for the reasons I have given. Naturally, I quite appreciate the fact that the charges for the services cannot be varied from day to day with the fluctuations in market values of produce. But at the same time ten years is a very

[Mr. Harvey] long period, and I think the logical conclusion is that, if what was done in 1927 was just, fair and reasonable with the conditions obtaining at that time, the same rates must be entirely anomalous under the totally changed conditions which obtain to-day.

That is all I wish to say. I sincerely trust that the figures I have given prove definitely and conclusively that there is a very strong case existing for reconsideration. We shall be interested to hear what the General Manager has to say in reply, but whatever he may say it will not prevent the interests I serve from returning to the charge if we feel that we are justified in doing so.

MAJOR GROGAN: Your Excellency, it appears to be the practice to-day to throw bouquets at my hon. friend opposite, and so I suppose I must toss him a cabbage or two. (Laughter.)

I readily confirm what the Noble Lord has said in respect of his efficiency. It is perfectly remarkable, the speed and completeness with which he deals with every issue I ever have to bring before him. At the same time, there are certain precautions that have to be taken, because we have had many a bout together, and there is a natural conflict on the general outlook between a person who is a congenial free trader and a person who is a convinced protectionist. That is why I regard any of his propositions with very serious suspicion, because, as already pointed out, he is ruthless in pursuit of his objectives, and I am afraid he often gets them.

But the remarkable part is the 100 per cent perfection that he has achieved in building up his Imperial status in relation to these subordinate territories. A very remarkable example appears on page 4 of the Audit Department's Annual Report for 1936: "26. A mail bag containing 22 cash remittance of Sh. 22 was stolen from a guard's van of a train. Since the Railway admit no liability in respect of mails carried by them, the amount was written off." (Laughter.) I submit that, after all, the Railway is owned by these two territories, and a very proper duty is to carry His Majesty's mails. If they admit no liability for such an obligation, I take off my hat to them!

References have already been made to the contrasts in the two budgets, so I need not labour that, but it is remarkable that after the weary days we have spent in discussing the State budget's trivial margins, especially as to whether that acute fiscal irritant poison, income tax, should be retained in our budgetary system to provide a matter of £40,000, whereas the Railway budget starts off on the basis of spending one million and a quarter out of the accumulated boodle torn from a long-suffering community and making serious reductions in rates of £175,000, at the same time estimating for a surplus of something like £250,000. The contrast was so staggering and so stunning that I noticed the hon. Treasurer sank unresisting into the arms of Morpheus! (Laughter.)

There has already been a reference made to the branch line guarantees. The only point I wish to raise is this. Last year I happened to move an amendment and was promptly told by the hon. the Attorney General that I was out of order, to the effect that the amount, then some £27,000, which was put as a debit against this country and a credit to the Railway, should be excised or transposed to enable us not to have this imposition of income tax. Everybody fell on me as a most impossible proposition that could not possibly be considered, and in a general atmosphere of hatred and fury I was rejected. I notice the thing has apparently been done without any resistance, when the issue is no longer alive and there is no further point in making any justification for that tax.

In the matter of sleepers, which has already been referred to by the Noble Lord, I am fortunately in the position of not being a contractor for the supply of sleepers, so that I can speak with comparative equanimity on the subject. It does not sound very much or seem important, but I am glad that the hon. the General Manager has already told us that he is going to hold an inquiry into the whole question.

I would like Council to realize that it is not a small matter but a very big matter, because the sum involved in these estimates is £270,000 spread over five years, and the actual amount for the ensuing

[Major Grogan] year is £55,746. That is a very large sum of money, and it has got to be remembered that this money is being drawn from a reserve built up and accumulated out of the pockets of the people of the country, and the distribution of a very large sum like that through the body politic of this land of ours would mean that all the small mills in the country—and, mark you, there are no large mills, no great single units at work in the timber industry; it consists entirely of a number of small mills run by small groups of individuals who make a living out of it, and that amount of money is sufficient to maintain all these mills here and in Uganda in active employment and a state of relative prosperity, as against the desperate position of the last few years.

It has also to be remembered that the sleeper is the most convenient method of using up odds and ends of timber. That is one form of timber in which timber can be sold in short lengths and in large quantities, and there are very large tracts of forest which can be converted into sleepers but cannot be converted into anything else. I have been engaged in the sleeper trade in the country, and the specification that has generally been laid down by the railway was 100 per cent perfection. I always believed it was not a sleeper specification but a joinery specification!

I assure you that when I came out from England about three years ago, I happened to make a mistake about a train, and I was marooned in middle Europe for a week. I had every opportunity of examining the strategic railways of France and Italy. I did not see in the whole of the railways one single sleeper that would have passed the specification or inspection of the Uganda Railway!

I do hope this matter will be reviewed entirely *de novo*. It was definitely laid down and published by Government after the investigations of the Bowring Committee and a sub-committee appointed by that committee, which included railway representatives, that the future policy of Government would be to use local timbers—suitable hardwoods or crossbred softwoods—in substitution for steel sleepers.

It is a very curious thing that the railway, under the same control as this railway, in the Sudan, where there is not a tree big enough to hang a hat on, was in my time equipped with wooden sleepers. It seems a curious thing that in a country such as this, with very fine forests and every conceivable type of timber and a thoroughly efficient and up-to-date cross-cutting plant, there are practically nothing but steel sleepers, whereas in a country with no timber at all you find imported wooden sleepers.

The methods of treatment have vastly improved in recent years, and I believe that in a very short time we shall find Magadi Soda Company in a position to produce one of the most efficient wood preservatives known, namely a fluoride. So it is not quite a simple thing but an important thing which affects a deserving industry which has asked for no assistance and has suffered more acutely than any other in the course of the recent slump.

In the matter of general reserves of the Railway, having borrowed large sums of money, the obligation of this generation is to maintain what we have borrowed intact and to hand it on unimpaired, but I do not believe our obligation goes very much further. The reserve at the 31st of December, 1937, will amount to something like four millions for general reserve, and the Railway is admittedly in very good working order. It was described by me on an occasion long ago when the railway was taken over as a "ribbon of rust"; it can now properly be described as a "band of burnished steel", and no doubt, generally speaking, the railway is in first-class order.

It has also to be remembered that in addition the accumulated sinking fund against these loans (I have been unable to ascertain the exact figure), but in 1935 that great beneficiary, Sir Alan Pim, gave me £1,429,730, so that I am fairly safe in saying that it must have accumulated to something in the vicinity of one and three-quarter millions at the present time. There is, in fact, general reserves of all sorts of five and three-quarter millions, a very handsome and striking position as against this obligation, which is not an obligation at all, because we have got an asset and the asset is in very first-class order.

Grogan] referring to the question of what proportion of these accumulations should be set aside for specific railway purposes and might properly be released for other purposes, I took the preliminary view of anticipating antagonism in my bringing a preliminary motion in hon. friend the General Manager yesterday, to make sure that there was no risk of making myself a fool than usual.

referring to the sums it is proposed to expend, pages 81 and 82, out of various reserves; that is, sums for expenditure as distinct from ordinary running expenditure. The total of the railways and harbours is £1,000,000. From that, of course, you deduct the funds which are really borrowed by us and not found by us out of our rates, and that amounts to £1,000,000; you have got to take that off. Some of the item Renewals Fund is quite obviously a proper charge, but the placement of the thing as it discloses, so that your assets remain in £1,000,000. Then we come to the more important item called Capital Account. I am not alone with many friends, I was much puzzled as to what this Capital Account meant; in fact, I was rather puzzled as to what this Capital Account meant, because of that popular finance known as "hidden reserves." The hon. the General Manager explained what it did mean. As I understand it, it means where you substitute something that is finished instead of retaining the thing, it is covered by this Capital Account. In that case, it is perfectly proper item in a budget, so far as it maintains the *corpus* of your work undertaking.

When you go through the item you will find it is a little bit elastic, and if you look deeply, I have not all the figures in mind and do not propose to stress them, but if you probe into them you will find they are a little bit more than what they appear in fact to a considerable hidden reserves. I am not suggesting it is an improper one in any way, it represents a definite capital investment to the *corpus* of the railway. I am quarrelling very much with that, when you have taken all this away from a total expenditure of £1,343,000

and, less the items I have given of £1,078,000, you have still got a net balance of £265,000.

That is an amount which has been provided by the users of the railway, and by the users of the railway I mean people like myself, who pay vast sums of money to the railway every year in respect of things we produce and move about the country, as distinct from the ordinary user, who merely consumes what he has in his house and pays tribute to that extent by using the railway. But when we consider the equity of the position, we must differentiate very clearly indeed between the ordinary person to whom the railway is a mere convenience to bring goods to and from and to which his contributions in effect are very small, against other people who produce and distribute on a very large scale, who transact the substantive productive and distributive business of the country, who pay vast sums in the course of the year to the railway.

The point is, is it right that these particular people should be forced to contribute large capital amounts for the benefit of others and the benefit of future generations? I say quite emphatically, it is not.

Therefore we have got this margin, and we have also got to add another figure, £141,000, which represents the sinking fund for the year as provided by railways and harbours, which of course is paid for out of current expenditure. Those two figures together amount to £400,000. They have actually been contributed by the main users of the railway. The £141,000 goes to reduction of the debt, and is not liquid; I am not suggesting it is capable of distribution. The net balance of £265,000 is a large figure—I do not think it can be challenged in any way—that in this budget is the net cold-blooded boodle, to use a term I used on the last occasion, which is debatable money.

I am not suggesting that the railway will not use it rightly and properly, but it is a debatable matter whether the railway should be allowed to use it in minor improvements to the railway or whether it should not be, as the Noble Lord suggested, and it has been suggested on several occasions, put into a kind of further development fund, which represents

[Major Grogan] principally an elaboration of the main transport system of the country; whether or not, in fine, it should be distributed among the two countries concerned in proper proportion and added to a Road Fund and used for that particular purpose, which would be a vast benefit to the railway. It seems to me that we could easily do without some of these super-refinements of the railway and use the funds available for some reasonable improvement of the feeder roads on which, after all, the railway depends very largely. That is really, I think, the only major point at issue.

In respect of detailed criticisms, there is only one point to which I should like to draw my hon. friend's attention: That is the item "bank charges," which I see are £1,000 up on the year, and amount to a total of £6,000, I believe, because I discussed it with him; I am not trying to commit him, but as far as I can see it is really an exchange charge. A bank that carries Government and railway funds is a very fortunate and privileged bank, and we should remember that these matters of exchange are matters that are ultimately controlled and affected by the clearances carried out by the Currency Commissioners under the Crown Agents.

That amount of £6,000 is no inconsiderable figure, and if not indeed a gift to the bank as it appears to be would in the ordinary course of events go into the funds of the Currency Board. In other words, it would become available later on for the best possible distribution or reinforcement of the general monetary position of the three territories. I do trust that serious attention will be paid to that item.

In so far as the last time we did suggest, and again suggest, that instead of promiscuous and unnecessary rates reductions, more serious attention should be paid to relief on high cost factors in general production, last year I had the audacity to point out that the question of the transport of boring plants all over the country should be free. Any gentleman who digs a hole to get water is a public benefactor! He may or may not get water. My hon. friend the General Manager answered the question last year

to the effect that I was lucky in that I got water. I got water at great benefit not only to myself but to a large number of people, but you have to remember that a large number dig holes and do not get water. Therefore the capital charge of transport is a very material increase in the cost of a bore hole, and in a country like this, with water the predominant factor over a large proportion of the territory, the least the State Railway could do is to transport the boring plant everywhere free of all charges.

There is another little matter characteristic of railway methods. When I first came to Africa there was a good old African principle called *hongo*. Wherever you went, the local chief claimed the right to extract something from you for the privilege of going across his border. It is so old that apparently many people do not understand the term, but still there are quite a number of hon. members who remember it very vividly, because it was a serious obstruction to movement in Africa in the earlier and more pleasant days!

I am going to give a personal example. One always should, because one is sure of the facts. Quite recently, a company I am responsible for acquired a very substantial area of land under lease from Government with fairly onerous development conditions. Before they could even look at the land, they had to cross the railway, and they were not allowed to cross the railway except on a level crossing. We were told the railway did not like level crossings, and the charge for one is £35 or £40, so that if the company want to go on to 20,000 acres of land leased from Government for the purpose of development, the railway was in the position of extracting *hongo* to the extent of £35. I escaped in this case, because there was a gentleman who took up somebody's level crossing and put it down for me! But I refer to this as an example which is almost unbelievable.

Surely the State ought to say that wherever a person is entitled to cross the railway to get to his property, the job of the railway was to see that he can do it. I am not going to pursue the question of sidings, but it is a matter for careful inquiry.

[Major Grogan]

What I would lay special stress on is the question of manures and lime. During the time when prices are relatively good people, if they are wise, do everything they possibly can to build up the fertility of their fields and farms against the day when the tide begins to ebb. These railway charges, I agree, are reasonable if you simply look on them as of no particular significance, but if you compare them with whisky and all that sort of thing they are not reasonable charges, and as the railway is brimming over with funds it would, if it were wise and really looked ahead and aimed at increasing the traffic, persistently increasing the traffic, quite properly distribute the essential ingredients of the land for nothing at all.

I am quite convinced that, even though the railway is regarded as a separate entity, it should take truck-loads of phosphates and lime from the coast to the uttermost parts of Uganda for nothing at all. In respect of the distribution of lime, we are fortunate in having at Tororo a high grade lime deposit with a phosphate ingredient of 4 per cent. very well situated for distribution over large areas in this country and Uganda. It ought to be worked on a large scale by the railway distributing truck loads free of charge to anybody who would take it, because owing to the policy of exporting under forced draught from large areas of the land, much of which is deficient in lime while a vast proportion of it is exceptionally deficient in phosphate, it seems to me only sensible that the railway, with its vast cash margins should transport that stuff for nothing at all. I am sure that would be very much better than the policy of perpetually reducing rates for the benefit of the so-called consumer.

The so-called "consumer" as an insalutable unit in the body politic is the idle rich. There is no insulated consumer except the idle rich, because all the other so-called consumers of the country are directly or indirectly concerned with production and thus are producers, and if not they ought not to be here unless they are paying their own accounts out of their own resources.

The hon. member Mr. Pandya put up a plea on his, the "consumer's", behalf, and referred not only to his own folk but

to the natives. Natives, almost without exception, are either direct producers on their own account in the reserves or indirect producers in co-operation with us on our farms and plantations; the whole of the native population is to an incredible extent a producer element. The Asiatic, on the other hand, though sugar is a very conspicuous and remarkable production on a large and efficient scale in Uganda by Indians (and I have had the privilege of seeing some of their plantations), is, generally speaking (except the artisan class and a certain proportion of local gentry and a few whose means of subsistence are not very well known) largely concerned with trade; in other words, they are the medium through which the produce, especially of the native, is collected and concentrated and forwarded to the markets of the world, and imports in consequence are distributed.

I would ask my hon. friend, who, after all, is no mean judge of these matters, to remember that the gentleman in the *duka* when buying from the native for export purposes deducts railway rates plus a little bit for safety, and when bringing in imports to sell to the natives adds railway rates plus a little bit for safety! Therefore really, when we are talking about this equalization fund, we are really talking about a precaution to safeguard the interests of everybody in this country, because by making it possible for the native and other producers to go on exporting regardless of the varying prices of the time we maintain also equilibrium of trading and other elements of society.

My hon. friend will remember that on the last occasion when we were in the trough of the slump the native produce could not move at all, because there was not sufficient margin left to enable the man in the *duka* to pay him anything by the time it got to the markets of the world. The result was the natives could not pay their taxes or the merchants had nothing to pay with, and the *duka* gentleman could not sell his goods, and during that time quite an important proportion of the Indian population left the country.

It is important that such a happening should not occur again. Therefore I am a very strong supporter of not reducing rates at the present time any further—I

[Major Grogan]

mean rates on goods that go into consumption as distinct from production goods and passenger rates, and that the amount allowed for on the other hand should be for an equalization fund allowed to accumulate, so that when the ebb tide comes again rates can go down on exports, even to nothing if necessary, so that mass production of the country can continue and go on in the ordinary way.

I think I have nothing more to say, except in general terms to describe this budget of my hon. friend opposite, as a good one!

MR. ISHER DASS; Your Excellency, I have heard patiently the hon. Member for the Coast, but there is one point I feel very strongly on, when he said the natives working for the settlers are also producers. If I may be allowed to correct him, they are human machines used for exploitation at very reduced wages of Sh 10 a month, and they cannot be producers. (A Member: Rubbish!)

I am really sorry for the hon. Member for Trans Nzoia, who probably failed to understand my colleague's suggestion that though the members of the Railway Advisory Council are wise men, yet they were acting in a manner different to wise men. My colleague made it clear that if they are wise men in the estimation of Government, they are not acting wisely; they are acting in a very unwise manner so far as the interests of the Indian community are concerned in one direction or another, and whenever the facts have been brought to the notice of these wise men they have not shown any inclination to take advantage of or adopt means for the redress of grievances or disabilities under which the Asian staff of the railway work.

In support of these arguments, the hon. member Mr. Pandya and the hon. member Dr. de Sousa both placed facts before the hon. General Manager for his consideration in connexion with their sufferings. I will not repeat them because it would serve no useful purpose. If the hon. General Manager has made up his mind after hearing all those facts and intends to bring some concrete proposals for remedying those grievances, I hope he will do so, but if he has made up his

mind, no amount of repetition will serve any useful purpose to convince him.

But there are one or two points I want to deal with. In the course of his speech the hon. member mentioned that by the introduction of this Transport Licensing Bill he hopes the revenue position of the railway will be improved. May I read an extract from the Legislative Council Debates of 1936, Vol. 2 (Part II), page 736, wherein the hon. the General Manager said:—

"The main condition laid down which I, as the General Manager, have to follow is that we should administer this system of transport as a business concern."

Later, he goes on to say:—

"The only other item of importance in that table is the general reserve, which I think we have all agreed must exist, and that has reached the figure of approximately 600,000. In the light of this explanation of the reasons for the existence of these funds, it cannot be said that the position is either strange or unsound in any way. It is a fact that these colonies of Kenya and Uganda have at their disposal now a railway transport service that is in sound condition, able to carry out the services for which we are here, and there will be no further anxiety whatsoever with regard to our finances."

Now after these assurances and these statements, made only twelve months ago, the hon. member comes before this Council with the preposterous suggestion that there should be control over all kinds of transport in this country so that thereby he shall have a monopoly. If he was not so terribly afraid of this small competition and the existence of a few natives earning their living by this means, there was hardly any necessity for making that statement only twelve months ago. If it is true what we says, and we take it for granted that he has said everything he believes to be right, there is no necessity of asking for the control of transport, and there is no justification for you, Sir, as High Commissioner, to create a monopoly by means of prohibition, because the position is very similar to any business house having the audacity to come to this Council and ask for protection by closing

[Mr. Isher Dass] other businesses which compete with them.

There is one more point. The hon. the General Manager, I think in order to pacify some members on this side of Council, mentioned the reductions in rates. He said, and he used the word give, that he was giving £150,000 in rate reductions and fares. He is not doing anything of the kind. According to the budget, item 3 under the head Revenue, he writes clearly:—

"The estimate of railway revenue of £2,562,300, which represents an increase of £87,735 over the 1937 estimate, is the net estimated earnings after allowing for a substantial sum in respect of rates and passenger fare reductions."

Whereas in fact he is expecting extra revenue after allowing for such reductions. Hence he is giving nothing. He could have said that he was making a profit of £87,000. That would have been a more equitable statement.

It has become a sort of fashion on this side of Council, whenever there are un-called for favours shown to them, to offer congratulations to the hon. member, and yet these gentlemen, a few days before, criticized the hon. the Colonial Secretary for the very small amount of revenue derived by means of income tax. It is a funny thing, for the hon. the General Manager is extracting as a commercial concern from the people of this country, and from taxpayers' pockets, the amount as I suggested of £250,000, plus £148,000 estimated extra expenditure for 1938, so that the total comes to £398,120. They are congratulating him on extracting this amount from the taxpayers, and yet a few days before they were grumbling and criticizing a small item of revenue of £45,000 in the Colony's budget. They can very well understand what they suffer from when they offer such sort of congratulations.

I entirely agree with every word of my colleague's in suggesting for the consideration of the hon. member the disabilities under which the Asian staff is serving. As I pointed out, no useful purpose will be served by repetition, but there are two things I am anxious the hon. member in his reply should explain to me. I want to know what has happened

to that rolling stock which, to the extent of half a million pounds, was left lying idle about twelve months ago or longer, in the different yards? When I asked him that question before, he said he was trying to ascertain whether it was possible to dispose of it. What has happened to that rolling stock, and where is the necessity, in view of the fact that if that rolling stock is still available and not disposed of, of ordering further stock from home? I shall be happy to know.

One last remark. If the information given this Council by my colleague Dr. de Sousa is correct, that the Asian or other staff work after office hours and are not paid overtime; I would respectfully ask the hon. the Attorney General, who is responsible for the legal work, to take criminal proceedings under the new Shop Assistants Ordinance against the hon. the General Manager for making them work!

Council adjourned at 12.45 p.m.

Council resumed at 2 p.m.

MR. MAXWELL: Your Excellency, it does seem to me that the wretched consumer has had a rather thin time this morning, and I cannot admit that he is of such small importance as has been indicated so far!

I cannot but agree with the Noble Lord that export rates are of the utmost importance both to industry and the country in general, but at the same time I would point out that high import rates in the past have and still do prove grossly unfair to the consumer. Therefore I was pleased to see that the hon. the General Manager is able, while not interfering with export rates, to reduce the two top rates until the highest will be 30 cents, thus meeting many of the grievances of the consumer and of the commercial people.

There will still be a few rates which need further consideration, and these can be adjusted from time to time. I refer to certain import rates which are rather unreasonable in that they make it more expensive to bring up goods from the coast to Nairobi than from the point of origin to this country. Some of these will have to be considered during the year.

With regard to the policy of the railway, about which we have heard much

[Mr. Maxwell] this morning, it does seem to me a policy laid down is the correct one, that the railway, while being run as a sound business concern, should provide transport as cheaply as possible, always keeping an eye on the country's development, and with rates as equitable as possible for all sections of the community. I do agree that in running the railway on a sound basis one should consider seriously the formation of a small equalization fund, from which any industry, in bad times, can be helped. The reasons were most clearly put forward by the hon. Member for Ukamba, and I need not go further into them.

I also agree that money should be put aside, to a reasonable amount, for a betterment fund; but I believe the danger here is that the fund may tend to grow to such a state that it will be expected to provide funds for capital expenditure which should be met out of loan. To my mind, it is quite unreasonable and unfair that the present users of the railway should be charged for capital development which will be for the use of other users in the future, and it is they who should pay for them. But once the rates are fixed on such a basis that they do not provide funds for capital development then, when one comes to deal with the inevitable fortuitous surpluses which arise under a sound rating policy, it seems to me reasonable that the railway, for any small capital works, should be allowed to draw on that surplus if no loan fund is available or it is unreasonable or inadvisable to issue a loan at the time.

I further agree with the Noble Lord that it is quite a reasonable thing that the railway, if it is possible, should hand over in the form of a bonus to the countries the railway serves a portion of this surplus. It would really be in the form of a bonus to users of the railway, and since this bonus could not be paid to them individually it should be the object of the Governments to carry out certain works which would assist development and be of benefit to the railway users. I use the word "bonus" and not dividend, which implies a profit-making concern, which certainly the railway is not, but generally agree with the hon. Member for Ukamba that when it comes to a question

of dealing with these fortuitous surpluses it is a sound thing for a committee first to consider all schemes and all points of view.

May I add my meed of praise to the hon. the General Manager and his staff for having such a very efficient system?

ARCHDEACON BURNS: Your Excellency, it is not my intention to deal with the policy of the railway nor of the way in which the surplus balances are to be disposed of; that has been dealt with by people who are in a better position to deal with them than I can possibly be.

But there are three or four points which I want to bring to the attention of the Council; some of them I am glad to say are in the nature of appreciation to the hon. the General Manager of the Kenya and Uganda Railway for having listened to the plea that one has made for some couple of years in this Council. I refer to the provision on the Kenya and Uganda Railway of separate accommodation for women in the third class who were travelling along the line perhaps from Mombasa to Kiambu. It was a very great pleasure to me when standing on the Limuru station when a train drew in to that station to see written up on one of the carriages a notice saying *Wanawaki Tuu* (Women Only), and to see that that carriage was packed with women who took advantage of that provision made for them.

I further appreciate what the hon. the General Manager has said with regard to providing such accommodation in all the third class coaches that are to be built in the future. I do appreciate that very much and if he will permit me to say on behalf of the natives as well as the Indians who use that accommodation that they appreciate it very much indeed.

It is rather dangerous to express too much in this direction, for I have still something to bring to the hon. the General Manager in the way of a plea, and I do support very strongly indeed the plea made by my hon. friend Mr. Pandya for the provision of an intermediate class on the railway. I feel very strongly on this point at the present time that as the Africans are advancing—I am speaking now of course from the point of view of the Africans; no doubt there are many

[Archdeacon Burns] instances of Indians, etc.—but the Africans are advancing in education and civilization, and the more advanced Africans would take advantage of such provision. And I do feel that it is very hard on them to have to go in third class carriages with all sorts and conditions of natives. I know they are their own people, but I have seen them crowded in their third class carriages, though the conditions have been very much improved indeed in the last year or two. Equally I am sure that educated natives would avail themselves of such accommodation if it could be provided in an intermediate class. I am sure that it would not be as the General Manager is afraid, that these carriages would be practically if not completely vacant. I do not think that would happen for a moment. I do hope that this point will be borne in mind, or at the least an appreciation from the hon. the General Manager of the need will be sufficient guarantee that such provision will be made on the Kenya and Uganda Railway.

There is one other thing I want very much indeed to thank the hon. the General Manager for, and that is the way—and I do say this earnestly indeed—for the way he and his staff are working the Africans into posts on the railway for which they are being gradually prepared. (Applause.)

It is a very real pleasure to me in these estimates to see the number of Africans that are being used and, I understand, used successfully and efficiently in connexion with the administration of the railway. That this can only be done gradually I know perfectly well, and as the Africans are prepared and taught so they can take their place with the Indians on the railway in those minor posts that are opening up to them. I do not think there is any department in the Government—I say this without attaching any blame to the Government departments, although I think more might be done in that way—I do not think there is any department in Government doing more in this way than the administration of the railway, and for that I want also to thank the hon. the General Manager.

There is one other little thing, and that is the provision that the railway has made

for a provident fund with regard to the African Civil Service. I know it is only in its infancy, and I know also that the Africans sometimes make unreasonable demands. But here is a beginning by which the African, it is hoped, will see that an interest is being taken in him by those in authority in the railway and in so doing help to make him a more contented and a more useful servant to the railway administration.

I should like, if I may, to point a moral. We have a lead to-day, and the railway have taken up the lead which I should like to see some of the departments of the Government following in the not very distant future. I know it cannot be done in a very short time; it cannot perhaps be done in a year, but I do plead that such a step should be taken into consideration so that the natives would see that we are taking an interest in them and are trying to make provision for them in this way.

There is one other point I should like to talk upon, and that is with regard to the statement made by the hon. the General Manager with regard to the increase in the passenger rate. That, as he has told us that there has been an increase, if I understood him aright, of £55,000 in the passenger rate and that that chiefly came from third class passengers. I am very glad to hear that, that they are being used in that way, but I would also like to use it as a plea to him and those who will be dealing with the financial aspects of the railway in the reduction of fares; whenever such reduction takes place that they will consider a reduction in third class fares on the railway to help those who are travelling third class.

There is one other matter I would like to touch upon, one which my hon. friend Mr. Pandya brought up, with regard to the passengers in the third class carriages being locked in their carriages. Now there may be lots of administrative reasons for this, but I do think, and I say very earnestly, that it is very unjust to the African, who has come out of his heathen customs and heathen ways of living, that these Africans who are more or less sophisticated and educated should be locked in in third class carriages—and I have seen this myself. I am not speaking of

[Archdeacon Burns] things I have not seen. I have seen them myself with their faces pressed against the iron bars of the windows of such a carriage begging that the doors should be opened for them when they come into a station, to get out and get a drink of water or something else of that kind. I am not blaming the authorities for the treatment meted out to some of the African passengers by the *askari* in charge there, but I do think and ask the hon. the General Manager to consider this aspect of the thing. I can understand that it is necessary when the train draws into a station and quite a number of third class passengers try to get out to see that they do not get away without paying their fare on the railway. If this is the reason of it, then I hope that some other means will be devised whereby the tickets can be collected and checked so that the people are not made to feel that they are prisoners in those third class carriages. I do not want to bring up instances, but I know of men—men in holy orders, though there is not very much in the outward appearance to show that they are clergy—I know of them being treated by an *askari* in such a way that makes their blood boil within them. That sort of treatment does not make for the good feeling which we all long for between the European and African.

Another important point which I want very briefly to refer to, and which has already been referred to by some of the speakers, is the altering of the alignment of the railway, and someone said something about Limuru Station. I happen to live near there. You want to be a first class athlete when there are three trains drawn up at the station and you have to take a series of jumps over this train before you can get on the railway platform.

I congratulate the General Manager and his staff for what is being done there, and I think the time is not very far distant when we shall be able to get our mail without this acrobatic feat, which some of us have got beyond performing when we go to get the mail at the station.

These are all the matters I want to bring up, and I do indeed most heartily thank the hon. the General Manager and his staff for what they have done for the African, and I look upon it as an augury

of good times to come when the African shall take his part in connexion with the services of that organization.

DR. WILSON: Your Excellency, I wish to associate myself with what my hon. and venerable colleague has said in the way of thanks to the General Manager of the railway. And in associating myself with these words of thanks I should like to remind the General Manager that we shall be thanking him no doubt for further reductions in freight of such things as cotton goods and blankets, and I would like to recall to his mind what Lord Moyne said some years ago:—

"I therefore recommend that cotton cloth and blankets of the cheap qualities used by natives should in future be included either in Class 4 together with such articles as condensed milk, dog biscuits, and books, or in Class 5 which covers other commodities of every-day use such as orange-squash, salt, soap, beer and onions."

If I were one of those wise men of whom we have heard so much during this debate I should now sit down, but I am going to be rash enough and possibly foolish enough to join in this general and rambling discussion on the railway estimates. I am afraid I shall be only a voice crying in the wilderness and probably in a sleepy wilderness, and I am surprised at my temerity in taking part in this debate after such speakers as the hon. Member for the Coast have spoken. Although I was surprised to hear him in such a moderate strain, in fact it seemed very much like the lion lying down with the lamb and I only wish that I as a little child could lead them. If my remarks appear to the hon. the General Manager and to other members as rather childlike and ingenuous I only hope that the General Manager as he is strong and everybody says he is strong, and I believe he is strong, will be merciful, if he so far condescends as to pay any attention to what I have to say.

As a matter of fact, what I intend to say could be taken really as the highest compliment to the General Manager and I am afraid that if I am going to get at anybody it is at the Government and the people of this country for allowing the present state of affairs to continue.

[Dr. Wilson]

I quite frankly admit that this problem of the railway estimates completely defeats me—the way in which these estimates are presented in this Council after the way in which we have discussed the general budget of the Colony.

I am afraid I cannot pretend to have anything helpful to add to what has been said, but I do feel that I must call attention to what I consider a most astonishing and surprising anomaly in this country of surprises.

The position to my mind is perfectly plain. This country and Colony of Kenya is a poverty stricken country, for we have no public money to spare for a thousand and one highly desirable and, in some cases, absolutely essential services. We argue for days on end in this Council and in the Standing Finance Committee over comparatively trivial items of expenditure, and even the smallest increase in expenditure becomes the subject of prolonged discussion, and the chances are that it will be eventually turned down. Yet in this poverty stricken community we have a flourishing and extravagant growth, growing in the country and on the country—the Railway. These estimates justify that description. In contrast to the parsimonious, almost minute, details of the Colony budget, we have the railway dealing in hundreds of thousands of pounds in renewals and betterment and reserve funds, and it is the inequity and injustice of this uneven distribution of money which is so exasperating. The funds with which the railway is dealing and the fund with which the Government is dealing are equally derived from the tax-paying and rate-paying members of the public, because in the circumstances of this country no individual can escape from the imposition of the railway rates any more than he can escape from the imposition of customs duty or any form of direct taxation such as poll tax or income tax.

The railway is a government owned, government controlled and, I maintain, government protected monopoly, and the rates collected by it are just as much a government-imposed charge as any other form of taxation. Then why should not these charges on a poverty stricken community be levied at such a rate as to

allow the accumulation of enormous sums in the way of reserves? Why should we allow these accumulated funds to be spent with a lavishness and freedom from control which is unknown and impossible in any other Government department?

Last year the hon. the General Manager made out a convincing case for the accumulation of reserves and for securing adequate reserves—I have no quarrel with that. It is perfectly reasonable to insure one self against hard times which may be coming, when that fund may be used to protect the public from any increase in the rates. But what we are faced with to-day is the lavish expenditure of money on renewals or betterments, under whatever term may be included in those major works, which are so obviously going on at the present time. Three speakers have referred to the Limuru Station. I take that as a case near home but it is not an isolated case and there is no question about it that the railway is now undertaking new expenditure on a very large scale. What other proposals are contemplated in these estimates, nobody knows except the hon. the General Manager of the Railway, and his staff and possibly the Railway Council. What seems to me the perfectly obvious thing is that the railway has the money to spend and is taking good care to spend it while the going is good.

The contrast between railway expenditure and that on other public services to my mind is ludicrous. We have some desperately important works waiting to be financed from the general revenue and they have to be postponed. This is not the place to mention them in detail, but one might just mention hospitals. All our roads are rapidly falling into ruin for want of money to keep them in repair. The railway not only keeps itself in a state of high efficiency but it accumulates colossal reserves, and is now indulging in a programme of expenditure on what I can only call a staggering scale.

If we want £1,000 for any other service, everybody sets about criticizing the proposal; every item of the expenditure is criticized with meticulous care and there is a good chance that that expenditure will not be allowed by public opinion. But how many people know of the expenditure of very many thousands, hundreds of

[Dr. Wilson]

thousands of pounds, by the railway, until after the money has been spent, and sometimes not even then? Surely all the items of expenditure by the railway are not of such a technical nature that it is not possible to find people qualified to criticize the wisdom of such expenditure. If this close control of government expenditure is desirable and necessary why is it not equally desirable and necessary in the case of the railway? Obviously this is an anomaly, and I think some remedy should be found. The money which the railway has spent on itself has come from the public, and there must be devised some method by which any excess, after a perfectly reasonable allowance has been made for the expenditure necessary to the railway, to keep it in efficient running order, to ensure that this excess comes back to the people from whom it was taken, in some form other than in this so-called betterment of the railway itself.

SIR GODFREY RHODES: Your Excellency, may I first of all thank hon. members opposite for the very kindly way in which they have received this budget, and also for the very nice things they have said about the Railway Administration and the staff responsible for carrying out the work? I appreciate that on behalf of my staff, particularly because as a rule they do not see that side of the picture. What efficiency we have been able to achieve is due entirely to the rank and file who are responsible for the detailed work in connexion with the running of the railway, and I like to seize every opportunity I can for bringing that point home to the public, and when it is recognized, as it has been to-day, I thank hon. members for their appreciation.

One other point I should like to make before answering the questions put to me in debate, is that I am very glad indeed that, speaking generally, the debate has been confined to main principles. My reason for that is that it would be quite impossible for me to deal adequately with the thousands of detailed questions that could be asked, in a short debate. But if the debate is confined to general principles and main points of policy, those I hope to be able to answer at least, with some degree of success.

The debate, I think, has been on a very high level indeed, and I hope my reply will meet reasonably adequately the various questions that have been put.

The first question that we have to consider is, what is the general policy of the railway? The charter to which we work chiefly is section 13 of the Railway Ordinance, and I should like to refer to two paragraphs of that section, because it does cover the whole picture and defines the whole policy we have been following for 10 or 12 years:

"The Services shall be administered on business principles, due regard being had to agricultural and industrial development in Kenya and Uganda by means of cheap transport. So far as may be, subject to such provisions as may be considered necessary to meet contingencies, the total earnings of the Services shall not be more than sufficient to meet—
and then is detailed the list of items we have to meet.

That has been our policy, that has been our charter, and we have endeavoured to carry that out to the best of our ability: "business principles," with the object in view, "cheap transport."

That obviously as it stands rules out any question of handing over funds to either Government for any particular purpose, whether it is a worthy purpose or whether it is not, or whether it is a purpose that would help transport or whether it does not. At present, we are definitely prohibited from doing anything of that sort. I think there are very good reasons why that principle has in the past, at least, been an extremely sound one.

We know that where railways are run for the purpose of helping the general taxpayer, providing hospitals, roads, and that, that sooner or later the railway becomes a taxing machine, sooner or later Government policy begins to impinge itself upon those who are responsible for designing the rates policy, sooner or later we come to the point where rates go up in order to provide money for those very essential services, and sooner or later the railway has financial shortfalls. That has happened in every country where that experiment has been tried. I know of no country where it has proved a success.

[Sir G. Rhodes]

Therefore, I suggest, the compilers of the Ordinance were very wise when they included that principle.

The result, I claim, is to-day you have got a transport machine which is endeavouring to provide these territories of East Africa with cheap transport, and I believe we are succeeding to a large degree of success. We, as my annual report shows, are steadily reducing the cost of transport in these territories. We have been particularly fortunate, I think, in being able to carry that policy out, particularly during the last two or three years. The figures we have been able to produce in these annual reports definitely show that the cost of transport has come down in a remarkable way, almost by leaps and bounds. To-day, the cost is enormously cheaper than it was even 5 or 6 years ago, and that is the result of sticking absolutely to this section and the principle laid down.

One other principle has been followed for the last 15 years, and that is the policy to which the Noble Lord referred of quoting as low rates as we possible could for produce going out of the country and making up our money on high rates on imports. That policy I have from time to time fully agreed in. It seems to have worked satisfactorily in this country. It has produced a country which is now beginning to stand on its own legs from the point of view of local production, and imports that come in are reduced to luxuries and things that cannot be grown in this country. I believe that policy has been entirely successful, and we have endeavoured to follow it out as closely as we could.

It has made trouble and difficulty at times, because in some respects we perhaps overdid the policy. There has been traffic we have been called on to carry for which we actually had to pay out money to move. That, I suggest, is carrying that policy a bit too far. We had to take revenue from the higher raised commodities to pay for the transport of the very low rated ones. We have broken away from that with a good deal of trouble and difficulty, and now I can say that our list of rates actually cover our out of pocket costs, and to that extent I think we are now secure, and we do not mind if this low rated traffic increases appreci-

ably, because we can carry it on the present basis. We could not carry it when it involved having to pay money to move it. It began to have a serious effect on the net revenue of the Administration, because these traffics amounted at one time to no less than 35 per cent of the total traffic carried. In 1933 it was 29 per cent, and one year it was 35 per cent, which was the highest.

That became a very serious matter, and rates had to be adjusted slightly, and that accounts for the reference to the maize rates which the Noble Lord stated quite correctly had been increased slightly. The reason was that the centre of gravity of the maize industry moved to a point in the neighbourhood of Eldoret when previously it was in Makuyu, and our transport costs have gone up slightly in consequence and we had to increase the rates to meet the cost of the extra haul.

The principle is still the same. We endeavour to carry such traffic, and the equivalent in the Uganda cotton seed, at the lowest possible rate we could quote covering out of pocket expenses.

These two main principles have been followed, I think, successfully during the past 12 or 15 years, and now we have reached the point when we can get over some of the difficulties that arise with a rating policy of that nature. We have seen them in connexion with road competition and they come to us in various other ways. We get criticisms from consumers and those interested in imports only, not perhaps in exports, and even from people interested in both—we find them quite happily accepting the low rates on export produce but grumbling if they have to pay high rates on imports. An unbalanced tariff as I have called it in the past, of that nature, introduced difficulties which we cannot altogether deal with without having prohibitory legislation or other troubles of that sort.

Therefore we have in the last two or three years, when money became available, endeavoured without increasing any of our charges on produce going out of the country, to ease the position regarding top rates, and I am very glad to say that the rates proposed for next year I hope will bring the maximum down to the figure mentioned by Sir Osborne Man-

[Sir G. Rhodes]

50 cents per ton mile. With that figure we are reasonably safe from all these other troubles, and we were therefore able quite happily to support the Transport Licensing Bill and place ourselves on the same footing as other forms of transport.

But the question still arises, what are we to do with the surplus money should we be in the happy position of accumulating further sums? In the past and in recent years we have, as hon. members know, done very well indeed, but I should like to point to one fact, and a very important fact. We have been very fortunate indeed in not having any crop failure during the period of depression or subsequent improvement in the position, not a single crop failure of any magnitude affecting the railway position. We are very fortunate in that respect, because in an agricultural country, as hon. members opposite know, we are liable to have crop failures. If, for example, there was any trouble in Uganda regarding the coming cotton crop, we should be in difficulty at once from a financial point of view.

As a result of that fact, we were able to accumulate a reserve of surplus funds at a rate which none of us ever expected. We have been able to take advantage of that position without any hardship whatever on the community because the excess money came from extra traffic not anticipated or expected. We stand here to-day with our reserves absolutely full, and we are able, then, to survey the position and try and decide what should be a wise policy for the future. That, as I have already said, is also receiving the careful consideration from the Railway Council in the near future, and it will be put before the two Governments.

When we were considering the question of reserves in 1930 or 1931, this question in a similar way was submitted to the Railway Council and had their very careful consideration; it then went to both Governments for their views, and then finally to the Secretary of State, before a policy was agreed on. I suggest that the same procedure should be followed in deciding now what our future policy regarding surplus money should be.

There are, of course, still one or two railway ways of spending that money. I

have no difficulty in suggesting several possible ways of spending it which should receive consideration. Hon. members have already referred to one, a rates equalization fund. I am very glad the suggestion has received such support, because I believe it is a very valuable one in a country of this kind where everything is dependent on weather and agriculture, to have available a fund of this nature. Another thing we can consider from the railway-point of view is to what extent we should provide for the amortisation of our loans. I have published in the annual report the position of our sinking fund, but I would like to quote one figure now, and to state that in connexion with the Kenya 5 million loan raised in 1921, which is 6 per cent, a very high rate of interest, we shall have available in 1946, when the loan falls due for redemption, only £1,775,000 to meet a total of something over £4,000,000. When that time comes we shall have to consider what we have got to do. If we can increase that sinking fund without hardship to the present use of the railway, obviously it is a wise thing to do, because we do not know whether we shall be able to raise fresh money at that time at a low or high rate of interest. If times are prosperous the interest will be high, and we shall have to re-borrow to make up the deficiency at a high rate. If a slump is on, we could find money at 2 or 3 per cent cheaper. But that is a question which does require careful consideration.

That refers to one loan only. Others fall due later on. There is one in 1948, and we shall be in exactly the same relative position, so that hon. members will see it is a matter for consideration.

The question of having a betterment fund has been fully debated, and I rather gather that the trend of opinion on the other side of Council is agreement with us that reasonable betterment contribution must be put up. I quite agree that this must be carefully watched. A betterment fund is not intended to take the place of loan expenditure, but is for smaller sums of a capital nature which would not be properly financed out of loan money. I do not know if hon. members appreciate what it does cost to borrow. If we borrow, say, £100,000 for 10 years, by the time that has been paid for it will have cost us £127,000, 27 per cent increase on the

[Sir G. Rhodes] amount available to spend, and if we spread that over a longer period, up to 40 years, for which period some of the loans run, we shall have paid an increase of no less than 119 per cent, that is double the original capital we raised. That is a very expensive way of doing business, and if possible we should avoid it. We cannot in all cases, but as regards this comparatively small expenditure to which I am referring the cheapest and most efficient way in which that expenditure can be met is from what we have called the betterment fund, bearing in mind that we contribute to that only when we get surplus revenue. In bad times revenue is not available, and there will be no contribution to that fund, and hon. members will remember that during the recent Depression we were unable to devote any money at all for that particular fund. There was a period of about 5 years when nothing whatever was contributed to the betterment fund.

That shows that it is intended to be a very flexible charge against the public. Only when additional traffic comes along producing additional money can we put sums into the betterment fund.

For reasons which I explained in my opening speech, we have been able to finance a small betterment reserve, which I hope will carry us for a limited period so that we need not interfere with wise and proper expenditure in bad times. It is a disaster not to be able to spend money in such periods when we can make suitable arrangements for carrying on our regular programme, by a wise arrangement beforehand.

There is one other way in which, without going outside our legal circumstances, we could perhaps be of assistance to the two Governments. That is by lending money at a very low nominal rate of interest from our surplus funds in place of sending it home to be invested by the Crown Agents. Not only would that enable Government to deal with a development programme, but it would save Government the cost and expenses of raising loans of the nature I have just explained. The only condition we should have to make from a transport point of view is that we should be able to call on Government to repay such loans at

reasonably short notice in order to meet our definite liabilities in connexion with the amortisation of these other loans. That is a point that can be considered and followed up.

The Noble Lord also suggested, after dealing with rates reductions, that some of the minor charges were found to be very irksome and somewhat heavy. I refer to the question of private siding charges, level crossing charges, and such matters. These will require the fullest consideration in the future. The principle we have followed in the past is that all costs should be met. The cost of a level crossing, for instance, averages out at £50, and that has been the charge we have made when applications have been made for level crossings. Similarly with sidings, charges have been made accordingly. We could reduce these charges, but as they are more or less out of pocket costs I do not know whether it would be quite fair to call on other users of the railway to finance facilities of that sort. I think that what we ought to do is to get our costs as low as possible and make our charges correspondingly low.

The Noble Lord also referred to the question of coal, and asked whether we had any legal hold in connexion with the recent difficulty of getting coal in South Africa. That question is now under further examination. The first contract is being completed this week, and the legal officer of the railway is going into the whole question, and he will have to decide whether we have any fair claim against the contractor. All I can say at the present time is that I am fully satisfied that the failure is in no way due to the contractor himself but entirely due to the fact that coal could not be taken from the colliery to the port on account of the government railways. Both the contractor and ourselves were put to very heavy expense in meeting the situation, and I can say quite deliberately that the contractor has done everything he possibly could to meet us in these circumstances and arranged for shipping and other contracts in the emergency. The actual legal position is now under inquiry, and I am afraid I cannot give any more definite answer at the present time.

The question of wooden sleepers was also referred to by the Noble Lord. I have

[Sir G. Rhodes] already issued instructions that that question should be carefully and fully examined. I am in full sympathy with the points of view expressed by the Noble Lord and the hon. Member for the Coast, in that we would like to be able to use our own timbers in this country and keep the money to spend on them in the country rather than send it overseas. But the question is very, very difficult. In the past, we had wooden sleepers. By the time we paid for them, had them treated, fitted bearing plates, and so on; they were very much more expensive than steel sleepers, and their life was very much less. In the past it has not been possible economically to employ wooden sleepers. The situation has now altered with the rise in the price of steel, and is to be the subject of an inquiry. I cannot prophesy what the result will be; all I can say at the moment is that it will be fully and carefully gone into.

I think that deals with most of the points raised by the Noble Lord, and I will now turn to the speech of the hon. member Mr. Pandya.

The first point that I want to make quite clear is that our betterment fund expenditure is in no way a racial matter. Our betterment funds are spent purely in the interests of transportation as a whole and, so far as the railway is concerned, not in the interest of any particular section of the community which it happens to serve.

I am afraid it is quite impossible for any member of this Council or other sections of the community to have full details of the working of the railway. That can only be obtained by the members of the Railway Council, who act as the board of directors, and it is quite impossible to make every shareholder fully aware of every detail of administration. I am afraid that, even if the hon. member himself were on the Railway Council, his other colleagues would have just as little knowledge of detail as they have at the present time. These matters are dealt with very fully by eight members of that Council sitting as a board, purely advisory, as it happens, but functioning more or less as a board and I am afraid it would be quite impossible in an administration of this size to try and explain every detail outside that board.

MR. PANDYA: On a point of order, does the hon. member suggest—

HIS EXCELLENCY: I do not think that is a point of order or explanation.

DR. DE SOUSA: It is a point of order.

HIS EXCELLENCY: Will the hon. member sit down, please? As I told the hon. member yesterday, he cannot get up and make a second speech.

MR. PANDYA: On a point of explanation, am I to understand that the hon. member is not responsible to this Council and is not prepared to give replies to questions asked in this Council?

SIR GODFREY RHODES: I am fully responsible for the expenditure policy of the railway, and I will try as far as I possibly can to reply to detailed questions of hon. members. What I am trying to point out at the moment is that I cannot possibly explain in detail included in this picture. That has been gone into in committee of the Railway Council in the fullest possible detail and it is difficult to try and repeat that process here unless we are prepared to stay here for the next two or three weeks!

The hon. member suggested that we paid insufficient attention to the human element. May I at this stage in connexion with his speech and the speech of the hon. member Dr. de Sousa, say that I am very grateful for one thing? That is, it does give me this opportunity of saying how much the Railway Administration does depend upon the efficient work of our Asian staff. I took the opportunity of saying this last year when similar questions were raised, and I am very glad to be able to inform Council and the public generally that we are served by a very loyal and efficient Asian staff. Nobody appreciates that more than I do, and I can assure the hon. members opposite that the question of Asian terms of service and Asian conditions of service receive the same considered treatment from me and my officers, and the Railway Council as the staff of any other race. I would like to make that point absolutely clear.

It comes to me as a shock to be told that there is any differentiation in treatment between the different classes of our staff. I absolutely deny that in as clear

[Sir G. Rhodes]

terms as I possibly can and, what is more, I believe our Asian staff fully appreciate that position too. They know that every complaint or request which they have put forward receives the fullest possible consideration, not only from me and my senior officers but also from Railway Council. The questions put to me with regard to their terms of service are exactly the same as the questions I have already received from the European staff, and in many cases we had to turn down their requests in exactly the same way. I hope I have made that particular point quite clear. It would be impossible to run a railway of this kind, with three or four different races, unless the same fair treatment was handed out to all sections.

I was asked one or two particular questions with regard to the classes IV and V grades of the Asian clerical service, and I was asked whether there was any change in the previous policy in that respect. There has been no change. In our control we lay down certain establishments which must not be exceeded, and this normally applies to every class in the different grades. As regards classes IV and V, the last two classes, the establishment is fixed in the two classes grouped together, but there are two conditions that apply to a member of the staff before he is promoted to higher grade.

The first is that he must himself be sufficiently efficient to justify promotion, and the second point is that the type of work he has to do justifies extra expenditure. These are the only two conditions that apply, and they have been applied for some time.

The hon. member Mr. Pandya asked how many members of the staff were detained at the top of their grade for a number of years. I have in front of me from the Transportation Department some figures which I can give him. In class V of the clerical grade, out of a staff of 118 there are 69 who have been at the top of their grade for two years or more; in the assistant station master grade on a similar salary 61 have been at the top of their grade for two years or more. I note that every one of these individuals would like to go into the higher class, but I regret that for one or two of these reasons—either the man himself is not sufficiently

efficient or the value of the post does not justify greater expenditure—these men have been detained at the top of their grade for a certain period.

I cannot, as I said, create posts for the sake of individuals. We have to try and administer the railway on business principles and justify the holder of every post by the value of the work he does. I may say again that I have exactly the same problem to deal with as regards the European staff. As you probably know, we do not have long scales of salary on the railway to the same extent as Government. Our engineers stop at a certain point because the value of their services is not worth more, and I have exactly the same question put before me by European members, and have to turn it down for the same reasons.

The hon. member also asked me whether the saving in the running allowance was due to the fact that the allowances had been reduced. Our running allowances have not been reduced. The reason why the expenditure is not so high is because the class of individuals drawing the allowances has altered. The number of European drivers, for example, has decreased while the number of Asian drivers who are on a lower scale has increased. That has caused the running allowances to be reduced.

The hon. member also pressed for a reduction in third class passenger fares. All I can say at the moment is that that is on the list for final consideration next month.

The question of joggree was dealt with last year and some alleviation was given, but if the question arises now in connexion with export traffic I will have that matter examined and looked into.

The hon. member also asked whether we could consider the introduction of an intermediate class. I dealt with this last year also. We cannot at the same time increase the facilities we give to passenger travel and reduce fares. Rightly or wrongly, the policy at the present time is to reduce fares as rapidly as we possibly can. The introduction of an intermediate class, the reasons for which I can fully understand and have a great deal of sympathy for, would immediately put up the cost of passenger transport, and with the development of road transport coming

[Sir G. Rhodes]

along I am not at all sure that the Railway Administration would be justified in incurring that expenditure. At any rate, the question has not been lost sight of, but at the present time I can hold out no hope whatever of an intermediate class being introduced.

I want to deal with the question of the third class passenger being bolted and barred into his compartment, and should like to say at once that that is not done for any particular railway reason. It is not done, for example, so that we may collect our fares! We have other ways of doing that. It is done entirely in the interests of the passenger himself, as if these bars are not there and the doors not locked passengers persist in putting their heads out of the windows so that they are liable to be knocked off by the first water column that the train passes or, if the door is left unlocked, they open it and fall out. (Laughter.) That actually happened quite recently!

I myself raised this question a month or two ago to see if the time had not come to ease our conditions in this respect, and I was given figures to show that quite recently there had been casualties in that way. One of the train askaris, who has a carriage key, neglected to lock a door when he went out to inspect the rest of the train; somebody promptly fell out and was nearly killed. So that it is entirely in their own interests, and none will be happier than I when these restrictions can be removed. I may say that I think the same restrictions still hold in India. I saw the other day a specification for a third class coach for the South Indian Railway, and it specified bars on all windows. Whether they lock the doors I do not know, but they used to do so for exactly the same reason.

The hon. member also referred to the Transport Licensing Bill, and asked whether the railway was not going to be better off under this new Bill. I really do not know. We are taking a risk, as I pointed out, and I do not know whether as a railway we shall be better off or not. There is a great possibility—and my hon. and learned friend the Attorney General, who is going to be chairman of the Licensing Board, has already threatened me with it—that the board will not listen to

any of our suggestions concerning transport in competition with the railway so that possibly we may actually lose over this change. But, as I said before, owing to the alteration in our rating policy and the fact that we are able to deal with these top rates, I think we are reasonably safe, and I feel that the country will benefit very much from a better organized transport, and that the railway will in fact benefit in that way. As I said in my opening speech, it may even be possible to give through bookings to outside points miles away from the railway which was quite impossible hitherto and which will, of course, benefit the railway and, I suggest, the Community too.

I now come to the speech of the hon. member Dr. de Sousa, and I have dealt with one or two general points in my reply to the hon. member Mr. Pandya. I do hope he will take my word for it that we do not treat our Asian staff in any way different from other staff on the railway.

I feel some difficulty in answering all these supposed hardships. I do not believe there are any hardships at all. It is quite true our terms of service are somewhat different to Government, but that does not mean that our terms are not sufficiently generous for the purpose. Just because another department happens to be able to give better terms is no real justification for our following suit unless we find that our terms are really a hardship and unduly bear on any individual members. I have not been convinced on that point at all.

We have examined the question fully and carefully during the last 10 years or more. Our terms were altered in 1925 or 1926, and improved in many ways since. We have no difficulty whatever in finding all the staff we need to serve under those terms, and that shows that the proof of the pudding is in the eating! I can talk to my own staff more easily on this question than I can to hon. members in this Council, because our own staff also appreciate the service side of the picture. We are here to serve the country to the best of our ability, and they realize it. We are not here to get the best possible terms we can get, and the terms, I think, we have arrived at are fair and reasonable ones.

I will go carefully through the points the hon. member raised when I get back

[Sir G. Rhodes] to my office to see whether there are any that I have overlooked. I was very grateful for one or two points he gave me last year, which have been dealt with, but as far as I can see by the notes I have made every one of the points he has made here this year has been fully considered already.

One question about overtime, I think, was raised, wherein he stated that Europeans always got it and Asians were never paid overtime, or something to that effect. Our overtime rules are very very carefully laid down. They apply to all sections of the staff, and are administered and checked very carefully by the Chief Accountant's department, and I can assure the hon. member that the Chief Accountant could not possibly be guilty of administering the rules in favour of one section of the staff as against the other, particularly as most of his own staff belong to the Asian community. There can be no question whatever of any unfair treatment in that respect.

It is quite true that many of our staff can be found working in the offices after hours. I have myself been found in the office occasionally in such circumstances, but where special jobs of work have to be done overtime is granted. But we have a very keen staff not afraid to work overtime; when they feel that the work is getting behind they do their best to make it up. I am very grateful indeed for the spirit in which the staff as a whole do carry out their work during our busy periods. We are supposed to get an easier time in the slack periods, but that does not seem ever to eventuate!

The hon. member drew attention to the question of the daily wage of artisans. As I said last year, it is a recognized system of paying this type of staff. Some of them, I am glad to say, do get employed for a considerable number of years, but that does not affect the principle, that artisans employed on work which may be stopped at any time—if we have a depression, the first thing done is to shut down some of the work—must be paid a daily wage. That is the principle followed, not only by the Department of Public Works but also, I believe, by every contractor in the town, in the building

trade particularly, who pay the whole of their staff on this basis.

Of course, the wages paid take into account the uncertainty of their employment, and the rate of wages fluctuates with the demand, and I have no doubt that at the present time the present tendency is for wages of artisans to go up. In the same way, the tendency is for wages of all African labour to go up.

The hon. member also asked why we could not have an apprenticeship scheme in the workshops. I must say that in connexion with our apprenticeship schemes we have considered employment in the railway only, and while we can give no definite undertaking that every one who passes through their apprenticeship will be taken on in the railway, in practice we have tried to see that that was done. I believe that nine times out of ten it is. In the workshops I would have very little room for the employment of apprentices who have passed their courses, but if there is a feeling that we could do something to help the Asians generally by training apprentices in this way that is a matter I shall be very glad indeed to go into.

The hon. member Dr. de Sousa also referred to the question of housing, and I must say that I heard his remarks with some surprise. I have not myself been connected with this for some years, because this is the particular charge of the Chief Engineer, but while I was Chief Engineer of the railway some years ago we prepared a scheme for the housing of Asians on the Fort Hall road in consultation with an architect in town and also with the town planning expert of the Municipality. Our scheme was approved in full by the Municipality, and as far as I know, with possibly only minor amendments, is now being followed out. It is a properly designed scheme, with roads of access, drainage, tree-planting arrangements made, and some open spaces provided. Possibly during the construction stages all these details are not completed, but if the hon. member is really interested I would ask him to call on the Chief Engineer and see how the scheme has been drawn up.

We work in the closest possible co-operation with the Municipality in these matters, and our plans are always sent to them, and I understand we have had no

[Sir G. Rhodes] query whatever from the Municipality. There is some difficulty regarding the drainage, but that is not our difficulty; it arises because the Municipality has not yet been able to connect their drains up to our drainage system. There is no real delay, but it is a question of time, I understand.

With regard to the point about electric light in quarters at the coast, only a week or two ago I signed an estimate authorizing the expenditure on electric light in certain Asian quarters which have not yet been fitted up. Electric light has not long been available in Mombasa, and the older houses have not been fitted with it. The new ones have been, but the older ones in Mombasa and Eldoret, where the light has only recently been introduced, are gradually being fitted.

The hon. member raised the question as to why we wanted an assistant locomotive superintendent and an assistant works superintendent. These are details, I suggest, that have been very fully gone into by the Railway Council and I could not possibly explain it to the hon. member's satisfaction unless he will do me the honour of coming down and going through the workshops and seeing what they do, go through their figures and statistics, and go generally into the position. I shall be very glad indeed for him to spend a week in the workshops while he does it! If he is dissatisfied with our proposals, perhaps he will come and see me. I may say that the members of the Railway Council, having been on that body for some years, frequently inspect the works and understand the details, and are in monthly touch with statistics we produce showing both the administration details and the work we have to do. The value of the output of the shops is very fully detailed in my report as fully as I can detail such matters, and no doubt if the hon. member looks there he will find all the figures he requires.

He raised one point I am glad indeed to deal with, the payment of certain station masters for postal services. We do act as agents for the Postmaster General at certain out of the way stations where no local post offices are available, and the Postmaster General pays us a certain fee for carrying out that service. We do not

pay that fee to the particular individual doing the work, but the stations are graded according to their responsibilities and the work they have to do. Where the postal work does involve higher grade pay, the station master gets that automatically, but in very many cases he gets no extra pay at all. The reason is that we feel we pay him a salary and are entitled to use his services to the fullest possible extent, and where the railway duties are light I see no reason why he should get extra pay. I admit it is a question upon which there is some difference of opinion, but that is the policy we work on.

The hon. member also asked what was the position regarding the provident fund and why the amount we proposed to put into it is increased. The explanation given is, perhaps, not fully clear to anyone not familiar with what we have been doing, but the reason is, as I explained in my opening speech, that we have reduced the limit for African employees. Formerly African employees were on the same low limit as Asian employees, Sh. 100, but the same type of staff of African employee is not drawing the rate of wage the Asian would be drawing. Therefore, if Sh. 100 was the rate for the Asian it was not the proper rate for the African, and in consideration of this we reduced the African limit to Sh. 60, which has, of course, brought in quite considerable additional Africans into the scheme.

I think the figures approximately before the change was made were just over 200 Africans in the provident fund, and since the change in the lower limit the number has gone up by 500 to about 700 Africans. That, of course, does not affect the Asian position, which is already adequately catered for by the limit of Sh. 100.

The hon. member also asked whether we get any assistance from the Colonial Development Fund regarding the investigation into the standardisation of the railway. I have no my papers here, but I think the answer to that is in the negative. I do not think we get any assistance at all from the Colonial Development Fund.

The hon. Member for Kiambu drew attention to the disparity between the railway estimates and the Colony's estimates, and could not account for our enormous profits. I would only say one thing on that

[Sir G. Rhodes].
point: it is, that the railway was very fortunate indeed in being able to effect economies the moment the slump position became apparent at the end of 1930, and as a consequence of that we have been able to carry out our work at very much lower cost than we did before. If I may read one short paragraph from my 1936 report comparing our revenue position in 1936 with 1929:—

"An increase in revenue of £78,198 has been earned in spite of very heavy rates reductions, while an increase of 78,827,541 ton miles has been dealt with, representing additional work done, all at a cost of £302,794 less than the cost recorded in 1929."

We were in the very happy position of being able to effect economies that way, and that is one of the main reasons why we are showing better returns now than the Colony is perhaps able to do.

We are one cog in the main transport system, and nobody would be happier than I if we could find better road communications serving the railway. As I have already said, it may be possible for the railway to assist in that way by lending money at a very nominal rate of interest, but that is a matter for discussion with the Governments. It will be quite improper to return to Governments by way of bonus or any other way, under the present legislation, except rates reductions such as we propose to introduce at the beginning of the year. We are called upon to provide cheap transport, and that is the policy we are following.

The hon. member also asked whether there was any room for promotion for the lower-paid European staff, such as guards and travelling ticket examiners. There are openings for such people. Station-masters grade goes to £540, and there are also traffic inspectors' grades, and sometimes they even get into higher grades. There are openings, and most of them are recruited locally. We are able to get locally born, locally educated boys for this work, both European and Asian.

I am obliged to the hon. Member for Ukamba for his speech, which has explained many points very clearly indeed, with which I will not now have to deal. From his association with the Railway

Council he has been able to explain many difficulties away in a very clear manner, and I hope hon. members found the explanations he has given deal with some of their difficulties and problems.

He asked specifically, however, for an explanation regarding this matter of depreciation of investments, and referred to the sum I had mentioned, £100,000. I mentioned that sum because during recent years we have had to deal with sums of approximately that amount. During the depression our investments appreciated, and we were fortunate in being able to get at the time we wanted it credit to our funds of £80,000; £100,000, and £120,000. During the present year, 1937, the hon. member will see from the supplementary estimates that we have had to face the figure of £70,000 due to depreciation of investments. Therefore we think at the present time that the figure of £100,000 will take care of that fluctuating charge in future.

It is very unsatisfactory to have extraneous charges of this nature on the credit side or the debit side. They throw us out of gear, and we hope to take care of it in this way.

The hon. Member for Trans Nzoia spoke on a certain question of principle which I have already dealt with fairly fully. He supports, I am glad to say, the principle of a rates equalization fund, which is one we must give attention to. He also suggests we should go slow regarding further rates reductions. In my opening speech I also said that unless there was considerable development in this country and in Uganda it was not likely that we should be able to do much more in a big way regarding rates reductions. We shall, of course, continue to pay every possible attention to all smaller cases that come up for consideration, but I shall be agreeably surprised if we are able to do anything more in a big way.

With the total proposed for next year, we shall have handed back to the users of the railway something like £600,000 in the last three years. That is a very satisfactory figure.

The hon. member also asked me to explain why the policy of branch line guarantees affected the interest we pay on loan charges. I did deal with that, but perhaps

[Sir G. Rhodes]
I did not explain myself clearly, when dealing with the supplementary estimates.

Branch line costs include working costs and loan charges; the two together are the total costs we have to meet. Against that we earn revenue which, in the particular case in question, just about covers the working costs, leaving the loan charges uncovered. The loan charges are, however, covered by guarantee from Government. As that will no longer be available, the default on loan charges will show an increase which will still have to be paid. On the other side of the picture, the revenue we shall continue to earn is not shown directly against branch lines in these figures but is included in general revenue.

Actually, the position as shown is that there is an increase against the interest head; but there will be a corresponding increase on the revenue side from any increased traffic on branch lines.

The hon. member also asked me to explain the position with regard to realignments contemplated between Uplands and Nakuru. All I can say at the moment is that this is still under examination. It is fairly heavy and costly work, and will only be put forward for consideration if it is economically justified; that is, if we can show savings in operating costs, either because the grades are eased or the line shortened, and if we can make out a case for that work the fullest possible consideration will be given to all those interested in this new alignment.

There are certain interests between Gilgil and Naivasha which are somewhat adversely affected, and we shall have to hear what they say, and see whether their claim for compensation or something of the sort can be considered, and, if it must be considered, whether it rules out going on with this scheme. It will cost something in the neighbourhood of £400,000 to £500,000, but it will not be just done for the sake of doing it but only if it is economically justified.

The hon. Member for Mombasa asked one or two small questions. One was what we had done with the saving we had been able to bring about due to our new contract at the port. On last year's tonnages the new contract will bring about a sav-

ing of approximately £30,000, from the 1st July of this year. Of that £30,000 we have already introduced rates reductions of a certain character at the port which will surrender £20,000, by way of port charges, overtime charges, and changes of that nature.

That left us £10,000 or £12,000 we could deal with, but after the fullest and most careful consideration the Harbour Advisory Board decided to recommend that they could not make any useful suggestion regarding further changes of rates at the present time, but it will be considered as soon as the amount available is larger. The port is only just getting on to its feet, and only in the last two years has it shown a small surplus. It is not quite the right time to consider any wholesale changes in port tariffs, but I can assure the hon. member that this question will not be lost sight of and will be dealt with as soon as it is justified.

He also raised the question of the anomaly that arises at Moshi, because of the fact that we have not been able to introduce our new rate, which is lower than the Tanganyika rate, but have been compelled to retain our old rate instead of bringing into force our new rates. I think I dealt with that point on the Transport Licensing Bill.

It is a fact that we have reduced our rates in the last two years and Tanganyika have been able to follow suit. They therefore asked us, and we agreed, to retain the old rate at Moshi. I am unable to verify his statement that the rate from Moshi to Tanga is less than to Kilindini. I was under the impression the two rates were exactly the same, exclusive, of course, of harbour charges. I will take care to have that point examined and will deal with it, if necessary. I think all our rates from Moshi to Kilindini and Moshi to Tanga are approximately the same. The harbour charges do differ slightly. Tanga and Dar es Salaam are lower than Kilindini, but the reason is because we do provide much better facilities at Kilindini, and there is proof of that in that more ships call at Kilindini.

The hon. member also asked why the coffee growers at Moshi could not take advantage also of the rates while at Taveta they could. That again is part of the

[Sir G. Rhodes] same question. We have agreed with Tanganyika that we will not interfere with their rates system at the present time because they cannot afford to have any change, so that people fortunate enough to be on our line at Taveta get the advantage of the lower rates while at Moshi they still pay the old rates.

The hon. Member for Nyanza asked if the wharfage and landing charges at the Port would receive consideration, and particularly mentioned coffee. I have referred to that question in answering the hon. Member for Mombasa. We are fully aware of the points raised, and when the time comes we will see what can be done.

We listened to a long and interesting speech by the hon. Member for the Coast, and I do not think I can go into the question very much more fully than I have done already. The question of the betterment fund, I think, has been dealt with very fully indeed. The hon. member did consult me when preparing his figures and gave me an excellent lunch, which I appreciated very much indeed. I sat next to a charming lady, so that I had difficulty in listening to his rather novel arguments! (Laughter.) But I do say he has covered the ground very satisfactorily, and I think the whole of the problem boils itself down to a consideration of our policy with regard to the betterment fund. The sinking fund must go on; it is a statutory liability, but the question of the betterment fund and the amount to be put in will call for careful consideration, and, as I have already explained, this is going to be done at the next meeting of the Railway Council.

The hon. member asked why our banking charges had gone up since last year, and said it was due to the exchange charged. That is correct, and that is the amount paid to the bank for transferring our money from here to England. In connexion with that, I may say we, and I think Government too, have a contract with the bank whereby they pay certain rates of interest for our deposits and whereby they charge us certain charges for transmitting money. That, we think, is a very favourable contract, taken by and large, and I have no reason to think we should get any better treatment by going

elsewhere or outside. I believe that is also the feeling of the Treasury.

I have already dealt with the question of the costs of sidings and level crossings, and need not say more; but the hon. member suggested that manures and lime should be carried free. That is a principle we have never admitted on the railway, that anything should be carried free, but we do give these commodities the lowest possible rate. That is what we call out-of-pocket costs: it pays for coal, oil, and a few things like that. To carry anything free involves a new principle which it is difficult to control.

I am very glad indeed that he also supported the principle of the rates equalization fund.

The hon. member Mr. Isher Dass in his few remarks again stated that the railway wants a monopoly of transport. I thought I had dealt with that point quite clearly; we do not want monopoly in any way. We have our own business to run, but we should like to see outside transport equally efficiently organized and run. That is my own and only interest in this Transport Licensing Bill.

I believe the Bill will bring about such a position, which will be of great use and advantage to this country, and we ourselves may be able to help, as I explained, by giving through-booking facilities and even by investing capital in suitable organizations.

The hon. member asked what we had done with the rolling stock in the various sidings, and why we should order any more. The type of rolling stock we order is a different type to what we have stored away on these sidings. We have to keep up to date with certain other requirements, but we take full care to see we do not order any rolling stock already available in this country. We have a certain surplus of goods wagons which cannot be utilized fully, at least at the present time, but they may be taken into service as the traffic increases. Passenger cars, dining cars, open goods and cattle trucks are not stored away.

The hon. Member for Nairobi South, I think sounded a note of warning, that the consumer required consideration, and that he was not altogether in favour, as I also gathered from the statements of

[Sir G. Rhodes]

some of his colleagues, that rates should be further reduced. I think he feels that the top rates should come down. With that we are in agreement, and if the rates reductions come into force next year, from January, it will achieve my chief object in that respect.

He also referred to the question of rates, and on that subject I think I have said all I need say.

The ven. and hon. member Archdeacon Burns drew attention to one or two points. I have already spoken about the intermediate class. There is a point in connexion with that which I should like to emphasize: that there is a very great tendency for the type of third class traveller on the railway to improve. That must come about as the African becomes more educated and as his financial circumstances improve. Then we will get away from the absolutely raw native labourer we have been accustomed to in the past. It is quite probable that within the next two or three years this question may die out of its own accord, because we shall find, as has been the case in England and elsewhere, that more and more individuals are prepared to travel third class. While that state will not be fully reached here, it will very much improve the position regarding the second and third class passengers in this country. There is already a tremendous improvement in the type of traveller we now get travelling in third class railway coaches.

I have already said the question of third class fares is receiving consideration at the next meeting of the Railway Council. I have also spoken about the question of locking in the third class passengers. There is one point I am going to take up very strongly, and find out if there is any case for it.

That is the hon. member's statement that the treatment meted out by *askaris* to third class passengers is not always as reasonable as it should be. There is no excuse for the railway staff to be unduly rough or rude to third class passengers, and they should do what they can to see that the fullest courtesy is extended to the third class as to the second and first.

The realignment of Limuru station is not concerned with the bigger question

about which I have already spoken. It is a realignment which is going to save operating costs because of the reduced grades against the down trains. When the new station is being built we shall take the opportunity to rgrade a heavy climb out of the station, and we hope when the work is completed that the ven. and hon. member will find no difficulty in getting his letters and access to the post office!

The hon. member Dr. Wilson drew attention to what he called extravagant expenditure and so forth. He suggested, apparently that we were now overspending money because the going was good, and that the country or the Railway Administration was not going to get any real benefit from it. I will only say this: every item of expenditure amounting to £750 or over goes to the Railway Council for examination before it is authorized. The fullest possible details are gone into with regard to every work undertaken, whether it is a renewals matter, capital expenditure from loan funds, or expenditure in any other way. And lastly, we expect for every pound we spend to bring back some benefit to the users of the railway in improved transport sooner or later. In many cases it brings the benefit much sooner than later, but in some cases we sometimes have to wait a little longer for results.

But I think the progress I have recorded each year in my annual report shows that our expenditure is very carefully watched, and although we have more money to deal with now we are as careful about that as if we only had a few pounds. I do feel we shall be able to give the country full measure for the expenditure we incur. The Limuru station, for example, is one case in point. That is going at once to lead to reduced operating costs for the reasons I have just explained: the grade will be eased and facilities improved. People will be able to get better attention at the goods office, better goods accommodation, and at the same time the staff will have a more suitable house. And, as I said, the ven. and hon. member will be able to get his letters without difficulty!

The hon. member Dr. Wilson suggested that every item of expenditure of this nature should come to this Council. I really do not think he meant that if we

[Sir G. Rhodes]

followed a policy of that sort, we should be sitting here for weeks. Even the Colony's estimates you refer to the Standing Finance Committee. These estimates have already been to our finance committee, the Railway Council, and have been examined in the greatest possible detail. Their effect on our future financial position is also closely inquired into by the Chief Accountant before any work is passed, and I suggest the hon. member has no reason to think that our procedure and results obtained last year indicate in any way a failure.

I think the results we have been able to secure each year simply prove that the funds placed at our disposal for providing services for this country have been very carefully and adequately supervised.

I hope I have dealt sufficiently fully with the questions put to me. I am very anxious indeed that hon. members opposite and the general public should understand the problems we have to face, and with that object in view I do take a great deal of trouble in preparing a very full annual report. In fact, I think I have defeated my own ends, in that it is so very full that people have no time to read it at all! But there it is for people who want information, and also my office and staff are available any time if any further information is required.

The question that the estimates be adopted was put and carried by 22 votes to 3.

Ayes—Mr. Bale, Archdeacon Burns, Messrs. Daubney, Fazan, Harragin, Hayes-Sadler, Hodge, Hosking, Mangat, Maxwell, Morris, Dr. Paterson, Mr. Pilling, Sir G. D. Rhodes, Major Riddell, Lord Francis Scott, Sir R. Shaw, Messrs. Stooke, Walmsley, Wallace, Dr. Wilson, Mr. Wright.

Noes—Mr. Isher Dass, Mr. Pandya, Dr. de Souza.

ADJOURNMENT

Council adjourned till 10 a.m. on Tuesday, the 14th December, 1937.

(On the instructions of His Excellency the Governor, Council was subsequently resumed on the 15th December, 1937.)

Wednesday, 15th December, 1937

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Wednesday, 15th December, 1937, His Excellency the Governor (Sir Robert Brooke-Popham, G.C.V.O., K.C.B., C.M.G., D.S.O., A.F.C.) presiding.

His Excellency opened the Council with prayer.

OATH OF ALLEGIANCE

The Oath of Allegiance was administered:—

C. E. Mortimer, Esq., M.B.E., Acting Commissioner for Local Government, Lands and Settlement.

Dr. F. J. C. Johnstone, Acting Director of Medical Services.

H. Parker, Esq., Acting Elected Member, Coast Electoral Area.

MINUTES

The minutes of the meeting of the 23rd November, 1937, were confirmed.

PAPERS LAID ON THE TABLE

The following papers were laid on the table:—

By MR. PILLING:

Report of Standing Finance Committee on Draft Estimates of Revenue and Expenditure for 1938.

By MR. HARRAGIN:

Report of Select Committee on the Transport Licensing Bill.

By THE DIRECTOR OF AGRICULTURE (MR. WATERS):

9th Annual Report of the East African Agricultural Research Station, Amanal.

ORAL ANSWERS TO QUESTIONS

No. 67.—INCOME TAX

MR. WRIGHT asked:—

1. What is the proportion or the approximately estimated proportion, of refund of income tax that will have to be made for reclamation from the total collection under the Ordinance?

2. What number of clerks and officials are now employed in the income tax department; what are the details of the salaries paid to them; what

[Mr. Wright]

number of these have houses or allowances in lieu thereof; and how many are on the pensionable staff and, if not on the pensionable staff, how many it is anticipated will eventually attain that position?

3. What number of forms have been sent out, specifying the numbers sent to:—

- (i) Limited liability companies, whether registered in Kenya or not;
- (ii) European taxpayers;
- (iii) Asiatic taxpayers;
- (iv) Arab taxpayers?

How many forms have been returned from each of the above specified categories?

4. What number of forms as specified in No. 3 above have been totally ignored?

5. What number of extensions of time for the return of forms have been given to:—

- (a) limited liability companies;
 - (b) private individual members of firms;
 - (c) persons absent from the Colony?
6. What amounts of tax have been collected to the 30th October from:—
- (a) Government servants;
 - (b) limited liability companies:—
 - (i) registered in Kenya;
 - (ii) registered abroad;
 - (c) the following classes of individuals or businesses:—
 - (i) farmers, and planters,
 - (ii) traders,
 - (iii) doctors,
 - (iv) advocates,
 - (v) accountants?

7. What number of assessments have already been made, and what number is it anticipated will eventually be made?

8. By what date is it anticipated that all assessments for 1937 will be made and completed?

9. What is the cost of each file that has to be opened; how many files have been opened; and how is such cost arrived at?

10. Has the Commissioner of Income Tax given any sort of intimation, either written or verbal, that the Ordinance

is in his opinion satisfactory and practically workable in its present form? If he has made no such intimation, has he given any intimation or made any report, or is he in the course of making, or does he intend to make, any report to this effect? If any amendments are thought necessary or expedient, what amendments are thought (a) essential, and (b) desirable?

11. When is it proposed to constitute local committees to be formed to hear appeals from assessments of those persons who wish to exercise the option to go before such local committees rather than to appeal to a judge of the Supreme Court in the first instance? How many local committees will be formed, and for what districts? What will be the constitution of such local committees, that is, what members will be official, and what unofficial? and will any rights be reserved to the taxpayer to challenge the right of any or all of the members of such local committees to inquire into and investigate the whole or any part of his business affairs? What will be the estimated cost of setting up such local committees?

MR. STOOKE: 1. The whole of the refund of income tax will have to be set against the total collected under the Ordinance. It is not yet possible therefore to estimate what proportion of the total collection will be refunded.

2. Fourteen officials and clerks are now employed full time and two part time in the Income Tax section. The salaries paid to them are as follows:—

One Commissioner at £1,350 p.a.
One Deputy Commissioner—part time—proportion at £560 p.a.

One Senior Revenue Officer at £500 p.a.
Four Revenue Officers at £440 each p.a.
Five clerks, varying between £300 and £320 p.a.

One clerk £180 p.a.
Two typists, full time, one part time typist varying between £180 and £285 p.a.

Two officials have houses or allowances in lieu.

One official is on the pensionable staff. No further pensionable appointments are anticipated at the present moment.

[Mr. Stooke]

3. The return forms issued and returned at the 13th November, 1937, were approximately as follows:—

	Issued	Returned
(i)	751	479
(ii)	5,806	4,529
(iii)	373	234
(iv)	10	7
	6,920	5,249

4. Exact figures are not available but a reasonably accurate estimate would be 500.

5. No records are available of the number of extensions of time which have been granted. It will be understood that in many such cases the returns have now been received, and there is no reason for keeping a record.

6. The amounts of tax collected up to the 30th October were as follows:—

	£	Sh.
(a)	505	16
(b) (i)	461	10
(ii)	22	0
(c) (i)	74	5
(ii)	10	0
(iii)	—	—
(iv)	—	—
(v)	—	—

It is assumed, as regards (c) (iii) to (v), that information is required as regards individuals in practice and not in employment.

In addition to the above amounts, £1,668-4-0 has been paid over to the Revenue in respect of tax deducted from debenture and mortgage interest.

7. 489 assessments had been made at the 13th of November. It is quite impossible to anticipate what further assessments will be made under the Income Tax Ordinance.

8. 31st December, 1943.

9. The cost of each file is approximately cents 12.5; the number opened to 13th November, 1937, is 3,032; and the cost has been estimated by the Government Printer.

10. The answer to the first and second parts of the question is in the negative. A categorical reply cannot be given to the third part of the question. The Commissioner of Income Tax will report in due

course as to any amendments which he considers necessary or expedient.

11. The answer to the first and second parts of the question is that the formation of the committees is at present under consideration. Until information is available to give some indication of the appeals which will require to be heard, the number of committees and the districts for which they will be appointed cannot be determined. As regards the third and fourth parts of the question, the constitution and procedure of the committee are governed by section 68 of the Income Tax Ordinance. The answer to the fifth question is that there will probably be no cost of setting up the committees. The cost of maintaining them will depend on the number of appeals they have to deal with.

NO. 68.—NATIVE LIQUOR (AMENDMENT) ORDINANCE

MR. HARVEY asked:

(a) How many prosecutions have taken place in the Kisumu-Londiani District during the last 12 months, under the Native Liquor (Amendment) Ordinance?

(b) In how many cases was evidence of drunkenness recorded?

(c) Were such prosecutions instituted as a result of requests for police intervention from members of the public?

(d) How many convictions were obtained and what penalties were imposed?

(e) What restrictions are enforced in the Native Reserves in Nyanza in regard to the brewing and consumption of native beer?

MR. HOSKING: (a) 284.

(b) As the charges in these prosecutions were of manufacture or possession of native intoxicating liquor without a permit under section 17 of the Ordinance, evidence of drunkenness was not relevant.

(c) Generally, yes.

(d) 270 convictions were obtained. Penalties averaged a fine of Sh. 25 with imprisonment for one month in default of payment, and ranged from a fine of Sh. 300 to a fine of Sh. 5.

(e) The Native Liquor Ordinance, 1930, originally applied to certain areas in the

[Mr. Hosking]

Nyanza Province, was applied to the whole of the Province on the 3rd July last. The effect of this application is to make it an offence to manufacture for sale or to sell native intoxicating liquor in the native reserves without a licence.

Orders have also been issued under section 8 (a) of the Native Authority Ordinance, 1937, to restrict excessive drinking by young men and to prohibit the manufacture of Nubian gin.

MR. HARVEY: Arising out of that answer, Sir, may I be furnished in due course with further details under section (c) of my question? "Generally, yes" does not give me the information I require, and I should like to have details of representations made by the public for police intervention in this matter.

MR. HOSKING: I cannot see that any further reply is really necessitated.

MR. HARVEY: I should like to know what representations were in fact made by the public for police intervention.

MR. HOSKING: I must have notice of that question.

MR. HARVEY: I give notice. May I get a written reply in due course?

MR. HOSKING: The answer is in the affirmative.

FLOOD DAMAGE

MR. STOOKE: Your Excellency, I beg to move:—

"Be it resolved that this Council approve the expenditure of a sum of £11,008 upon the purposes specified in the schedule hereto as a charge against the revenue and other funds of the Colony:—

SCHEDULE	
Public Works Recurrent: Non-Native Services	
Maintenance and Improvement of Roads and Bridges	£8,217
Local Government: Contribution to Local Authorities extraordinary—District Councils: Flood Damage	£2,791
	£11,008

As hon. members are aware, earlier in the year we experienced unusually heavy rains, and these rains caused considerable damage to bridges and other road works throughout the Colony. As a result the Government have been faced with demands for additional expenditure to repair that damage. These demands have been very carefully investigated in detail by the Central Roads and Traffic Board, with the result that they recommend the supplementary provision noted in this motion. The proposal has also been examined by the Standing Finance Committee which recommends the supplementary provision.

MR. HARRAGH seconded.

MR. HARVEY: Your Excellency, I support the motion, but I should like to know whether any of this money has been spent on the road to Kibigori and Kibos which for the last three years has been the most urgent road requirement in the whole of the Colony. If the answer is in the negative or others so unsatisfactory, perhaps we may be told by the hon. Director of Public Works what his contemplates in the very near future for the provision of reasonable transport facilities in this important industrial area.

DIRECTOR OF PUBLIC WORKS (MR. STRONACH): Your Excellency, I am unable to say definitely as I have just returned from leave; if any of that sum has been expended on that road mentioned by the hon. member, but I can assure the hon. member that the question of the road is to be discussed this afternoon at the meeting of the sub-committee of the Central Roads and Traffic Board.

The question was put and carried.

MRS. LOWSLEY: COMPASSIONATE PENSION

MR. STOOKE: Your Excellency, I beg to move the following motion standing in my name:—

"This Council is pleased to raise the compassionate pension granted to the widow of the late Dr. L. D. Lowsley under a Resolution of this Council passed on the 15th December, 1935, from £50 a year to £75 a year, the increase to take effect from the 1st January, 1937, inclusive."

[Mr. Stooke]

Since the original compassionate pension was awarded Mrs. Lowsley a year ago, further representations have been received by the Government, and I am sorry to say that it appears that Mrs. Lowsley's health is declining considerably and lately she has had to spend two periods in a nursing home. The original pension was deemed to be sufficient to cover the cost of her rent and living expenses, but it was not enough to provide for extra medical attention which she will now, I am afraid, require.

This proposal has been considered by the Standing Finance Committee, who recommended its adoption provided that the Government of Uganda would contribute a like amount. The Uganda Government has decided to contribute a similar amount of £25 a year, and the Standing Finance Committee recommendation therefore stands.

This is, of course, an exceptional case, and it is largely on account of the pioneer services rendered by Dr. and Mrs. Lowsley to East Africa in the very early years that this has been put forward for the approval of this Council.

MR. HOSKING seconded.

The question was put and carried.

GAME BILL

SELECT COMMITTEE REPORT

MR. HARRAGIN: Your Excellency, I beg to move that the select committee report on the Game Bill be adopted.

This is a very voluminous report which hon. members have before them, but I am glad to say that it contains little that might be called drastic. The length of it can be attributed to the fact that one or two very small amendments, such as the insertion of the word "game" before the word "animal" in various parts of the Bill, necessitated some twenty or thirty consequential amendments, and in speaking to this motion I will only deal with what I will call amendments of substance.

The first real amendment of any importance is with regard to the Professional Hunters Association. You will remember that when this Bill was originally presented the Association was placed in a somewhat privileged position. It had been

the intention of the Game Warden, who is unfortunately out of the country at the moment, to place members of the Association in the position of honorary game wardens. The select committee went into this question very carefully and took evidence from those we thought could give any useful information on the subject, and have come to the unanimous decision that it would be unwise to place them in this position. Not that it means that this recommendation contains any reflection whatever on this most excellent body of men, but we think that the principle is unsound, and the game warden could get over his difficulty at once by making selected members honorary game wardens, and thereby achieve exactly the same object as he hoped to achieve by this other method.

We are making provision with regard to honorary game wardens so that they can be appointed for five years, and then be re-appointed if so desired, and in the event of their being re-appointed it will be unnecessary for them to take a second oath.

There is another small amendment with regard to the word "capture." As hon. members are aware it has always been found in game bills, in East Africa particularly, that the words "kill," "hunt," and "capture" are always used together. We considered that whereas it may be perfectly sound to give a licence to a man to go and shoot various game animals, it is not everybody who is in a position or knows enough of the subject to go out and capture these game animals and possibly trek them over very considerable distances. Therefore we make provision that a special licence should be given a person who wishes to capture any game animal.

Section 25 was found to be very interesting from various points of view, because it was suddenly realized that probably everybody in this Council had been committing an offence for a considerable number of years, for it forbade anybody without a permit to go into a game reserve at all. That has been classified so that a permit is only necessary if a person wishes to do one of the four things I have mentioned, kill, hunt, capture or photograph.

New clause 24 provides for a close season.

[Mr. Harragin]

During the debate on the second reading various members mentioned the point about hunting by means of aeroplanes and motor cars, and new clause 28 (1) is an endeavour to prevent hunters either in an aeroplane spotting game or in a motor car chasing up to within 500 yards for the purpose of killing such game. Whether it will always be possible to see that this provision is carried out we are not prepared to say, we hope it will. At any rate, it will be a guide to sportsmen of what is expected of them in this country.

New clause 34 (1) clears up a question which has been worrying the public for some considerable time. Hon. members are aware of the case occurring at Nakuru where a settler shot some birds during the close season and was in due course convicted, and there was a great deal of discussion in the newspapers and elsewhere about it. We have now made it perfectly clear that one will be permitted to shoot these animals mentioned (they are actually birds) in schedule 5 of the Bill only when such animals are actually destroying crops. The old provision with regard to the shooting of other animals in the vicinity of your crops or animals wherever they may be, for the purposes of protection, remains. We hope that will clear up the point, and we have put in a provision to say that where anyone is obliged to shoot these animals for the protection of his crops he should report it at once to the nearest District Commissioner and the animals will be deemed to belong to Government. The object, of course, is to ensure that people do not have a shooting party under the pretence that they are protecting their crops.

New clause 37 (7) merely regulates what has been going on for some considerable time with regard to marked ivory. Why it did not appear in the law before I am not in a position to say, because there was a convention many years ago between the various nations that all ivory exported should be marked in a particular way. It has been done, but no provision appeared in the old law dealing with it, and we have now inserted it.

New clause 53 makes it discretionary on the Governor to refuse a licence to any person who has been convicted of offences

against the game laws of this Colony or the neighbouring colonies. As the law stands at present if an unfortunate man happened to export some ivory without marking it, he would offend against the game laws, be fined Sh. 2.50 possibly or cautioned, and the Governor had no discretion to say that he would grant a licence. We have therefore made it discretionary.

Under clause 54, at the discretion of the Game Warden, it is permitted that half the fine in cases of conviction may go to the informer.

There are various minor details in the schedules which we have altered, but there is nothing of any importance, except that we have clarified the headings and deleted certain birds or animals which were in fact vermin and do not require protection.

MR. WALLACE seconded.

The question was put and carried.

THIRD READING

MR. HARRAGIN moved that the Bill be read a third time and passed.

MR. WALLACE seconded.

The question was put and carried.

The Bill was read a third time and passed.

SHOP LEASES, NATIVE RESERVES

MR. SHAMSUD-DEEN: Your Excellency, I beg to move:

"This Council is of the opinion that leases for shops, etc., in all trading centres in the native reserves should be granted to all non-natives for periods not exceeding 33 years but calculated according to the period equivalent to their residence in such native reserves prior to the passage of the Native Lands Trust Ordinance, 1930, and that the yearly licence system in vogue at present should not be applicable to any non-native who was present in the native reserve prior to the passage of the Native Lands Trust Ordinance."

I think that the justice and reasonableness of this motion are obvious, and it hardly requires any stress to be laid on the immediate necessity of some sort of

[Mr. Shamsud-Deen]

security of tenure being granted to the non-natives who are trading in native reserves.

At the present moment, the practice is that in substitution for the temporary occupation licences granted to these non-natives in reserves under the Crown Lands Ordinance, 1915, all these people are now offered a form of yearly lease under the Native Lands Trust Ordinance which is no more than merely a licence for a year. The form which they are asked to execute in place of the old temporary occupation licence is a peculiar sort of form which does not appear in the rules or the Native Lands Trust Ordinance, 1930, itself. It simply says—I have a copy of the form to which I shall refer presently in detail—that this form is liable to be renewed every year by the local native councils.

Special conditions.—This grant shall be renewable annually at the discretion of the local board provided that reference be made to the Central Board in any case where the local board does not recommend renewal and subject to the fulfilment of the prescribed building conditions."

It adds:—

"If this grant is renewed the rent may be revised as often as the grant is renewed, and may be increased or decreased at the absolute discretion of the local board and, subject to, the increase or decrease of rent the renewed grant shall be held on and be subject to the same terms and conditions as apply to this grant. The grantee undertakes that the buildings erected on plot shall be approved by the medical officer of health."

and so on. It attaches several conditions not in the Ordinance or the rules.

Most of these people have been in the native reserves for as long as 30 years, before the passage of the Native Lands Trust Ordinance, 1930, and they have had renewed the temporary occupation licences granted by Government from year to year *ipso facto*, unless there were very special reasons for the cancellation of such licences. But to all intents and purposes they felt quite secure in erecting reasonably permanent buildings on such plots. It is a very drastic change in that

the control of the administrative officers is now transferred to the local native councils. I do not wish to cast any reflection on those councils, but I submit it will be some generations before the responsibility of administration and justice to other communities is fully appreciated by their members. While the non-natives were granted temporary occupation and the licences were administered and controlled by British officers, they felt the security of the same nature as they would have on a long lease.

Unless there were some special circumstances, those temporary licences never had to be cancelled, but it is an entirely different thing when the renewal now from year to year is within the power of local native councils. These councils, as most hon. members realize, are in many cases actually competitors of the traders in native reserves, and it is but human nature that they should try to eliminate as much competition as is possible from the reserves. Besides, the members of the councils can easily be displeased over trivial matters, and the renewal of the yearly lease or licence can easily be refused.

These people have not only been carrying on trade in the native reserves for a very long period, from the very inception of British administration in this Colony, but they have made their homes there, and now that they are to be subjected to anomalies not in accordance with the law by a yearly lease is, to say the least of it, a most unjustifiable step. Moreover, conditions are attached to buildings and so forth. I do not think you can find anybody in this world foolish enough to erect any building of any description on such a slender lease renewed from year to year by a local native council.

According to the law, there is no such thing as a yearly lease. Section 7 of the Native Lands Trust Ordinance lays down the method by which application has to be made, and the only provision for a yearly licence is under section 8 (1) (b), which says:—

"Subject to the provisions of the last preceding section, it shall be lawful for

[Mr. Shamsud-Deen]

the Governor in Council, with the advice and consent of the Central Board—

(b) to grant licences to and to enter into contracts with persons not being members of the tribe for which the land has been set aside relating to—

(i) the grazing of cattle in a native reserve;

(ii) the removal of timber or other forest produce from a native reserve;

(iii) the taking of sand, lime, stone and other common minerals, (excluding salt) from a native reserve;

for periods not exceeding twelve months at any one time."

That is only for those three purposes that the law contemplates the granting of a licence for a period not exceeding one year, but to all intents and purposes the law provides that leases shall issue for periods up to 33 years.

Section 9 says:—

"Leases under section 8 of this Ordinance may be for any period not exceeding thirty-three years and shall be granted for such period and subject to such terms and conditions as may be prescribed by rules made under this Ordinance, provided, however, that in exceptional cases with the prior consent of the Secretary of State leases may be granted for a longer period which shall not in any event exceed ninety-nine years."

That gives Government not only very wide powers but is also an indication of the intention of those who made this law, that it is only fair that non-natives should be given a lease up to 33 years in ordinary cases. As I have submitted, one year's lease renewable by a local native council is no security at all.

Section 23 of the same Ordinance says:—

"Nothing in this Ordinance contained shall be deemed to affect the validity of any title to land within the area of a native reserve granted before the commencement of this Ordinance, and all such titles and the rights thereby conferred and the obligations thereby

imposed shall continue to be governed by the Ordinance under which such titles were granted as if this Ordinance had not been enacted."

Provided, however, that all land comprised in any such title shall be deemed to be included in the native reserve in which it is geographically situated, and all rents accruing therefrom shall be paid in the manner provided for in section 8 (3) of this Ordinance."

That shows that whatever title a man may have, it may be only a temporary occupation licence under the Crown Lands Ordinance, 1915, they are not affected by the passage of this Ordinance at all. All that is necessary is that any rent payable should go to the local native council.

I have carefully drafted this motion so that it is not a sort of sweeping instruction, but I have said in it that these people, who were trading in the reserves before the passage of the Native Lands Trust Ordinance, should at least be granted leases for the term of years, they were in the reserves before the passage of that Ordinance. A man who has lived there for 3, 4, or 5 years prior to the passage of the Ordinance should be granted a lease for a corresponding period, but if he were there for 30 years, when the whole Colony was opened up to civilisation, and they worked under conditions which required the recognition of Government, it is only fair that they should be granted a licence for 33 years or whatever the period is, that he has been there.

Hon. members will note that this is by no means a motion based on any racial considerations: it refers to all non-natives, and equity and justice require that the intention of the law should be carried into practice. All those people who have sat down there in good faith and justice from the British administration, should not now be transferred and subject to what I might call the idiosyncrasies of local native councils which have vast powers now.

I will not take up the time of Council by referring extensively to the Kenya Land Commission Report, which strongly deprecated such powers and details in such matters being always referred to local native councils. The Commission

[Mr. Shamsud-Deen] considered it was really a sort of admission of weakness on the part of the British administration to transfer their control to the natives, especially in respect of the non-native population. Your Excellency knows, by now especially, that the Indian community who are denied all opportunity of taking any advantage in the development of the land, at any rate in the highlands, and are restricted to trading, and if their condition of trading is to be reduced in such a manner that from year to year they have to be at the mercy of local native councils, I submit it is a very drastic change which creates a sense of insecurity in the minds of the people who have been for such a long time trading in the reserves.

The Land Commission report lays stress on such very clear powers being given to the African members of local boards, and they condemn such a procedure. The power given to the African members is such that I do not think any European or Indian on any local board or authority has such power at all.

Section 7 of the Native Lands Trust Ordinance lays down the procedure for granting licences, and in the proviso says:—

"Provided that in no case shall any lease or licence be granted which is objected to by the local native council or by any African member of the local board concerned without the prior approval of the Secretary of State."

That gives such a member vast power to turn down an application, and all that is necessary is for one single African member to object and Your Excellency can do nothing in this matter and must refer it to the Secretary of State for the Colonies. A careful study of the Ordinance will show anybody that it was never the intention of the law that such small matters should be referred to local native councils.

Rule 13 says:—

"In cases where land in a native reserve has been occupied in good faith by non-natives with the consent of the natives concerned and of the Government before the making of these rules, the Chief Native Commissioner on the recommendation of the local native council concerned and of the local

board may authorize the issue of a lease under these rules.

14. Subject to the provisions of the Native Lands Trust Ordinance, 1930, licences shall be in such form as may be from time to time approved by the Central Board."

I therefore submit that it is ridiculous, when a particular area has been set aside for the purpose of a trading centre or a railway siding, that application should have to be made every time to a local native council, and all this procedure and troublesome routine should have to be gone through. At the present moment, all that is really necessary, if a person wants to apply for a piece of land for erecting a go-down on the railway siding, shall be that he applies to the General Manager and an intimation is also sent to the district commissioner for the purpose of the rent being paid to the local native council. No other reference need be made to any local native council or any local board or any person at all, because that area is already set aside for the purpose of the railway, etc. But the present practice is that if anyone has to apply for a small plot of land it takes months, in some cases years, before the application is passed through the local native council and the boards concerned. The same thing applies to trading centres. Where they have been set aside and used for the exclusive purpose of trading and public service, there is no need for these details to be referred to local native councils or boards, because Rule 9 of the Ordinance gives the provincial commissioner power to grant leases.

I have had representations made to me by almost every trader in the native reserves. They say that if they are going to be subject to these yearly renewals of licences by local native councils instead of temporary occupation licences granted them under the Crown Lands Ordinance, 1915, they consider it is a matter of very grave injustice, and there is no security for them at all, and they will seriously have to consider whether under these circumstances it is advisable for them to continue and remain and carry on business as traders.

I hope my colleagues and the unofficial European members of this Council will

[Mr. Shamsud-Deen]

which is intended to supersede the present one is in draft now and will shortly be published for comment and criticism, but it is not proposed in that new Ordinance to introduce any measures which would in any way restrict the power of the Governor and the Central Lands Trust Board in the matter of granting leases in native reserves.

The acceptance of this motion as drafted and placed before this Council would require that leases for 33 years or for some shorter or longer period, according to some rather obscure calculation, should be granted to all non-natives who happened to be residing in a native reserve before 1930 in whatever capacity, whether as shopkeepers, clerks, shop-assistants, mechanics, itinerant traders, or what not, and that they should be granted leases in some trading centre, not necessarily the one in which they were previously living. Of course, that would be absurd, and is not at all what the hon. mover of the motion intended.

MR. ISHER DASS seconded.

COL. KIRKWOOD: Your Excellency, I rise to oppose this motion. I think it is a most drastic suggestion, and there has been nothing said by the hon. mover to justify an alteration in the Native Lands Trust Ordinance as suggested by this motion. It also claims vested interests in the licences held by non-natives in the native reserves now and prior to the Ordinance being brought into force.

The general principle of all trading licences is on the basis of 12 months in and out of the reserves. I fail to see what justification there is for an alteration in that principle. It is also going to take a profit away from Government if licences are granted on the basis suggested in the motion, and Government would be failing in its duty not only to the natives but to the Colony in general if they accepted the motion in any shape or form.

ACTING COMMISSIONER FOR LOCAL GOVERNMENT (MR. MORTIMER): Your Excellency, as hon. members are aware, the control of leasing of land in native reserves is governed by the Native Lands Trust Ordinance. The provisions of that Ordinance vest the power in Your Excellency to grant such leases with the advice and consent of the Central Lands Trust Board. No delegation of the powers conferred by that Ordinance and no restriction of the unfettered right of the Governor and members of the board could, of course, be effected without some amending legislation.

The new Native Lands Trust Ordinance which is intended to supersede the present one is in draft now and will shortly be published for comment and criticism, but it is not proposed in that new Ordinance to introduce any measures which would in any way restrict the power of the Governor and the Central Lands Trust Board in the matter of granting leases in native reserves.

The acceptance of this motion as drafted and placed before this Council would require that leases for 33 years or for some shorter or longer period, according to some rather obscure calculation, should be granted to all non-natives who happened to be residing in a native reserve before 1930 in whatever capacity, whether as shopkeepers, clerks, shop-assistants, mechanics, itinerant traders, or what not, and that they should be granted leases in some trading centre, not necessarily the one in which they were previously living. Of course, that would be absurd, and is not at all what the hon. mover of the motion intended.

I do not wish, therefore, to make any capital-out of the somewhat loose wording of the motion, but rather to deal with the intention of the motion as explained by its mover.

One can have a good deal of sympathy with the desire of the Indian and other non-native traders in native reserves in wishing to have some security of tenure, some reasonable security. It comes as rather a surprise, however, to learn that the temporary occupation licences issued under the Crown Lands Ordinance are regarded by traders as being equivalent to perpetual leases; for these licences expressly state that they are subject to termination at three months' notice at any time. In that respect therefore they differ not at all from the yearly leases which are at present issued in native reserves.

The hon. mover seemed to suggest that the yearly leases were illegal. That, of course, is not the case. He himself quoted from the relevant section of the Ordinance, section 9, which states that leases in native reserves may be for any period up to 33 years and may be subject to such rules and conditions and terms as may be prescribed. Therefore, there is nothing illegal in the form of the yearly leases

[Mr. Mortimer] which is now being used. The form of the lease has to be prescribed by rule.

In one other small matter the hon. mover was in error when he stated that every single application for a lease in a trading centre in a native reserve had to be referred to the local native council and the local land board and the natives concerned. Rule 10 of the Native Lands Trust Ordinance, 1930, lays it down expressly that—

"When any area has been duly approved and set apart by the Central Board for the purpose of a trading centre it shall be marked out into plots in such manner as the district Commissioner (subject to the directions of the provincial commissioner) may direct, and in such case it shall not be necessary to obtain the further sanction of the natives concerned to the grant of any individual lease or licence in respect of a plot situate in such area."

In the present form of yearly lease now in use in trading centres, reference is made not to a local native council when renewal takes place but to a local board, which is a very different body.

To deal with the general principle of whether it is right and proper to grant long leases for all plots in trading centres in native reserves, I would refer first of all to the very wise provision of the Town Planning and Development Ordinance, which provides that no building leases for longer periods than one year shall be granted except in accordance with statutory town planning schemes or approved development plans. There have been too many mistakes made in the past in permitting small townships to develop on permanent lines, without sufficient regard for future requirements, to permit this wise principle to be departed from lightly.

Then, again, leases for longer periods than one year require that the piece of land shall be rigorously surveyed, and that, of course, is a rather expensive matter. When one thinks of the cost of the survey of the individual plot and the cost of taking out the title, having it registered and stamped, as compared with the very small cost of taking out the present form of yearly lease, I am surprised to learn that many traders in native re-

serve trading centres desire a change to a form of long lease. Probably they have not counted the cost. There is so far no general evidence of a real demand for such a change.

Further, I would say there has been no evidence of any real hardship or general grievance. There have been two or three cases, I know, where claims have been made that the traders have been treated arbitrarily and unjustly. Those cases have been considered on their merits, and will in future be considered with a due regard to what is reasonably right and just.

Trading centres are usually small and somewhat unimportant, and of a temporary nature. I submit that it is unwise in the early stages of the development of a district to fix for any lengthy period the focal points of trade in those districts. Changes may take place, changes in policy, changes in the type of crops grown by the natives, the establishment of a tannery or wattle bark factory may alter the whole situation in a very short time, and so render abortive the provision already made of permanent leases. Because of the impermanence and relative smallness of the great majority of trading centres in native reserves, the expense of preparing development plans and of the subsequent survey of individual plots is not justified.

It was in view of these considerations that the Central Lands Trust Board adopted the principle that leases in trading centres should be, in general, for longer periods than one year. As an individual trading centre grows in importance and size and as its permanence appears to be reasonably assured, then consideration will be given to the raising of the status of that particular trading centre to that of a Class B township. Subsequently, when opportunity offers and survey staff is available, the preparation of a development plan will proceed and plots will be marked out and surveyed, and will be available for long leases. In the meantime, with the great majority of trading centres in native reserves, no such action appears to be at present justified.

I regret, therefore, that the motion cannot be accepted by Government.

MR. PANDYA: Your Excellency, it appears that the main issue which is the subject of this motion has not been properly understood from the debate which I have heard so far. I find that the real intention for which the motion has been moved has not been realized by the hon. the Acting Commissioner for Local Government, but before I begin my speech I should like to refer to one point made by the hon. member for Trans Nzoia, who opposed the motion.

I do not know whether he paid any attention to the speech of the hon. mover, but he referred to the trading licences which were being issued in the native reserves and outside native reserves for a period of twelve months. This motion has nothing to do with trading licences; it is purely and simply a motion dealing with plots on temporary occupation licences, and the hon. Member for Trans Nzoia is completely opposed to a thing which he does not understand. (Laughter.)

With regard to one or two points made by the hon. the Acting Commissioner for Local Government, I think the main issue—I would not say has been temporarily forgotten or has not been replied to, but the hon. member, I think inadvertently, has not dealt with the main issue. The issue is, what has happened since this Native Lands Trust Ordinance was passed in 1930, and what are the reasons for the change in the policy of Government in regard to the issue of these temporary occupation licences?

So far, those licences have always been issued by administrative officers; and I think the hon. mover made it quite clear that he had no objection to that procedure. Therefore, when the hon. the Commissioner for Local Government went into details with regard to long leases not being, in certain cases, in the interests of the traders, that did not come into the picture at all. The point is, what has happened? Why have these temporary occupation licences got to be referred to local native councils?

The case is made out here that, according to the Ordinance, the Governor in Council declares a trading centre, and afterwards the licences are automatically issued by the administrative officer. If this principle is applied, why then in certain

cases is reference made to the local native council? I think that is the real issue. If that reference is only made in instances where trading centres have not been declared, I think the obvious course is for Government to declare that area as a trading centre.

Those are the only two issues on which the case is based, and this also brings in the general principle that, in matters of administration concerning non-natives as to trading and other things, what authority is being transferred to local native councils? This is one instance; there are a number of other instances, but this is one in which the local native councils have come into the picture, and it has not been explained what happens if that authority refuses a temporary occupation licence the next year.

The hon. the Acting Commissioner for Local Government said that it was in the interests of the trade themselves that they should have temporary occupation licences, but then there are conditions attached which the hon. mover explained, and if you wish to attach conditions which necessitate that the building should be of a more or less permanent nature, where is the safeguard of the temporary nature? The objection is this. On the one side you are insisting on certain conditions being fulfilled, on the other side you are giving them temporary occupation licences which may not be renewed the next year.

The difference was, I think, made clear by the hon. mover that the traders would be absolutely happy to carry on with the administrative system of temporary occupation licences. They consider it is quite safe to assume that they would be automatically renewed, but that safety is not in existence when the local native councils are brought into the picture. That is the whole issue.

Before the Native Lands Trust Ordinance was passed, in very many instances it was made clear to us that, as that Ordinance was passed, 33 years' leases would be issued. In many instances, I suppose, they have been so issued, and there is no question of this principle applying everywhere in the same way. But this motion only applies to small centres

[Mr. Pandya] where the issue of 33 years' leases has been refused and the power has been delegated to local native councils.

Council adjourned for the usual interval.

On resuming:

ARCHDEACON BURNS: I have very little to say on this motion, because all that I would have said has been more ably stated by the Commissioner for Local Government, Lands and Settlement. But I would remind the mover of this motion that trading centres are in the reserves and they have been excluded from the native reserves as such. They are not like townships or anything like that. Though we oppose a long lease if there is any reason for doing so, they are in their rights to make application to the Central Lands Trust Board for a longer lease than one year, and they could get it if the Central Lands Trust Board is backed up by the Local Lands Board and the Native Councils. There they have the way open to them of getting a longer lease.

Then there is one other point I would briefly touch upon. Supposing such a lease was given and for some reason a change of crop caused the shifting of the population. That centre would cease to be a trading centre for the man who had got a 33 years' lease and who had put up a permanent building on the land. I presume he would expect to get some compensation for the money that he had expended in putting up that building. Who would be responsible for the paying of the money that he had expended in that way?

I think the natives have a right to have a say in the disposal of the sites in their reserve. They are not the only authority, for they have as president the administrative officer of the district who would see that no injustice was done to the man who had been there for a long period of years and whose character and conduct were such that they desired to have his application considered. The natives cannot have it all their own way.

They cannot disregard an application for land as long as the president presiding over the meeting thought otherwise. So that I do think that those who require a

longer lease should have the door open to them by making application to the Central Lands Trust Board, and in that way everything be done in order, when it may be thought feasible for them to get a longer lease.

We are trying to teach the native to do things justly and rightly, and I do hope the hon. mover will not think that it is unjust to give them some say in the disposal of the sites in their reserves.

MR. HOSKING: Your Excellency, I think that all the points were so ably covered by my hon. colleague that I risk being tedious in a twice-told tale by repeating what he has already said; but I would again draw the attention of the hon. member Mr. Pandya to Rule 10 under the Native Lands Trust Ordinance:

"When any area has been duly approved and set apart by the Central Board for the purpose of a trading centre it shall be marked out into plots in such manner as the district commissioner (subject to the directions of the provincial commissioner) may direct, and in such case it shall not be necessary to obtain the further sanction of the natives concerned to the grant of any individual lease or licence in respect of a plot situate in such area."

And in the form of the lease are special conditions. The first one is that this grant shall be renewable only at the discretion of the local board, not the local native council. I think the hon. member Mr. Pandya is under a misapprehension on that point:—

"Provided that reference be made to the Central Board in any case where the local board does not recommend renewal and subject to the fulfilment of the prescribed building conditions."

I think the hon. member will agree that all precautions necessary are in the actual form of the lease.

I have nothing to add to what my hon. colleague has already said, and I think any misapprehension has been cleared up.

MR. SHAMSUD-DEEN: Your Excellency, there does seem a certain amount of misunderstanding in the minds of unofficial members! If what the hon. the Chief Native Commissioner said just now is really the intention of Government to

[Mr. Shamsud-Deen] be carried into practice, I have nothing further to say, but my point is that Rule 10 is being disregarded. What that rule says is what I am saying. Why refer to either the local board or any native authority at all?

If you read a further rule, all these trading centres which were there before the passing of the Ordinance have been set aside for the purpose of trading centres. Then why refer to native authorities at all? I can quite see the justification for reference to native boards and other councils of any new applications, but these people of whom I am speaking have resided in these particular places for 30 years, and it has taken Government a long time to make up their minds whether they are to be township centres or trading centres or not. There is a possibility of their being changed into anything by a stroke of the pen, which is all the more reason why people who have been there for such a long time should be given some sort of security.

As regards local native councils not appearing in the licences, I will only make reference to the fact that in Rule 17 it is contemplated that the Central Board or a local board may refer to a local native council, so that the local native councils do come in. Even the constitution of the local board provides that whenever necessary and whenever there is a native capable of speaking English or understanding it, the Governor can co-opt him in order to get a native member on such board. When the native is co-opted, if he votes against anything, the Governor of the Colony and everybody have no power.

As regards the difficulties of future development coming in the way of such long leases, I submit a very simple clause can solve the difficulty, one similar to that inserted in all leases, that where it is necessary for the purposes of the railway, telegraphs, or any other purpose land can be acquired. Its absence is no excuse at all. If the development of the country is going to be indefinitely held up for want of a decision or determination on the part of Government or native authorities, I submit that it is really intentionally holding up development.

Then, again, the hon. the Acting Commissioner for Local Government has ex-

pressed a doubt as to whether there is a popular demand for long leases or dissatisfaction with the present system now being varied. I submit that that would form a very proper subject for an inquiry, and if an assurance to that effect could be given me by Government I would withdraw the motion. But I think Your Excellency will see that at the present moment, where a drastic change is proposed to be made, it is only fair that all those concerned should be consulted and their views ascertained.

I admit that my motion could perhaps have been worded more concisely and precisely; but I never meant it to imply that anybody who lived in a native reserve in one place could go anywhere and ask for a lease of a new plot. I do not want the indiscriminate issuing of long leases, and I am only pleading for those people who have remained in a particular part of a native reserve continuously for 33 years, that they should at last be granted a further lease for a corresponding period.

As far as town planning conditions are concerned, even a 99 years' lease does not come in there. Take the case of the Indian Bazaar, Nairobi, all the people had 99 years' leases, and now they are being called on to erect particular kinds of buildings or conform to the laws of the local authority, and they have to carry them into effect. That is no reason, however, for holding up the security of tenure of these people.

I would only ask those hon. members who have expressed their opinion that yearly leases are quite reasonable, to put themselves in the same position, and consider what they would feel if, after thirty years' residence in a particular native reserve, they were offered a yearly lease on conditions to build. What would their feelings be?

As regards the provision in the Ordinance that leases may be issued for any period, I submit that if it is carried to its logical conclusion there is nothing to prevent Government saying six months or one month, but the minimum period of one year contemplated in this law is for a licence and not for a lease. I submit it is only fair that the Ordinance should be read as a whole and its intention put into practice.

[Mr. Shamsud-Deen]

I submit, in answer to hon. members who have said the present practice can continue, that it is a contravention of the law, inasmuch as section 23 says:—

"Nothing in this Ordinance contained shall be deemed to affect the validity of any title to land within the area of a native reserve granted before the commencement of this Ordinance, and all such titles and the rights thereby conferred and the obligations thereby imposed shall continue to be governed by the Ordinance.

If there has been any contravention of this section, unless something new has happened, I submit that that contravention is illegal.

I can quite see the point made by the hon. the Acting Commissioner for Local Government that all land in native reserves should be controlled by the native authorities. That is explained in the law. But it is to the contrary as far as land previously held is concerned, and while all rents should be paid to the revenues of local native councils there should be no other control in their hands. But any new applications for leases should be dealt with as it has been proposed.

I again lay emphasis on this matter, that if there is any doubt as regards the desire of the non-native people in the reserves not to be transferred from one system to another, an inquiry should be held. As regards the survey, I am quite certain these people in the native reserves would rather go to the extent of paying the survey fees in order to get a safeguard and prefer to have a longer lease than the present system of what is nothing more than a yearly licence. There is a provision in the law that where the boundaries of a plot are too well known the requirements of a survey could be dispensed with, but even if Government insist on a proper survey, I think all those people would be only too pleased to pay the survey fees, but they must have some security of title than is given them at the present time.

DR. DE SOUSA: On a point of order, Your Excellency, according to Standing Rule and Order No. 26 all motions of which due notice has been given the Clerk to Council should be laid on the table for

one day. Is it in order to discuss this motion?

MR. HARRAGIN: I understand that notice of motion was given on the 12th August.

MR. SHAMSUD-DEEN: On a point of explanation, I think it did appear in the Order of the Day on that date, but I was not aware the motion was coming up this morning, otherwise I would have come better prepared to speak to it.

MR. HARRAGIN: On a matter of explanation, Sir, there is no difficulty about this motion at all. Notice of motion was given a considerable time ago, and this was a convenient day when Your Excellency decided the motion would be debated. Admittedly we cannot debate a motion on the same day that notice is given, but it can be debated at any time afterwards, after twenty-four hours.

DR. DE SOUSA: Notice of motion was not given during this session. The question was put and negatived.

MEDICAL PRACTITIONERS AND DENTISTS (AMENDMENT) BILL

IN COMMITTEE

MR. HARRAGIN moved that the Council do resume in committee of the whole Council the consideration, clause by clause, of the Medical Practitioners and Dentists (Amendment) Bill.

MR. WALLACE seconded.

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

His Excellency moved into the chair.

Clause 2.

MR. HARRAGIN: Your Excellency, I beg to move that clause 2 of the Bill be amended by deleting lines 4 to 13 and by substituting therefor:—

"7A. For the purposes of this Ordinance, the practice of dentistry shall be deemed to include the performance of any such operation and the giving of any such treatment, advice or attendance as is usually performed or given by dentists, and any person who performs any operation or gives any treatment, advice, or attendance on or to any person as preparatory to, or for the purpose of, or in connexion with the

[Mr. Harragin]
fitting, insertion, or fixing of artificial teeth shall be deemed to have practised dentistry within the meaning of this Ordinance."

This amendment is taken verbatim from the English Act which is in force at the moment, without any additions from other colonies or from the draftsman. It has proved in England to have met the difficulties which had to be faced there, and I suggest it is suitable for this country.

DR. DE SOUSA: Your Excellency, it is rather surprising that this Bill should come up this morning, and I do not know what has happened since the last debate on it. It was at that time almost withdrawn; not officially, but it appeared as if it were.

The unofficial side of Council had opposed it, and I still think it is not quite fair that the subject should have been reintroduced in this manner. I know that Government have been trying to prevent certain abuses, but if you look at the debate on this Bill a few months ago you will recollect there were very cogent reasons put forward on behalf of the poorer sections of the community that should weigh with Government in any protection that dentists might get.

It is only a rumour, but I understand the European unofficial members have been approached by the Medical Association to change their views on the matter. They have, I submit, and I do not want to say anything more. It is a rumour, too, that they have been approached to support this Bill. I do not know what special reasons there are. I am a member of the medical profession myself, but I do not find any reasons for imposing restrictions such as this Bill proposes.

With the introduction of this measure, the manufacture of dental sets alone, the only mechanical thing about dentistry, will go up 100 per cent in value in cost to a large section of the community automatically, because at the moment a dental set, a mechanical process, costs Sh. 150 to Sh. 175 among Indians, and this will go up to Sh. 300 to Sh. 350. I appeal to you, Sir, because this affects the poorer section of the people.

The better class of people go to European dentists, but there is the poor man

who cannot afford to pay these high charges. As far as I know, in medical science, there is nothing injurious to a person's health if a set is made by a dental mechanic. There is also the question of protecting a certain class of professionals.

I appealed to you before, Sir, and I appeal to you now, on behalf of all the poorer sections of the community that this measure is not necessary and will inflict a lot of hardship on those people.

MAJOR CAVENDISH-BENTINCK: Your Excellency, as far as I recollect, what happened on the previous occasion when this Bill was before Council in committee stage was that various small amendments, not to the principle of the Bill, were suggested from this side. On that day, I think, we adjourned to the following morning, when to our amazement a completely new amendment actually was brought forward which we had no time to consider; the amendment was one of a great many lines, as can be seen. For that reason, it was suggested it would be better to give everybody a time to consider it, and progress was reported. There was no question, as far as I know, of withdrawing the Bill.

In the meantime, we have, it is true, made inquiries, and I believe inquiries were made by the hon. the Director of Medical Services. Speaking for myself, I have as a result of those inquiries come to the conclusion that a Bill of this nature is required. It is nothing of a very drastic amendment because a Bill already exists, I understand, which, if put into operation, would have a very similar effect.

I do not believe there is very much in the argument about poor people, because I believe—in fact, I know—a great many qualified dentists practising at present do, as many of the medical profession do, a tremendous amount of work for nothing, and do it as properly qualified men and not as quacks. Taking all the circumstances into consideration, and making due allowance for local conditions, I at any rate have come to the conclusion that the Bill is required, that the amendment proposed by the hon. the Attorney General is satisfactory, and propose to support it.

MR. SHAMSUD-DEEN: Your Excellency, the only point that worries me is,

[Mr. Shamsud-Deen]

if you pass this Bill, what will happen to the poor people left entirely at the mercy of dentists who, it is admitted, have in the past been charging very extortionate prices for dental sets? I should think the passage of this Bill would necessitate some sort of institution by Government, where poor natives or poor Indians, who are confronted with an impossible price which the passage of the Bill will encourage, will be able to get dental sets or treatment at a reasonable charge.

Up to now Government has had no arrangement for the treatment of people's teeth; even Government servants have to go to private practitioners. When we pass a Bill of this type it is necessary there should be some institution for poor people to go to when dentists take advantage of a law like this and are being unreasonable.

MR. BEMISTER: May I ask for a little information? There is one word I do not quite understand: "or attendance on or to any person as preparatory to or for the purpose of or in connexion with the fitting, insertion..." Does that mean that a man employed by a dentist as assistant or something of the sort cannot wash a man's mouth out or do something preparatory to fitting the denture? I cannot quite grasp if this precludes the employer or employee. How are you going to keep out the man who prepares the work if you put in these words?

MR. HARRAGIN: The effect of this amendment is that a dentist will have to do the work of a dentist himself, and it will not be done by someone who is not qualified.

MR. BEMISTER: I see.

DR. DE SOUSA: Does it mean that he cannot employ a dental mechanic?

ACTING DIRECTOR OF MEDICAL SERVICES (DR. JOHNSTONE): Your Excellency, I do not know that I can add very much to what has been said already. As regards the last point raised, it does not preclude a dental mechanic from doing his part of the work under the supervision of the properly qualified dentist, but it does prevent a so-called dental mechanic from doing that work on his own, which I think is a very great danger. I am sure it is the intention of the law that those people should be prohibited from

practising, and the amendment of the Ordinance is merely meant to make that perfectly clear. In other words, to give a proper definition to dentistry.

The definition is now identical with the definition in the home law, and with the proviso we have I do not think it will cause any hardship to the general population of this country. The poorer sections always do find it difficult to get the same standard treatment, both medical and dental treatment, but to permit unqualified people to practise is not the correct manner of doing things. Eventually, I suppose, dental treatment will be provided, possibly by Government, as the finances improve and there are more services in this country, or possibly by charitable institutions as is done in other countries. I do hope this amendment will be passed.

ARCHDEACON BURNS: Your Excellency, will an assurance be given, along the lines mentioned by the last speaker, that Government will make some provision for people not in a position to pay—and who should not suffer because they are unable to pay, the high fees charged by the dental profession at the present time in the Colony? I should like very much indeed to have some such assurance of that kind from Government, otherwise I am afraid I must support the hon. member Dr. de Sousa in his contention.

MR. SHAMSUD-DEEN: I do not know that there is anything in this Ordinance which provides for such assistance being given to people where there are no medical men or dentists within a certain distance. For instance, a place like Athi River: if a man has a toothache and a neighbour helps him, that neighbour gets run for an offence against the Ordinance.

MR. HARRAGIN: I would call attention to clause 3 of the Bill.

MR. PILLING: Government is in sympathy with the intention underlying the assurance asked for by the hon. member Archdeacon Burns, but the financial position of the Colony makes it quite impossible for Government considering giving effect to any such scheme at the present time.

DR. DE SOUSA: Regarding clause 3. In a place where there are medical practitioners this law would be all right, but

[Dr. de Sousa]

the hon. and learned member probably does not understand that a general medical practitioner knows little of dentistry. I myself cannot claim to be an expert in the drawing of a tooth, and what happens in the case of Thika, where there is a big population and only one medical practitioner who knows nothing about dentistry and cannot pull out a tooth? Then this law becomes absurd.

MR. HARRAGIN: May I call the hon. member's attention to clause 3 (b) and (c).

DR. DE SOUSA: I cannot understand it; it is very difficult for me to understand; and I am a professional man talking from a professional point of view.

MAJOR CAVENDISH-BENTINCK: I think the last speaker's remarks rather prove our case. If a medical practitioner is an unsuitable man because he has not enough knowledge of dental treatment, how much more unsuitable is it if carried out by a quack? Some speakers have said that all quacks are philanthropists, whereas all dentists are usurers, which is far from being the case. The thing is ridiculous.

DR. DE SOUSA: It shows what an amount of confusion there is. It is not a question of dental treatment as such but mechanical work. A set is mechanically made and inserted in a person's mouth. The whole issue is the mechanical thing, and it is being confused unnecessarily with the technical and medical side of the work.

LORD FRANCIS SCOTT: Surely the argument has been rather far-fetched. Hon. members have talked about people right away in the blue from dentists: the most unlikely person to find there is any person who knows the work of making dentures!

The question of the amendment was put and carried.

The clause as amended was carried.

Clause 3.

MR. HARRAGIN: I move that clause 3 of the Bill be amended by deleting the words "drug or" which occur in line 1 of section 20 (c) (iii). The object of this is obvious to everyone. It is to permit a person who is extracting someone's teeth

under the conditions mentioned in the section to give aspirin or something of that description. As the clause reads, aspirin would be treated as a drug and to give it would be an offence. We retain the word "anaesthetic", so that there can be no question of an unqualified man giving an anaesthetic.

The question was put and carried.

DR. WILSON: I move that clause 3 of the Bill be amended by deleting the words "drug or" which occur in line 1 of section 20 (b) (iii).

The question was put and carried.

DR. DE SOUSA: Your Excellency, I move that clause 3 of the Bill be amended by the addition of section 20 (d): "the manufacture of dental sets by dental mechanics in places where no dentists are available."

This is to protect people in places where there are no dentists' mechanics to whom they can go and get a dental set made. I quoted the case of Thika. According to the law dental sets cannot be manufactured there and given to people because there is at any rate one medical practitioner in the place, but he not only does not make dental sets but may not be in a position to remove teeth, which is a specialized branch of the medical science. In these places, if the service of a qualified dentist is not available, people might have the service of a dental mechanic to make a set, and that has very little to do with medicine.

MR. SHAMSUD-DEEN: I do not think my friend ought to confine himself to Thika. It is not a hypothetical thing to cite people as far as Kisumu or Mombasa; I do not know if there is a dental surgeon at Mombasa, but there is not one at Kisumu, and people have to come all the way to Nairobi to buy a dental set.

DR. WILSON: This suggested amendment is entirely contrary to the whole Bill, which is to prevent an unqualified dental mechanic from unlawfully fitting teeth. These unqualified and so-called dental mechanics are very unskillful in the hygienical fitting of artificial teeth and if the amendment is approved, the whole of that argument falls to the ground. The point is that it is far better the poorer sections of the community should be at

[Dr. Wilson] the mercy of the dentist rather than unqualified quacks who can do a very great deal of harm by unskillful work.

MR. SHAMSUD-DEEN: I do not think that is quite correct. We are not trying to provide an amendment to allow quacks to practise dentistry, but we are asking for dental sets to be made, as similarly there should be no objection to a man buying a pair of glasses after consulting an optician. That is what it comes to. There should be nothing to prevent a person buying a dental set anywhere as cheaply as he can possibly get it.

MR. HARRAGIN: The answer to the hon. member is that Government is advised by those in a position to advise them that it is better for people to have no teeth in their heads at all than ill-fitting teeth.

The question was put and negatived.

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

MR. HARRAGIN moved that the Bill be reported with amendments.

The question was put and carried.

His Excellency vacated the chair.

Council resumed its sitting.

HIS EXCELLENCY reported the Bill with amendments.

THIRD READING

MR. HARRAGIN moved that the Bill be read a third time and passed.

MR. WALLACE seconded.

The question was put and carried.

The Bill was read the third time and passed.

MINERAL OIL BILL

FIRST READING

On the motion of the hon. the Attorney General, seconded by the hon. T. D. Wallace, the following Bill was read a first time:—

The Mineral Oil Bill.

Notice was given to move the subsequent readings at a later stage of the session.

ADJOURNMENT

Council adjourned till 10 a.m. on Thursday, 16th December, 1937.

Thursday, 16th December, 1937

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Thursday, the 16th December, 1937, His Excellency the Governor (Sir Robert Brooke-Popham, G.C.V.O., K.C.B., C.M.G., D.S.O., A.F.C.) presiding.

His Excellency opened the Council with prayer.

COMMUNICATION FROM THE CHAIR

KENYA LAND COMMISSION

RECOMMENDATIONS

HIS EXCELLENCY: Hon. members of Council, in the course of the debate on the budget you were informed by the Colonial Secretary that it was the intention of Government to lay on the table of this Council a memorandum containing a résumé of draft legislation, which it would be necessary to enact, in order to carry out the recommendations of the Kenya Land Commission Report.

It will interest hon. members to know that the draft legislation, together with a draft memorandum, have been referred to a sub-committee of Executive Council for their consideration and report, and when that report has received the approval of Executive Council (and, if necessary, of the Secretary of State) the memorandum and the proposed Bills will be laid on the table for information.

I make this announcement in order that hon. members may realize that the matter has not been lost sight of by Government, and that action is being pushed forward as fast as circumstances permit.

LORD FRANCIS SCOTT: Your Excellency, I am authorized by the European elected members to say that they thoroughly realize the necessity for the line of action Government is following, and while, of course, they are very anxious that there should be no unnecessary delay in dealing with these matters, we believe that the line now being followed will probably lead to expedition rather than delay in getting these matters settled.

TRANSPORT LICENSING BILL

SELECT COMMITTEE REPORT

MR. HARRAGIN: Your Excellency, I beg to move that the select committee report on the Transport Licensing Bill be adopted.

[Mr. Harragin]

Those members who have read this report will realize that we have made no drastic amendments in the Bill which was originally submitted to Council and adopted at the second reading. But we have endeavoured where possible to meet some of the many objections that were raised in the course of the second reading without in any way departing from the principle of the Bill.

The first small amendment is with regard to the definition of the word "ship", and this was done in order to conform with the legislation in Uganda. It seemed very undesirable that we should be licensing ships in Kisumu which would not be considered ships when they reached the Uganda border.

Another rather more important amendment was by making provision for the public service vehicle. As the Bill was originally drafted it only dealt with two types of vehicle, the lorry and the bus. But in this country, as hon. members are well aware, we have a sort of hybrid which carries passengers underneath and goods up above, and therefore we have made provision for the licensing of that type of vehicle.

Clause 3 has merely been clarified. It sets out when members of the Board can be removed, in cases of bankruptcy and so on, and how long their period of service will be, namely three years. And lastly, the usual indemnity clause, indemnifying them against any action taken in conformity with their duties under the Ordinance.

Clause 5 is a goodwill clause, which makes provision for the vehicles already mentioned, namely the public service vehicles, and we have endeavoured to meet the difficulty pointed out by the hon. Member for Nairobi South. As the Bill was originally drafted it was not intended that the holders of A licences should be able to operate as if they were in possession of B licences, but you will remember that it was pointed out that certain transport companies had, in addition to their principal task of transport work, compost works somewhere in the vicinity of Nairobi, and it had been their habit in the past to use these vehicles on occasions to bring compost into Nairobi or where-

ever they wished to take it. Therefore we have made provision in this clause to permit the Board to grant amelioration in this direction by permitting owners of A licences to use their vehicles in this way.

Clause 6 merely provides that licences shall expire on the 31st December. Originally it had been thought that a licence should last for one year whenever it was taken out, but as we visualized the working of the Ordinance it became clear that it would probably be of great assistance to those taking out licences if in fact the licence expired at the same time as the other licences under the Traffic Ordinance. Personally, I do not think that after the first year it will be necessary for this Board to consider at any length at least 80 per cent of the applications for licences. Take, for example, the licence called the C licence. I should imagine that 99 per cent of these will be granted out of hand after the initial inquiry. And, as we visualize it, the Board will be able to direct the district commissioner or whoever it is issuing the C licence that if X, Y or Z applies for a C licence it may be granted to him at the same time he applies for his ordinary licence, so that he will not be obliged to make a further application.

With regard to the exclusive licence clause, which has received a certain amount of criticism, we have provided that there should be six months' notice given of the intention of the Board to grant such exclusive licences, and that it should be given in the Gazette and in the Press in order that those who wish to object will have every opportunity of coming forward and putting their case before the Board.

Clause 12 has been clarified to make it perfectly clear by correlating it to the subsequent clauses that it is not the intention that that clause should operate except during the first year. This is obviously necessary, as it would strike at the whole basis of control were it to be held otherwise.

The objection taken by the hon. Indian member Mr. Mangat with regard to reasons being given in writing by the Board has also been met in clause 14, which sets out that the reasons when required shall be given in writing.

[Mr. Harragin]

Clause 17 has one small amendment at the suggestion of the Acting Director of Public Works, and that is with regard to the tyres to be used on vehicles. The point about that is this. As hon. members are aware, on mud roads it is most important that tyres which are too small really for the weight of the vehicles they are conveying along the roads should not be used during wet weather, and where licences are going to be granted to run over that type of road we have given power to the Board to say the tyres permitted on that vehicle shall not be less than so many inches.

Clause 21 meets the point made by the hon. Member for Ukamba, and gives the local authority power to intervene and object to the granting of any licences to vehicles which are going to run over their roads. We have also provided that regulations made under the Ordinance will be laid on the table of the Council and the usual provision with regard to forty days within which members may bring forward a motion to have them varied or annulled.

We met the difficulty in clause 29. That is to say, that of the C licence-holders having to keep a record. We altered that section very considerably by leaving it entirely to the Board to decide whether it will be necessary for any particular person to keep a record. As we visualize it at present, it probably will not be necessary for any person with a C licence to keep a record, but, on the other hand, it will be necessary that every holder of an A licence should have to keep such a record.

Clause 30 has been varied to some extent. Firstly, by permitting the Board to authorize persons to stop vehicles and examine them with regard to the conditions under which they are travelling. As it read, it meant that only the police could stop them. Now, anybody who is authorized by the Board will be able to do so, and they will be authorized in writing. This is, I submit, an extremely necessary provision, because the people we will have to authorize will be people like the road overseers and officers of the Public Works Department, who probably know a great deal more about it than any unfortunate policeman.

The power of arrest has also been reduced in that only those over the rank of assistant sub-inspector will be permitted to arrest anyone found to be offending against the law, and then only if they have reasonable cause to believe that by issuing an ordinary summons the offender will not appear.

At the end of this report there are two or three recommendations which, strictly speaking, do not affect any part of the Ordinance itself, but which we have put in in the hope that they will be of some guide to Government and also to the Board when it is established.

The first is we consider that the fee for a C licence should be kept as small as possible. We would like to have said that they should be free, but we realize that that may be going too far, and we sincerely trust that it will not be necessary to charge more than half-a-crown. We are also very alive to this fact, that if transport control is really going to be successful in these three territories we should collaborate as far as possible with our neighbours, and we think that it is a matter of some importance that the licences should be the same as in the neighbouring territories. We do not suggest what is the proper method by which that can be achieved, but no doubt communication with the other territories will be able to do it.

We went very carefully into the question of appeals, and we found a certain amount of difficulty. Our first difficulty was that the Ordinances in the neighbouring territories have already been passed, and there appeals go to the Supreme Court. The next difficulty was that if an appeal was to go, as some hon. members suggest, to the Governor in Council, firstly we were not quite sure whether the Governor in Council was the proper body to ask, with its many duties, to also take on the task of a sort of court of appeal, and secondly, it seemed peculiar that the one person who should be able to advise the Governor and his Executive Council on these matters would automatically be stopped from saying anything, namely the Attorney General, because it would be an appeal against himself. We really think that the best possible court of appeal that could be set up would be an appeal board of possibly

[Mr. Harragin]

three unofficial gentlemen. We visualized a retired legal man, possibly as the chairman, and two other ordinary citizens who are not interested in transport. But we do not want to set up in Kenya what is not found in the neighbouring territories, and in any discussions that take place with the neighbouring territories we trust that this Government will put that point of view to them with the idea possibly of setting up one court of appeal for all three territories. But that is a matter of detail that can be considered later by the Government.

These are all the amendments that have been made. Nothing drastic has been done, and the committee does think that it has made the Bill into as workable a proposition as possible.

MR. WALLACE seconded.

MR. PANDYA: Your Excellency, I do not think that the important points which we made in the debate on the second reading of this Bill have been given any consideration at all by the select committee. No doubt certain changes have been made; and more or less they are very minor changes, but the most important points that were raised from outside have been completely ignored. In certain instances provisions in the Bill have been made more strong, but I do not understand what is the necessity of changing the definition of "ship". I understand it was taken from the Uganda Bill, and I should like to know whether the Uganda Bill has made any changes from the Kenya Bill.

We had drawn attention to clause 3 (c) (6) in regard to arbitrary powers being given to single members of the licensing authority, and this important point has not been considered by the committee at all.

In clause 12 the safeguard which was intended by that clause, and a very great effort was made to show the justice and reasonableness of that clause in regard to automatic licences which will be issued for the first year, appears to have been to a certain extent to be whittled by the amendment to this clause, so that the safeguard is only there now for the first year, and all the transport people will

come under the Bill in the second year. There does not appear to be in this any concession, because it is humanly impossible for the Government to put into practice this Bill without giving time, for a year, to work it out.

In clause 17 the hon. mover explained that the condition in regard to the insertion of the clause mentioning that certain types of tyres should be used has been done at the request of the Director of Public Works. The point in this connexion appears to me that they have been going into very great detail in regard to this Bill and it is also going to inflict hardship on the transport owners if they have to use certain kinds of tyres.

In clause 21 the power of objection to the application for licences which has been given to local authorities is, in my opinion, a very serious issue as far as we are concerned. Formerly, according to the Bill, power was given to a person who had already provided facilities and his objections were to be taken into consideration. But this power given to the local authorities in any area where the transport owner has to travel over is much more serious than it appears on the surface, because when that lorry owner is applying for a licence there will be a number of local authorities who will be affected whose roads will have to be traversed. Local authorities, as we know, are very unsympathetic to Indian interests, and there happens to be no Indian representatives on these local authorities, so that if we had even small reasons to object to the issue of these licences on these roads, there will be endless trouble in regard to the issuing of these licences, and this, in fact, is going to be one of the biggest objections from our point of view to this Bill.

The most important point which we made on that Bill was in regard to clause 3, about the membership of the Board, and it appears to have been left as it is. Our view in that connexion seems to have been entirely ignored, and we have had no consideration given to us in this matter. In this regard I should like to say that we were refused adequate representation and therefore had no opportunity of presenting our case to the select committee with regard to this very important point. Although I do not say that even if

[Mr. Pandya]

we had been given this opportunity our point of view would have been accepted, because in any case we would have been in the absolute minority. But my real objection and real reason for bringing this point forward is that even the standards of fairness and justice which are considered to be inherent in the British constitution were denied us in this particular instance, because an effort was made by us to request the Government that at least three members should be on the select committee and the Government brushed it aside and refused to consider it. The result was that an Indian member was not allowed to be on that select committee. In this connexion we have succumbed to the force which is there. It has been said by a poet, "Let us have a giant's strength but let us not use it as giants." But the Government which has this strength has used it as a giant in this case. Not only was the steam-roller in force, but they put a trailer at their back in the form of the European-elected members. Where was there a chance of the poor Indian member or Indian interests surviving when those two were going over their interests?

In view of the attitude which appears to have been taken by Government in ignoring all that we said, I do not think we should be expected to change our opinion with regard to our opposition to this Bill. The time has not yet come when we can go further and say that Indian interests are not allowed to be represented on the Board, because that question is still to be decided by the Government later on. But I hope and I appeal to Government in all sincerity that, in view of the large interests involved—and the interests involved are mainly Indian—that we have made out an absolutely unanswerable case as regards representation on the Board, and I hope that when the time comes Government will consider our viewpoint seriously, and, if I may say so, sympathetically, and that we shall not have occasion to come to this Council again and move a motion drawing attention to an injustice which has been inflicted by Indians not being given any representation on that Board.

MR. HARVEY: Your Excellency, it is very rarely that remarks by the hon.

member who has just spoken can be described as a facile flow of fallacy, but such is the case on this occasion. The first serious fallacy is that he states categorically that the Indians were denied representation on this select committee. Well, every hon. member of this Council is aware of the facts of the case, and fully aware of the fact that the Indians were given the same opportunity of representation on this select committee they have always been given on these select committees.

MR. ISHER DASS: Rubbish.

HIS EXCELLENCY: Order!

MR. HARVEY: Moreover, the Indians, in common with all other members of the Kenya public, had full and ample opportunity of appearing before the select committee and stating their case. One of them, actually one of the hon. Indian members, threatened to do so, but for reasons best known to himself he failed to turn up at the critical moment.

I should like to say quite plainly that there was not one point made in the debate on the second reading that was not considered in very great detail by the select committee under the chairmanship of the hon. and learned mover. Not only were the points mentioned in the debate considered but, as I mentioned a moment ago, the public were invited to appear, and representative members of the public did so, representatives of transport organizations and other representative citizens. There was a considerable amount of criticism and various suggestions were sent to the committee in writing. All these were considered in very great detail and with very great care by the select committee. So it is quite incorrect to say that any point was not very, very carefully considered.

The hon. gentleman also stated quite plainly that no notice was taken of the representations made in regard to clause 3 (c). Actually I venture to attract his attention to page 2 of the select committee's report, in which it is clearly to be seen that clause 3 has been most drastically amended by complete substitution and a series of new proposals for the original clauses 2 to 6.

Another point was that a statement was made that local authorities are notoriously

[Mr. Harvey]

unsympathetic to Indian interests. I have had occasion before to challenge that statement in this Council, and I do so again. Frequently I am privileged to attend the meetings of the Nyanza District Council. It has and always has had a representative of Indian interests, and the gentleman who represents those interests does so ably and efficiently and puts up such cogent arguments for the people he represents that he has always been listened to with respect and very often gains his point. It is quite incorrect to say that the district councils are invariably hostile to Indian interests. There is no reason to suppose that the powers that it is proposed to endow the local authorities with under this Ordinance will be exercised other than with the maximum of discretion and equity.

The hon. gentleman's concluding remarks, I say with all respect, have nothing to do with the select committee's report. He endeavoured once again to make a point which was made repeatedly in the second reading of the Bill in regard to specific Indian representation on the Licensing Board and on the select committee. I am quite sure this Council and I am quite sure that all other reasonable people have no desire whatever to fetter the discretion of His Excellency the Governor in making nominations to this very important Board. I support the motion.

MR. BEMISTER: Your Excellency, I am rather irritable because so much has been talked about Indian interests in this Bill. My whole object in rising is to press a little for the native interests and those of the consumers and the rate-payers. So far as I can see it, this Bill intends to protect the roads and generally control the traffic, but I have never had any reply to the question I raised in the original debate in regard to Part IV, pages 14 and 15, clauses 2 (c), 3 (b) and 4 (b).

I cannot understand how you are going to work a Bill of this kind and designed entirely for the protection of the roads without you are going to introduce into it some system of regulating the prices of traffic. We all know to-day that innovations are continually being made,

especially in transport, and you have the instance of the Machakos lorry which up to a few months ago was taking passengers at a shilling a time from Nairobi to Machakos. Along comes a man later with a crude diesel lorry—I think that is what they call it—I know it is a much cheaper thing and much cheaper running costs, and he can do the same work for 75 cents. The way I read this Bill, if you have given a concession or an exclusive licence to a man driving on certain given roads and his fee is, say, one shilling, you then preclude a new man with a new invention coming along and cutting the rates for the benefit of the natives—for it is the natives mostly who are concerned in this Bill so far as rates are concerned. I consider my remarks and suggestions in the previous debate that rates especially should be considered were never considered and were never debated for one second in the select committee.

ARCHDEACON BURNS: Your Excellency, I only just want to say one word in the interests not only of the natives but of every other section of the community so fully and impartially treated in that select committee. Every item and everything that was mentioned here this morning was taken into consideration, even the fares that the natives might have to pay were also taken into consideration. With regard to paragraph 3 that has been mentioned, that was discussed at some length, and the select committee came to the conclusion that after it had taken everything into consideration, it was better perhaps to leave it as it was in the original Bill. I do say that every section of the community, native, European and Indian, was discussed impartially, and fully so that justice might be done to every section of the community. As the hon. and learned mover when he first brought the Bill before the Council said, it was not the intention of the Government to drive anyone who was running an efficient service off the road unless the licensing authority saw real reasons why they should be driven off the road. That was kept in mind all the time and was never forgotten during the discussions by the select committee.

MR. HARRAGIN: Your Excellency, after listening to the speech of the hon.

[Mr. Harragin]

Member for Nyanza I feel there is very little for me to say. If I were by nature a rude person, I would answer Mr. Pandya very shortly by saying that as he took no notice of my committee I take no notice of the points he makes with regard to my committee report. But, in point of fact, we have treated him far better than he thinks, because, as he has already been told by two speakers, and I repeat it in order that it should come from the Government side, every single point made in the course of the debate on the second reading that I was able to take down was carefully considered one by one by the select committee.

I foresaw from the very beginning of the debate on the second reading the attitude the hon. Indian members were going to take up, and that was why I was so careful to interpose at the end of that day and state the Government's position clearly with regard to the members of that select committee. The hon. Indian members know perfectly well that if they wish any different representation on a select committee than they are getting, the proper time is when the motion is put with regard to the personnel of the committee, as was done on this occasion.

The hon. Indian members were perfectly aware that nothing definite had been decided by the Government at the time that the motion was put, that we had said that the normal procedure would be adopted. The normal procedure was adopted, and not the slightest effort was made to alter that except to inform me that the one Indian member who as a rule assists on select committee, as he objected to the whole principle of the Bill, would refuse to serve on this particular committee. So that ended that.

And further, we are well aware that every effort was made to prevent, so far as one could, to prevent Indians who were interested in the Bill from coming and giving evidence before the committee. So I think that any Indian member who takes any exception to what appears in that select committee report is on extremely bad ground, as he himself refused to come and assist and instead did his utmost to prevent anyone else from his community assisting us in any way whatever.

In point of fact, we have considered all their points and dealt with them, but it is impossible to deal with people who object to the principle when dealing with details of the Bill: Hon. Indian members will understand that at once. If you start off by saying it is a bad and impossible Bill and say you do not want this Bill, it is no good arguing minor points as to the types of tyres and that sort of thing which appear in these amendments.

Two small points have been made as regards the details of the Bill. One was with regard to the types of tyres. I do suggest that it is absurd to prevent a Board, one of whose duties it will be to endeavour as far as it can to preserve the amenities of the road, from deciding the types of vehicle that should run over a particular road. It is perfectly clear that if you use a very narrow tyre on an extremely heavy vehicle it must cut up the road in wet weather a great deal more than a large tyre. The net result will be that the road will be closed altogether to traffic in a very short time. One of the duties of this Board will be to endeavour to keep these roads open, and I suggest that it is most important that this Board should be able to say what type of tyre ought to run over a particular road.

The next point made was in regard to local authorities. I personally can see no argument whatever in suggesting that the people who are more responsible for the roads in their district than anybody else should be the only people precluded from coming and giving evidence before the Board. It seems to me a matter of elementary justice that people whose roads are run over by vehicles to whom the Board is going to issue licences should be heard before the Board grants those licences.

With regard to Indian representation on the Board the position of Government has been stated perfectly clearly, and there is nothing in the Bill to preclude them as far as I know.

The hon. Member for Mombasa objects to the regulation of fares, and quoted as an example that if we granted an exclusive licence it would prevent anyone else with a cheaper diesel engine coming in and running at cheaper rates on these roads. Of course he is right. If

[Mr. Harragin] We grant an exclusive licence, no one can come in, whether he has a cheaper vehicle or a more expensive one. The object of the exclusive licence, which I do not suppose will be often used, is to attract someone to give a service not given at the present time. It would be manifestly unjust, the moment we got a service running, to allow some who would not come in when the road was free, but the moment the traffic proved sufficient to support at least one company to come in and run at a cheaper rate and oust out the pioneer of the business.

Actually, as all know, an exclusive licence will be given extremely seldom in practice. At the same time, it would be a very retrograde step to say that it should not be given at all.

I do not think there are any other points raised in the course of the debate.

MR. PANDYA: Your Excellency, on a point of explanation, I think it is incorrect to say that the Indian member refused to sit on the committee because he disagreed with the principle. It was because we were refused representation by more than one that we did not serve.

The question was put and carried.

THIRD READING

MR. HARRAGIN moved that the Bill be read a third time and passed.

MR. WALLACE seconded.

The question was put and carried.

The Bill was read a third time and passed.

AGRICULTURAL INDEBTEDNESS COMMITTEE

MAJOR RIDDELL: Your Excellency, I beg to move the motion standing on the Order Paper in my name:

"That in the opinion of this Council the problem of agricultural indebtedness in Kenya, which caused grave anxiety in 1935 and which led to the setting up of the Agricultural Indebtedness Committee, still remains unsolved and calls for further investigation."

I move this resolution as a direct result of a question and answer that took place in this Council not very long ago. The question was: What has happened to the

Agricultural Indebtedness Committee and was anything more being done about agricultural indebtedness in Kenya? The answer to the first part of the question was that there would be a meeting of the Agricultural Indebtedness Committee in the near future to wind it up, and since the Interim Report was placed on the table in December, 1935, no further steps had been taken as regards agricultural indebtedness in Kenya. That was the Government reply. This motion was therefore tabled to ask Government to go on with this very necessary work.

I do not propose to speak at any great length on the subject, because I think most of the points I am going to make are well known to the members of this Council. At the same time, I am going to give a very short historical sketch of what has happened since the start of the economic depression in 1930, which was world wide.

To begin with, we were, a little later than most countries by this economic blitzard, because we did not feel the full force of it until 1931, by which time all the self-governing dominions and colonies of the British Empire and England herself were searching for means to help the premier industry, that is agriculture, while we were sitting back and doing practically nothing. That was between 1931 and 1934.

In 1934 a very emasculated Bill appeared on the scene, called the Mortgage Relief Bill, and that was the first active step taken by this Council to deal with the problem, which by that time had become acute. I waited six or seven months or a little more before I put the question as regards the Agricultural Mortgage Relief Bill, and then I put in this Council a question to the Government as follows: "How many people have applied for and received relief from the Mortgage Relief Bill?" And the answer in both cases was "One." Thus one person had applied for and one had received it. So I think I am fairly accurate in describing it as an emasculated Bill from the start.

By the time 1935 was well under way a great movement of unrest took place throughout Kenya which had repercussions in every branch of public life in this country. It was in the debate of July and

[Major Riddell]

August of 1935 that four of the unofficial members on this side of Council walked out, and I was one. It led to a siting of the Convention of Associations, and following on that a Vigilance Committee was formed to deal with a situation which was becoming intolerable. As a result of this agitation, which was obviously going to become more acute unless something was done, Government brought into being the Agricultural Indebtedness Committee, not to explore the ground as to whether there was in fact a need to help agriculturists, but to find a means of lightening the burden of agricultural indebtedness in Kenya.

That Committee sat, and in December, 1935, they issued an interim report which was of some value. As a result of that report the Farmers Assistance Ordinance came into being, which included a Conciliation Board. The Government said in introducing this Bill and the Conciliation Board that its measure of assistance followed very closely on the lines of a similar Bill in New Zealand. I should like to record in passing that it differed in one very important particular, inasmuch that it did not contain, as the New Zealand Bill did, the elements of compulsion as between mortgagor and mortgagee.

In the meantime the Vigilance Committee were busy and they got out after a considerable amount of effort on their part, but with a very noble response from all people in the country, a statement of the actual indebtedness, which has never been traversed. It showed that the total indebtedness in Kenya amounted to the very large sum of £4,500,000. So that was the position we were facing as regards the indebtedness of the agricultural community, at the end of the year 1935.

Some time after the Farmers Assistance Ordinance came into being, the Chairman of the Elected Members Organization, the Noble Lord the Member for Rift Valley, asked the following question: "How many applications have been made under the Farmers Assistance Ordinance?" And the answer was 19. "How many of these applications have been forwarded to the Conciliation Board?" The answer was 9. "How many of these applications have been (a) granted, and (b) rejected?" And

the answer was "One tentatively approved, awaiting final decision as to amount of advance; four rejected." "What are the financial obligations of those applications that have been granted?" The answer was "Secured creditors £772-10-23, unsecured creditors £235-13-62."

There did not seem to me or anybody else very much assistance going on there, so I went two or three days ago to the Land Bank and asked the secretary to kindly give me the figures which would bring us up to date. This is his answer:—

"In reply to your request I have the honour to submit the following information: Applications received, 33; approved, 9; withdrawn, 4; rejected, 19; under consideration, 1.

Total amount of loans authorized during 1937, £8,179-6-70."

That is the position at the present moment. It cannot be claimed, I think, that the remedial measures, as we are so fond of calling them, put into operation in the last four years to deal with this world-wide slump have been in fact very efficient.

The people who deal with the Land Bank and this Conciliation Board and who have more actual knowledge of the work than I or any other elected member, point out that although these figures are, of course, trivial, the fact that the Mortgagors Relief Ordinance is in existence, the fact that the Farmers Assistance Ordinance is in existence, and that there is in actual operation a Conciliation Board, do in fact bring the mortgagor and mortgagee to some considerable extent together. I am not disputing that, and I dare say there is a great deal in it, but I do not believe, when you come to compare with what is actually happening in Kenya with the total of indebtedness as shown by the Vigilance Committee and handed in to Government, it is anything but a trivial help in proportion to that indebtedness.

We have lost two years, in the terms of the answer given to my question, and I submit to Government it is time they set to work and did something. I do not think anything very drastic is necessary, inasmuch as, although not of very much use up to the present time, there is a skeleton in existence in the hands of

[Major Riddell]

Government on which could be built really effective agricultural assistance.

The skeleton I describe to you is this. First, you have on the statute book the Mortgagors Relief Ordinance, which can be amended. Secondly, you have a capital of £500,000, less what has been distributed, in the Land Bank. Thirdly, you have the Farmers Assistance Ordinance and Conciliation Board. So that, by amendment after examination of this problem, you have, as I see it, a sort of nucleus on which to build.

What I am asking for is a further investigation. But I am not asking for a further investigation to take place at the hands of the Agricultural Indebtedness Committee, because that committee, in my opinion, failed us in a major particular. They subdivided their recommendations in this interim report into two categories: long-term finance and short-term finance. They dealt with the latter, but completely shirked the long-term finance which they were to deal with.

In order to support this statement, I propose to read what they say under the heading "Long Term Finance".

"We examined at length a proposal for a bond issue to liquidate mortgage debts, but consider that we cannot express an opinion on or recommend a scheme which to the best of our knowledge has no parallel in other dependencies, without an assurance that such scheme or modification thereof would meet with the approval of the Secretary of State."

I again call attention to the fact that this Agricultural Indebtedness Committee was not called into being to find out whether there was, in fact, a need for agricultural help, but they were called into being to find means to give that help. But that was not the way of doing it—that is passing on the trouble to another body and eventually to the Secretary of State. I submit that what we want to do is to tell the Secretary of State what we want! And on that committee to do so there was the Treasurer, there was a very senior banker, there were two members of the Vigilance Committee, and there was a gentleman who has been

secretary of many business organizations in this country for a great number of years.

But the fact that the committee has, to a certain extent, failed us, does not alter the fact that the indebtedness of the farmer is still there, and it has been there since the end of 1935 at the time this interim report was issued. I submit to Government that the time has now long since been reached when we want these investigations carried on, and without delay. I suggest that it can be done either by a select committee of Council or by the Standing Board of Economic Development, if that body can be dragged from the shades into which it has apparently retired. But that some body, a competent body, has to go on with this business there is, in my submission, no shadow of doubt.

Before I sit down, having made my point, I should like to say here that there are two schools of thought, and always have been here in Kenya, on both vocal. One school says, "You elected members should not always be trying to prove that the agricultural community is broke and cannot carry on without assistance; you should be talking on a more optimistic scale than that." We elected members do not talk like that. We take the other view. I do, and very strongly indeed.

I do not believe in new settlement and will never help it in my power until such time as we have made some form of security for the settlers already here. I believe in salvage first before new settlement. I do not believe that to produce a scheme of new settlement in this country is worth anything to us or the Empire as a whole until the people already here have come out on the other side of this terrible world-wide depression. In some sort of stability, and they cannot do that while they have this terrible burden of agricultural indebtedness which hangs like a millstone around their necks.

The first thing is salvage, and that is our foundation to any form of settlement. If any of my relations, any young man, came to me now in the present condition of Kenya and said, "Shall I stay here as a farmer?" I should say, "No, not until this is done," because I cannot advise anybody to come to Kenya until this position is clarified. With the determination

[Major Riddell] that this original basis of settlement in this country is put on its legs Government will have our complete co-operation; more than that, the co-operation of the whole of Kenya, and all will pull together. Instead of hearing so much about this co-operation which everybody desires, it will become in the near future an accomplished fact.

MR. WRIGHT: Your Excellency, I beg to second.

As I have been led to believe that Government is ready, and indeed quite willing, to accept this motion, there would seem to be no point in elaborating any arguments in its favour, I beg therefore simply to second.

Council adjourned for the usual interval.

On resuming:

DR. DE-SOUSA: Your Excellency, I think it was very unfortunate, from the point of view of the hon. mover and the people he represents, that a motion of this kind should have been brought up. I say, unfortunate from his point of view, because this is, in the first place, a bad advertisement for the people whose cause he is advocating, and it is a bad advertisement for the Colony, because when there are elaborate committees set up to attract new settlers to the country a motion of this kind is likely to affect very adversely the activities of the Kenya Association.

But apart from those unfortunate circumstances, it is a fortunate thing from the point of view of the public at large and the different communities of this country, because from what we know and what the hon. mover has told us, it is evident that this farming settlement in this country, white agriculture, has been a failure.

I will not go to the extent of paraphrasing this motion and calling it a sort of petition for bankruptcy of white farmers, but I say white settlement has been a failure for some reason or other; it may be through causes over which they have no control. We all know that large sums have been invested in this activity, of agriculture by white farmers, but for some reason or other it has been a failure,

and such a failure the like of which we have not known within the British Empire!

I say this because, for a number of years, we have been subsidizing this white agriculture. We have here a motion which talks of agriculture, but it is quite evident to everybody that by agriculture is meant white agriculture, and the hon. member, by no stretch of imagination, could ever have put before this Council Indian agriculture, because the Indians do not exist in this country as agriculturists, and from the point of view of the Colony and the various communities we know that this has been a dead weight on their backs. We have been subsidizing white agriculture ever since its inception. You have only got to work out how many millions it has cost the country in railway concessions, and how much more—which is really the gravest circumstance of all—the poorer sections of the community, the Indian community and the native community, have paid to subsidize this in the form of monopolies, in the form of subsidies, given in the form of indirect taxes on the food of the people and on the necessities of the people.

Then you will find out that, in spite of all this, white agriculture has been a failure, and a dead failure, and I think it is time for us to record our expression. I therefore propose to move an amendment which will reflect the actual state of affairs for, so far as the indebtedness of this white agriculture is concerned it is unsolved. I agree. I merely want to add that it is never likely to be solved, and so I move this amendment:—

"That the motion be amended by deleting therefrom the last four words 'calls for further investigation' and substituting therefor the words 'is never likely to be solved'."
(Laughter.)

MR. ISHER-DASS seconded.

LORD FRANCIS SCOTT: I merely rise, Sir, to say that naturally we are opposed to the amendment, and I do not think it is worth discussing!

MR. HARRAGIN: Your Excellency, I rise to say much the same thing—that Government regrets it is unable to accept this amendment.

The question of the amendment was put and negatived.

The debate on the substantive motion was resumed.

COL. KIRKWOOD: Your Excellency, I rise to support this motion, as I definitely consider that further investigation into agricultural indebtedness is advisable. I do hope Government will agree to carry out such further investigation, either by sending the matter to the Standing Board of Economic Development or by some other method.

I am also definitely of the opinion that this motion would not have arisen had a compulsory clause been inserted in the conciliation legislation that was passed some time ago. My own experience, which is not inconsiderable, is that where such legislation has been passed in the Empire a compulsory clause has been embodied, and without that clause legislation of that sort is very inadequate and very difficult to work. A good deal of consideration and assistance has been given to individuals by such things as stay orders, etc., but I maintain that that does not go far enough. I do hope this matter will be given further consideration, and if the legislation can be amended to include a compulsory clause I think that will get over the major part of the difficulty that the agricultural industry is facing to-day.

The hon. mover has pointed out the usefulness and the absolute necessity of keeping the agricultural interests in this Colony as far as possible intact. Whether his 44 million pounds indebtedness which he attributes to the agricultural industry is correct or not, I do not know. I am not interested in the details, as I am well aware and every member of this Council is aware that in every country in the world there is agricultural indebtedness existing. It also exists in the commercial community, and it also exists in this wonderful little Colony of ours, Kenya. Taking the Colony's indebtedness, the world is carried on by finance, and indebtedness is part of finance all the world over, and I think it is a mistake to stress the fact that one particular industry is in debt to whatever amount it might be.

I think Council is also aware that many of the disabilities affecting agriculturists in this Colony were caused by conditions

quite outside their control. It was due to the collapse of world conditions somewhere about 1930, I take, for instance, the average pool price of maize paid out by the Kenya Farmers Association over a period of the last 5 years, Sh. 5/55 per bag. The average pool price for wheat for the last 5 years worked out at Sh. 15/14. Those are not bough prices, but it is the commodity price that has been ruling for a period of years that has affected farming more than any other condition it has to contend with because, after all, in this Colony we have a wonderful fertility of soil, a wonderful climate, and a very fine rainfall.

As regards the remarks of the hon. member about settlement in this Colony (I know he was visualizing European settlement), I disagree with him that the non-native communities appear in these days to have very little interest in agriculture. I think therefore that settlement in this country is absolutely essential. It has not been a failure. As a matter of fact, from many ways it has been a wonderful success, and I am quite sure that if Your Excellency will have figures taken out you will find that the handful of European agriculturists in this Colony pay out more in wages to the natives than what the natives pay in taxation, and that is just one way of putting one side of the question.

I am quite certain, too, that if it were possible to buy out European agriculture tomorrow, somebody would have to come and buy out the Colony, because your finances would collapse. The Colony could not be run without European settlement, and the more settlement we get the better for the Colony. One has not the time to get out the railway return—the Standing Board of Economic Development can do that—and also the amount of money that comes from customs, the amount of money paid the railway, but it will be found the European farmers in this Colony are carrying a very large burden. I have also quoted several times in this Council the figures given by Lord Moyne in his report to show that the European population in this Colony—a mere handful compared to the natives and Asian populations—contributed the largest amount of surplus after the services had been paid for.

[Col. Kirkwood]

I do hope this matter will be taken further and given further consideration, and also that the question of increased settlement will be considered. I know a Settlement Committee has been appointed to go into this matter, and I submit that, provided a new settler has what I would term adequate finance and provided Government is satisfied that labour would be forthcoming for further settlement, then it is one of the finest policies the Colony should adopt, to push European settlement along as fast as possible with these provisos.

As regards the amendment which was proposed and the remarks made by the hon. Indian member, I can only say they were like many other remarks which come from the same quarter from which this Council invariably suffers, and which can be described as a tolerance of misrepresentations.

MR. ISHER DASS: Your Excellency—

HIS EXCELLENCY: The hon. member has already seconded the amendment and cannot strictly speak to the motion.

MR. ISHER DASS: I have not spoken, I only seconded the amendment.

HIS EXCELLENCY: I will refer it to the hon. and learned Attorney General.

MR. HARRAGIN: The position is clear. A member who seconds an amendment speaks to the original motion. When an amendment is moved a member speaks even if he only says "I second." There is some confusion with regard to the matter, because a member can reserve the right, if he seconds a motion without speaking, to speak later to the motion he seconds.

MR. ISHER DASS: The other day the hon. Member for the Coast moved an amendment and also spoke on the motion as well.

HIS EXCELLENCY: Order, order!

MR. HARRAGIN: On a point of fact, that is incorrect: I remember the incident perfectly well. The hon. member spoke to the amendment and afterwards spoke to the principal motion.

MR. ISHER DASS: That is exactly what I want to do, I want to speak on the original motion.

HIS EXCELLENCY: Yes, but you have by the mere fact of seconding the amendment. That counts as speaking to the original motion. We can quote chapter and verse for that, if the hon. member wishes.

MR. ISHER DASS: The hon. Member for the Coast did the same.

MR. HARRAGIN: Your Excellency, I beg to move the suspension of standing orders to permit the hon. member to speak on this occasion.

It would appear that he was unaware of the provisions relating to this particular point of debate and, as it is now perfectly clear and every member of Council will be aware of it in future, I beg to move.

MR. PILLING seconded.

MR. SHAMSUD-DEEN: Your Excellency, on a point of order, although this is a trivial matter of procedure, the past records of Council will show that a similar ruling was, I think, given by your predecessor but I was allowed to speak. On the last occasion, when the hon. Member for the Coast spoke he first moved an amendment and spoke and again spoke on the original motion, and I drew the attention of the hon. and learned Attorney General to it by a chit to him. I pointed out that there were two sets of rules in Council, one for Indians and one for Europeans as the hon. Member for the Coast was allowed to move an amendment and then speak on the motion. I think it is just as well to give an unequivocal ruling on the point for the future.

LORD FRANCIS SCOTT: Is it not a fact that the hon. member Mr. Shamsud-Deen was ruled out of order on exactly the same point?

MR. HARRAGIN: In any event, Your Excellency, may I call attention to Standing Rule No. 44 (4) which states perfectly clearly that your decision as President is final in any of these matters.

MR. MANGAT: Your Excellency, I oppose the motion of the hon. and learned Attorney General for the suspension of

[Mr. Mangat] standing orders. Surely the subject is not so important as to warrant the suspension. If the hon. and learned Attorney General admits that he made a mistake in giving that ruling I think that is all the more reason why Your Excellency should give the procedure. I think the explanation by the hon. and learned member quite wrong. He has been President when several members have spoken on a motion after amendment, but if Your Excellency holds the ruling is correct there is no reason why standing rules and orders be suspended for any member, and I only say that the President's ruling to-day should be abided by all members in future.

MR. HARRAGIN: I do not intend to prolong the debate. If the hon. member likes to read May's Parliamentary Practice I am prepared to hand it to him. It is perfectly clear and this is no interpretation of mine, for it says so in so many words. Whatever was done in the past has nothing to do with the present.

MR. ISHER DASS: On a point of information, the hon. Member for the Coast moved an amendment, spoke on it, and after the amendment was defeated spoke on the original motion. As a matter of right, if I am asked to speak I shall speak, but if as a matter of favour then I shall not speak.

MR. HARRAGIN: In that case, Sir, I beg leave to withdraw my motion.

The motion was by leave of Council withdrawn.

The debate on the original motion was resumed.

MR. HARRAGIN: Your Excellency, it would be peculiar if I, who had had so much to do with the three principal matters mentioned by the hon. mover, was silent in this debate. I refer, of course, first to the Agricultural Mortgages Relief Ordinance which he has described as an emasculated Bill.

Figures are always most deceiving. It is perfectly capable for anyone to quote figures in support of almost any kind of argument. As an example, I suggest, assuming this country becomes more and more prosperous, in actual fact you would find agricultural indebtedness becoming

more and more, because people would be borrowing more to extend their cultivation, so that is a very simple example of how deceiving figures may be if in 10 years time you quoted the agricultural indebtedness as the total amount was quoted to-day.

But it is not with that intention that I rose to speak, but it is with regard to the figure quoted regarding the Mortgages Relief Ordinance. What the hon. mover should have told you was not the number of cases brought under that particular Ordinance in which relief had been granted, but how many mortgagors had been turned out of their farms by foreclosure during the time that that Ordinance has been in force. If that event, for example, there had been none—I do not know, I have not looked it up; but assuming no one foreclosed and no one was sold up—he could hardly expect any application to be made to the court, so that he would have been able to come with a still better case and say it was a perfectly hopeless Ordinance because there was never any application under it at all.

The only way to visualize how good or bad an ordinance is is for figures to be given of numbers of people who have suffered as a result of the ineptitude of the particular Ordinance, and I suggest he will find extremely few; if he goes into the cases he will find that no ordinance in the world could possibly have helped them.

The next measure which the hon. mover took exception to, or one part of it, was the Farmers Assistance Ordinance. As one of those particularly responsible for it, I can only say it was extremely disappointing to hear him say he had formed such a low opinion of it. It is perfectly true that if the powers which he mentioned later in his speech, the compulsory powers, had been given to that board, undoubtedly there would have been more applications under it, and from the point of figures it would have made a better showing. But I may state this at once, that if the Agricultural Indebtedness Committee had been able to recommend that it would have been done.

The committee were faced with two difficulties, and I thank the hon. member for having read out that particular paragraph which dealt with the subject. I refer

[Mr. Harragin] to the short and long term loans. It was impressed on the committee that something had to be done quickly, that it was no good waiting to solve the problem of long term loans, and we got out the Ordinance that the hon. mover referred to in, I think, almost record time. But, if we had sought to put into that Ordinance the powers that he now asks for, in effect the compulsory powers, I can inform this Council that there was not the slightest chance of getting a unanimous report from the committee. It would probably have been 4 to 2 or 5 to 1 against the suggestion, with the result that we should have been able to do nothing whatever to help the immediate difficulty. That was the reason you see the Ordinance in its present form.

There was a further point made, that we had not the time to tackle the long term. In a sense, that is true, but if hon. members will remember the history of what was happening at that time they will realize that we were perfectly justified in our attitude.

When this committee first started to sit, there was, you will remember, in the country a movement in favour of something known as a bond issue, and that was in effect to be the long term solution of this difficulty. The committee sat on several occasions and heard the exponents of that theory give their evidence, but before the committee had reported, we were aware of the fact that the matter had been taken up in another committee by the greatest exponent in the country on the subject of this particular long term bond issue. I suggest that the Agricultural Indebtedness Committee was entitled to sit back and say "We know it is being considered elsewhere, we know it will have to be referred to the Secretary of State, and it will be useless and absurd of us to try and work up a case running parallel with one elsewhere but that, as soon as it has been approved by the Secretary of State, we are not shirking our duties but are perfectly prepared to sit again and consider the details and work out a plan for Government."

As you know, the bond issue was not approved of, and that accounts for the fact why to this day we have not sat to

consider it. I mention this merely in defence of the most excellent men who sat to assist me in that committee.

The hon. mover stated that this motion was prompted by an answer to a question I gave earlier in the session. I should like to make that point perfectly clear, and that is that of the original committee only four remained. Before I answered the question and advised Government as to the answer, I communicated with all of them except one, who I knew was anxious for further consideration. As a result of my communication I can tell hon. members that three out of the four remaining members of the committee were of the opinion that no useful purpose could be served by our meeting again and that the matter should be referred to another body which had, since our inception, been appointed to go into this very question.

There is no question of shoving our responsibilities at all, and I submit that the committee did all it could under the peculiar circumstances in which we were placed, and I can also tell hon. members that, as they well know, it is of very little use to Government to obtain a report from a committee which is not unanimous. By that I mean that if you have a committee of six and it is divided 3 to 3, it puts Government in a very awkward position of knowing what to do. But I can assure you, as chairman of the committee, there was not the slightest chance of getting unanimity or anywhere near unanimity on the major points raised at the time we were sitting.

With regard to this particular motion now before Council, as Council is aware, Government is very sympathetic towards any further investigation that it is possible to make in the light of the new matter which has come forward recently, and I am authorized by Your Excellency to accept the motion and to state that the position in regard to agricultural indebtedness will be referred to the Standing Board of Economic Development for further review. (Applause.)

MR. SHAMSUD-DEEN: Your Excellency, I do not wish to oppose the motion, but I really fail to see what the Standing Board of Economic Development can do

[Mr. Shamsud-Deen]

in the matter at all. I was myself a member of the committee which proposed this bond scheme, which was the desire of one hon. member of Council who had the reputation of being a financial expert. The idea failed hopelessly, for it was turned down. I do not think I am wrong in saying that the amount of agricultural indebtedness has been ascertained and is well known to everybody. What is the solution of that is a thing which requires investigation, but it has already been thoroughly investigated, and the only scheme was a bond scheme which failed and was turned down. I cannot understand, unless Government is in a position to raise another loan to help and subsidise the indebted farmer, what useful purpose will be served by referring the matter to the Standing Board of Economic Development.

MAJOR CAVENDISH-BENTINCK: Your Excellency, I am very pleased indeed to hear that Government has accepted this motion.

We have just been told there is no solution to the problem into which it is suggested a further inquiry should be made. This particular problem is not confined to Kenya alone, but is a problem which has to be faced by every agricultural country in the world, and attempts are being made now to face it in such places as the United States of America and others.

I think one of the troubles we suffered from in the past is that we wait until there are great difficulties, and then we suddenly try and do something. We have had to fight difficulties over the cereal industries, agricultural difficulties, we have had an Agricultural Indebtedness Committee making inquiries, we have had an Economic Development Committee making inquiries. As a result we have got the Agricultural Mortgage Relief Ordinance and the Farmers Assistance Ordinance, but, as has been admitted by the hon. and learned Attorney General, we still have not really quite faced some of the problems which it was hoped would be dealt with at the time the Agricultural Indebtedness Committee made its inquiries.

Without casting any aspersions on this as an agricultural country, it is quite

reasonable to suggest now, when at any rate we are not suffering from locusts, want of rain, or any other catastrophe, that we should get down to see if we can deal with the problem of making arrangements for the future.

During the course of the debate it has been suggested, and I was very sorry to hear my hon. friend the Member for Kiambu say so, that had he been asked by anybody whether this was a good country to come to he would, at the present moment, have to say no. I am afraid that I entirely disagree with him. It has got to be remembered that a number of people who have taken up farming in this country had no previous experience, that in some cases they have endeavoured to farm land which was entirely unsuited to that particular type of farming which they went in for, and they had insufficient capital. It has also got to be remembered that, until we get more people and closer settlement, it will always be rather difficult to speed up arrangements for co-operative marketing and for the giving of various facilities that are necessary to make farming in any country a real success.

I maintain that the future of farming in this country depends as much as anything on getting more people to farm.

As regards the country, if you look at Africa as a whole, I believe the prospects of this country are more promising than in any other part of this continent. That, however, does not render it unnecessary to have the inquiry asked for, and I do think the Standing Board of Economic Development is the right body to deal with the question. I am very glad indeed to hear Government accept the motion which, of course, I am supporting.

LORD FRANCIS SCOTT: Sir, I do not mean to detain Council longer, but I should like to associate myself with everything said by the last speaker. I am very glad Government have accepted the motion.

MR. MANGAT: On a point of order, Your Excellency, I am extremely sorry to interfere, but the Noble Lord spoke on the amendment moved by the hon. member Dr. de Sousa.

HIS EXCELLENCY: If an hon. member moves an amendment or seconds it he has spoken to the original motion, but after the amendment has been proposed and seconded and the question put from the Chair, any member can speak on that amendment, whether he has spoken to the original motion before and also without forfeiting his right to speak to the original motion afterwards. It is the mere fact of proposing or seconding an amendment that means that the hon. member who has done so has spoken to the original motion. After the question has been put regarding the amendment it is an entirely new question before the Council on which any member can then speak, whether he has spoken before or not. I hope that has made it clear.

LORD FRANCIS SCOTT: I was just saying, Sir, and I wish to say again, that I associate myself with the remarks made by the hon. Member for Nairobi North. I am very glad Government has accepted this motion, and I think they have chosen the right body to deal with it.

There can be no question as to the facts which are put forth in the motion as it stands. In spite of times being better, and in spite of what has been done, the agricultural indebtedness of the country has not been solved, but I do realize that the solution is not going to be a very easy one. As was mentioned by the hon. member Mr. Shamsud-Deen, we spent a long time in the Standing Board of Economic Development before dealing with this. We did produce the bond scheme, and that was turned down.

I am afraid that I must hold out a warning, that the public must not expect too much as a result, though I do trust that by a full investigation of this subject we may arrive at some better basis on which to deal with in the future, as has been suggested by the hon. Member for Nairobi North.

There was a point raised by the hon. member Dr. de Souza, who said that farming in this country has been a failure. It is very easy for people to say that, but I submit that during these years of depression farming has been a failure in every agricultural country in the world, that there is not one agricultural country in

the world in which farming has been able to be carried on profitably without very considerable assistance from the State, either in farming subsidies or some other method. That is still the state of affairs in Great Britain to-day, and in South Africa. Here in Kenya very little money was available for such purposes, so that the farming community carried on as best it could. I think the real answer to that particular line of thought is the fact that, in spite of the great difficulties which we have had to contend with in this country, it is very remarkable how so very few farmers have had to go under altogether and get out.

I do wish to state that I cannot agree with the hon. Member for Kiambu with regard to new settlement until all the old settlers are out in a state of solvency, or whatever he meant. In my opinion, nothing will help the old settlers more than a large influx of new settlers into this country.

I beg to support the motion and I am very glad Government has accepted it.

MAJOR RIDDELL: Your Excellency as Government have accepted the motion and are going to refer this agricultural indebtedness to the Standing Board of Economic Development, there is very little for me to say. Of course, I am very grateful for their doing so.

There are one or two points I should like to make clear in the statement I made, which were raised by the hon. Member for Trans Nzoia and the Noble Lord. Of course I am not against white settlement, and have the greatest belief in it, and the whole of my life has been devoted to proving it as one of the old pioneer settlers. But the point I tried to make and tried to drive home, and still make and still drive home, is that the salvage of the present settler must precede a big development for further white settlement. That is the point I wanted to make.

Of course, I know new white settlement follows on, the one dovetails into the other, but the point I am trying to make and drive home was that nothing has been done since the end of the year 1935 to assist this farmers indebtedness, and until something is done it is ridiculous

[Major Riddell] to talk about further settlement. That is the point I was trying to make, and no other.

The hon. and learned Attorney General and the hon. Member for Trans Nzoia both point out that agricultural indebtedness is common to all countries, and the more settlement naturally the bigger indebtedness. I quite agree with that, but I would also point out to the hon. and learned Attorney General that the terms of reference of the Agricultural Indebtedness Committee were to explore the possibilities of lightening the burden of indebtedness and that, I claim, has never been done.

I am inclined to agree also with the hon. Member for Trans Nzoia that if compulsion had been included in the Conciliation Board powers, a good deal of this would have been solved, but I cannot quite follow the arguments of the hon. and learned Attorney General when he says he could not have got unanimity on that and therefore could do nothing, and in fact, has done nothing since the year 1935. It does not seem to me that that is logical. He also says, in dealing with long term finance, that he is grateful for me for picking out the fact that they have not dealt with it. But they expressly say they examined this bond scheme, there it is under the heading "Long Term Finance" in black and white, and that if the bond scheme was of any use they would have gone on with it. But as it was turned down is that an argument for the committee to do nothing? And nothing more did happen between the year 1935 and the end of the year 1937. I cannot see it, it seems to me an entirely false argument.

However, I do not think there is any other question which I have to answer except to reiterate that I am glad Government has accepted the motion to refer the matter to the Standing Board of Economic Development.

The question was put and carried.

MINERAL OIL BILL

SECOND READING

MR. HARRAGIN: Your Excellency, I beg to move the second reading of the Mineral Oil Bill.

I suppose that all expropriatory Bills such as this must be greeted with a certain amount of suspicion, but in this particular case it is more justified in theory than in practice! This Bill, when passed into law, will affect extremely few people. In fact, it will only, I am advised by the Land Office, affect a few people on the coast.

The position on the coast, as you are aware, is very different to the position up-country, because we have that coastal strip, as you know, from the Sultan of Zanzibar. When the original lease was taken over we naturally agreed to abide by any binding legal agreements or deeds which had been made by the Sultan before we took over that strip. Various small areas had been granted in fee to certain of the Sultan's inhabitants in that strip.

The first question which greeted this Government many years ago was whether in fact that grant from the Sultan of Zanzibar included the grant of mineral oils underground. This was argued backwards and forwards for a long time, various people gave opinions and, I may say, conflicting opinions, as to what the position was under Mohammedan law; that was the law in force when the original grants were made. No satisfactory solution was actually found, though I think we can be gulled to a great extent by what happened in two Mohammedan countries comparatively recently. I refer to Persia and Iraq, where there was no question of an individual holding oil rights, and the Government dealt directly with the companies in question, so that we have at any rate two Mohammedan countries to guide us when we say we are not really of the opinion that any oil rights were granted by the Sultan in his original grant but, lest there should be any argument about it in the future, we make assurance doubly sure by passing the Bill now before us.

This Bill is not original in any way, a similar Bill was introduced in England in 1934, which did exactly the same thing with regard to land granted in fee in England. In considering this Bill, I think in practice very little hardship is revealed.

The first thing which we must consider is, the existing position down at the coast in the matter of the Development of oil.

[Mr. Harragin]

There can only be one answer, No reputable company will spend thousands in drilling for oil if a man in the middle holding a 10-acre plot is entitled to allow another company to sink a well on that 10 acres. So that all will agree that if there is to be any general development of oil on the coast it would be considerably hampered if we did not clarify the position.

The next thing is that these people themselves, when granted this land, whatever they paid for it, never paid for the right to have the oil under the land. We know perfectly well that was never thought of, and the vast majority have never thought of it until this day, and the significant fact is that since they have owned the land no effort has been made by an oil company to prospect over their land, and they themselves have naturally been unable to do any prospecting for themselves.

I think it can be said that their rights are really only imaginary rights, if in fact they did exist at all, and are of no practical monetary value. The only way to settle the question once and for all is the way suggested in this Bill, namely, to set out that where the oil rights have been specifically granted—because there we presume that a person was paying something for it, it was part of the consideration that he should have the oil rights—except in those cases the oil rights should be vested in the Crown.

It is very interesting in this connexion to refer to what happened in America, where this was not done, and where I understand there are hundreds of oil derricks, like trees in a forest, all trying to suck the oil from the other man's land. Although they have endeavoured in recent years to get the question settled before the courts, the courts have not been altogether successful because, you will all understand, of the difficulties. Maybe a man will own surface rights over one acre, and he is thereby permitted to erect his

derrick, but the oil he is taking is taken from his neighbour's property on his right or left. It is a very interesting problem which no court has ever solved successfully.

MR. WALLACE seconded.

MR. SHAMSUD-DEEN: Your Excellency, I have not much to say on the Bill, but the arguments brought forward by the hon. and learned mover seem to me rather conflicting. When he says these rights did not exist under the Mohammedan law what rights are there in the British Government by leasing this 10-mile strip from the Sultan of Zanzibar? He proceeds to say that under the modern law the lessee or holder of the plot or freehold has no rights to the mineral oils. That being the case, I think that principle should be equally applied to the British Government who lease this land from the Sultan. If the owner of a freehold plot cannot have the rights of mineral oil, how can Government have the right to go and grant mineral rights to somebody, when Government is in the position of a tenant?

MR. HARRAGIN: Your Excellency, I am sorry if I did not make myself clear to the hon. member. There is no question of difficulty arising between the British Government and the Sultan of Zanzibar, who has set out perfectly clearly in the agreement exactly what he is conveying, and you can take it he is conveying everything he had to the British Government under various conditions. The only difficulty, if it was a difficulty, was that the Sultan himself had conveyed land to the individuals before he had transferred the coast strip to the British Government, and that is what we are clearing up. There is no difficulty as between the Sultan and the British Government.

The question was put and carried.

ADJOURNMENT:

Council adjourned till 10 a.m. on Monday, 20th December, 1937.

Monday, 20th December, 1937

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Monday, 20th December, 1937, His Excellency the Governor (Sir Robert Brooke-Popham, G.C.V.O., K.C.B., C.M.G., D.S.O., A.F.C.) presiding.

His Excellency opened the Council with prayer.

COMMUNICATION FROM THE CHAIR

SOIL CONSERVATION—REFUND BY H.M. GOVERNMENT.

HIS EXCELLENCY: Hon. members, you will recollect that in my Communication from the Chair on the 29th October I referred to the fact that application had been made for a grant of £10,000 and a loan of £24,000 from the Colonial Development Fund to be spent on soil conservation work in the Ukamba Reserve. I am glad to be able to announce that this application has been granted in full. (Applause.)

Council, I am sure, will be gratified to see this proof of the interest that the authorities at home have taken in our problems of soil erosion, and appreciate the generous way in which our requests for assistance have been met.

The Colonial Office have also received from New York an offer for two travelling fellowships to assist in the visit of soil conservation officers to the United States to study measures taken in that country to combat soil erosion. One of those travelling fellowships has been offered to Kenya, and I propose to accept it.

I am also able to announce that His Majesty's Government in the United Kingdom have agreed that the expenditure incurred by the Government of Kenya in the maintenance of the Abyssinian refugees and other special services arising out of the Italo-Ethiopian situation is to be refunded to this Government. The Colony therefore will not be called on to bear the financial burden of the maintenance of those refugees.

MINUTES

The minutes of the meeting of the 16th December, 1937, were confirmed.

MINERAL OIL BILL

IN COMMITTEE

MR. HARRAGIN moved that the Council do consider, clause by clause, in committee of the whole Council, the Mineral Oil Bill.

MR. WALLACE seconded.

The question was put and carried.

Council went into committee.

His Excellency moved into the chair.

Clause 2

MR. HARRAGIN moved that the word "includes" be substituted for the word "means" on line 1.

The question was put and carried.

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

MR. HARRAGIN moved that the Bill be reported with amendment.

The question was put and carried.

His Excellency vacated the chair.

Council resumed its sitting.

HIS EXCELLENCY reported the Bill with amendment.

THIRD READING

MR. HARRAGIN moved that the Bill be read a third time and passed.

MR. WALLACE seconded.

The question was put and carried.

The Bill was read the third time and passed.

DRAFT ESTIMATES, 1938

STANDING FINANCE COMMITTEE REPORT

MR. PILLING: Your Excellency, I beg to move the motion standing in my name:

"That the Report of the Standing Finance Committee on the Draft Estimates of Revenue and Expenditure for 1938 be adopted."

The report, Sir, is very full and particular of the reasons for the various changes in the estimates since they were last before this Council are given in the report, and it will be unnecessary therefore for me to detain the Council very long.

[Mr. Pilling]

In the first place, I should like to express the great pleasure I feel in moving a unanimous report. There is, in fact, only one dissenting paragraph in the whole of the report. That is by the hon. Indian member Mr. Pandya, relating to a matter of policy and not of actual provision in the Estimates. I should at the same time like to express my appreciation of the spirit of reasonableness and compromise which characterized the deliberations of the Committee and to thank members for the very real help which they gave in the final preparation of the Estimates.

In this connexion, it would be ungracious of me in presenting this report not to pay a well-deserved tribute to the very efficient work of the staff in the Secretariat and the Printing Office for the expeditious and efficient way in which they dealt with the preparation of the report. This will be the more readily appreciated when I say that the deliberations of the Committee were not finished until late in the afternoon of Monday and the report was laid on the table early on Wednesday morning.

Now, Sir, as regards the report. It will be observed that the deliberations of the Committee have resulted in gross increases and decreases of revenue amounting to £31,938 and £12,657 respectively, as compared with the figures appearing in the Draft Estimates.

On the expenditure side, comparative increases and decreases of £57,126 and £21,799 are shown.

Specific recommendations have been made in regard to 44 items on the revenue side and to 198 items on the expenditure side.

If the Committee's recommendations are adopted, the result will be to alter the figures of gross revenue and gross expenditure in the printed Draft Estimates as follows:—

Estimated gross revenue	£3,595,625
Estimated gross expenditure	£3,577,918

The estimated surplus will therefore be £17,707, as compared with that of £33,753 shown originally in the Draft Estimates.

As regards the Revenue Estimates, hon. members will observe that the estimate

has been increased from £3,576,344 by £19,281 to £3,595,625. I should say that of this increase, additional reimbursements account for the sum of £15,043 with, of course, corresponding items on the expenditure side.

The position is that various adjustments in the individual items appear on both sides, and a balance of £4,238 of estimated additional revenue for 1938 is provided for in these Estimates.

It may, perhaps, come somewhat as a surprise to hon. members that it was found possible to increase the figures of estimated revenue by even this comparatively small amount in view of recent disturbing market reports in connexion with several of the Colony's principal products, namely coffee and sisal. It should, however, be borne in mind that in anticipation of some such movement to decline in the commodity market, the original Customs estimate was framed on very conservative lines and, as explained in paragraph 6 of the report, the present adverse factors had already been to a very large extent discounted. We did not therefore feel called upon to make any further large reduction in these figures, and we felt that a reduction of £5,000 was sufficient.

This reduction was rather as an indication of the fact that the Committee were alive to the trend of current events than to any belief that a general drop in commodity prices was to be anticipated in 1938 with a consequential substantial shortfall in revenue. We had no reason to believe that any such misfortune would overtake the Colony.

I do not feel that any useful purpose would be served by my going into the details of the increases and decreases in the yield of the various revenue items, which are set out on pages 30 and 31 of the report. They are very fully explained in the first part of the report, and they have been based on the latest information available and in the light of figures of actual receipts to date during the current year.

As regards the revenue estimates, I can only repeat the views expressed by the Committee, that the figures now shown represent as close and reasonable an estimate as it is possible to frame at the

[Mr. Pilling]

present time. We saw no reason to imagine that the prosperity angle of ascent would continue to move up as sharply in 1938 as it has done during 1936 and 1937; on the other hand, neither did we see any reason to believe it would commence a rapid descent. We preferred to regard the prospects for 1938 as those of a normal, reasonable year.

To turn to the expenditure side. It will be seen that the Committee recommends gross expenditure of £3,577,918, as against the proposed expenditure in the printed Draft Estimates of £3,542,591, or an increase of £35,327.

Of this amount, the sum of £15,043 is covered by reimbursements, as I mentioned in dealing with the revenue estimates, leaving a balance of £20,284 of additional expenditure over that contemplated in the printed Draft Estimates.

The result of the alterations in the revenue and expenditure items has been to reduce the estimated surplus on the year's operations by £16,046 from £33,753 to £17,707.

In arriving at the decision to budget for a smaller surplus than that originally contemplated, members of the Committee felt that, however desirable it might be to make provision for the future by estimated additions to the Colony's surplus cash balances, the provision of funds to meet urgent and reasonable demands for services should not be unduly curtailed, provided that a prudent margin were retained between the figures of revenue and expenditure for the year.

I propose now, Sir, to refer very briefly to several of the major changes in expenditure recommended by the Committee. It is unnecessary for me to refer to the smaller ones because they are very fully explained in the report.

Under Head III, Agriculture, the Committee recommend that provision be made for giving effect to the agreement which had provisionally been arrived at between the Government and the Coffee Board for initiating a five-year programme of coffee services.

The provision required for 1938 amounts to £3,172 under various items, as detailed in paragraph 78 of the report.

Of this sum, £1,200 will be covered by reimbursement, leaving a net increase of expenditure on coffee services for next year of £1,972.

This provisional agreement includes a settlement of the long vexed question, the ultimate destination of the receipts from the coffee licences, and under the agreement they will now be handed back to the Coffee Board.

Another major increase will be found under Head V, Civil Aviation. It was necessary to revise item 21 in the light of the revised estimates for the current year. The details of the alterations are a little involved, and I would refer hon. members to paragraphs 102 and 103 of the report.

In this connexion, I would like to apologize for a small misprint which occurs in the second line of paragraph 102 (b); the sum of £1,000 should, of course, read £400.

The position is, briefly, that of the total of £6,500 to be paid to Imperial Airways as an additional subsidy to that provided under item 17, approximately £4,500 will be covered by corresponding revenue, leaving a net expenditure in the vicinity of £2,000 to be borne by this Government.

Under Head IX, Education Department, there is a rather formidable array of figures in the increase column. Hon. members will, however, note that this is largely set off by a similar array of figures in the decrease column, and the actual increase of expenditure recommended by the Standing Finance Committee amounts only to £758 for this department. This increase is due entirely to the provision made for the appointment of permanent relief teachers, and the Committee, in making this provision, did feel that in the long run the provision of a certain number of permanent relief teachers would be an economy. The actual details of the various adjustments are set out fully in paragraph 111 of the report.

Increases under other heads are of a minor nature until we reach Head XVIII, Local Government Contributions to Local Authorities. Here the additional expenditure recommended by the Committee amounts to £7,224. Of this sum, £2,041 is unavoidable, since it is on account of an

[Mr. Pilling]

increase in rate charges and, in any circumstances, is set off by increases in revenue under items 2 (a) and (b) of Head XI.

Of the balance, £1,000 is in respect of an addition to the total of the Consolidated Road Grant which it is proposed to substitute for the statutory contributions formerly payable to Nairobi Municipality.

This arrangement aims at avoiding the necessity for annual scrutiny by Government of the Municipal Council's road programme, but Government will take steps to satisfy itself that the Municipal Council on its part will carry out a five-year programme on the basis of which the present understanding has been reached.

Of the remaining £4,183 shown in increases under this head, £400 is of an actuarial nature on account of traffic revenue statutorily payable to Eldoret Municipality. Hon. members will be glad to see that the balance of £3,783 represents the restoration in full of the basic road grant and consolidated grant to Nakuru Municipality.

Under Head XIX, Medical Department, in the light of representations made by local residents, steps have been taken to furnish additional medical facilities to the settler community in Rumuruti by increasing item 16, "Retaining fees to private practitioners," by £100.

Under this head also the hon. Member for Trans Nzoia will be glad to observe that his representations have been successful and that the Committee, following the principle of helping those who help themselves, are recommending that Government should contribute pound for pound up to a maximum of £1,000 to the collection which Kitale residents are making to equip the Kitale European Hospital.

A sum of £150 has already been raised by Kitale residents on account of the Kitale Native Hospital, and, on a similar basis, the Committee have recommended the provision of an equal amount in the Estimates.

Under Head XXIV, Police, the list of increases and decreases is rather large, and would appear to call for some further comment by me.

The net increase in expenditure amounts to £2,753: A proportion of this, as shown in paragraphs 199 to 201 of the report, has been provided in order to restore the ratio in the senior and junior posts of subordinate European personnel. This should greatly improve the prospects of junior officers which, up to the present, have been felt to be somewhat meagre and not in the best interests of the efficiency of the service.

It has also been found necessary to increase the Mombasa police unit to meet the growth in the size of Mombasa, which has been considerable during the past few years. I would like to take this opportunity of stressing the fact that this increase has no connexion whatever with the recent trouble at Mombasa, but is purely of a routine nature.

A large portion of the increase, amounting to over £1,000, is intended to meet the cost of the inauguration of a Traffic Control Branch. There is no need for me to emphasize the need for improved control of heavy fast-moving traffic on the roads of the Colony. Every hon. member, I am sure, fully appreciates the damage which is done to the roads by traffic of this nature. It is, however, hoped that mobile units of police will be able to catch the worst offenders, and that fines imposed as a result of prosecution will educate drivers to the idea that improved communications are provided for them to use and not to destroy.

Under Head XXV, Posts and Telegraphs, there are considerable increases, amounting to £11,169. Of this somewhat large total, £3,700 is on account of the revenue-producing item, "Cost of printing stamps," and the balance is in respect of the new Dar es Salaam Training School for postal clerks and telegraphists; a full account of which appears in paragraph 226 of the report, and to enable adjustments to be made in the Kenya direct sub-head to meet recent increases in work. Full explanation of the necessity for this additional provision is given in the report.

I would like to say in this connexion that it is true the proposals do involve a considerable increase in post office staff, but I can assure hon. members that, in the light of the information presented by the Postmaster General, the Committee

[Mr. Pilling]

were unanimous in their opinion that the increase was justified by the growing volume of work. In fact, I may say that we felt that great credit is due to the present staff for the very loyal manner in which they had tackled the additional work in the past at considerable personal sacrifice to themselves.

Under Head XXVA, Posts and Telegraphs Extraordinary, hon. members will observe that it has not been found possible to add to the provision already included on account of the new Mombasa Exchange.

I would, however, invite their attention to paragraph 276 of the report, which refers particularly to the expenditure dealt with in paragraph 274. The Committee appreciated the importance of supplying Mombasa with adequate telephone communications at the earliest possible opportunity, and would have wished had money been available to include provision for this and also other important items, such as the erection of a drill and recreation hall for the Kenya Regiment, the linking up of rural police stations with telephone systems, the building of new post offices at Kitale and Voi, etc., all of which are extremely necessary works.

The bald fact, however, is that provision for these matters could not be included in the Estimates without reducing the estimated surplus beyond a prudent figure. Members were impressed by the need to meet these urgent requirements at the earliest possible date consistent with the observance of the sound financial policy of building up reserves, and have therefore tried to arrive at an equitable compromise and have made the recommendation appearing in paragraph 276 of the report, namely, that in the event of the surplus for 1937 exceeding £100,000, the excess should be made available for allocation by the Standing Finance Committee to services of the nature outlined in paragraph 274.

I should observe at this stage that the various items shown in paragraph 274 of the report have not necessarily been placed in order of precedence, but in the alphabetical order of the heads of expenditure under which they would normally fall.

In this connexion, my attention has been drawn to a suggestion appearing in the local Press on Thursday last, that the Standing Finance Committee were endeavouring to abrogate to themselves the right to authorize expenditure. Hon. members will not require to be informed that the Standing Finance Committee has no power to authorize expenditure, although it can, of course, make recommendations. Excess expenditure is sanctioned, as hon. members are aware, by this Council in all cases, either by the inclusion of the various items in a Schedule of Additional Provision or, in expenditure of a major nature, by the adoption of a specific motion.

The intention of paragraph 276 of the report is that the Committee, inasmuch as they have already considered these proposals during their deliberations on the Estimates, should be afforded an opportunity of making recommendations in regard to the disposal of any excess surplus, if their proposal is approved. Hon. members will, I think, agree that the Standing Finance Committee is the appropriate body to make such recommendations if such recommendations are required.

Coming to Head XXXVII, Public Works Extraordinary, certain large increases are shown. Three of these—the provision of £1,500 for the new post office at Kisumu, £1,000 for housing at Kitumu, and £100 for the Thika water supply—are unavoidable, as they are votes of expenditure approved this year but impossible to expend for one reason or another.

As regards the provision of £600 for Asian wards, Mombasa Native Hospital, the Director of Medical Services assured the Committee that, by utilizing this sum on improvements and additions to the existing buildings, the shortage of accommodation for Indian patients (to which reference was made by the hon. Indian member Mr. Pandya in the debate on the Estimates) could largely be rectified.

I think, Sir, that I have now dealt with the major points to which I need draw attention at this stage in the Standing Finance Committee's Report, and, in conclusion, I would like again to thank the Committee for their very real assistance, and would like to say how much the Committee appreciated the work of the

[Mr. Pilling]

Clerk, Mr. Baker-Beall, for the expeditious and accurate manner in which he dealt with the mass of figures and memoranda at extremely high pressure.

MR. STOOKE seconded.

LORD FRANCIS SCOTT: Your Excellency, in rising to support this motion, I have a few comments to make in further support of what the hon. mover has said.

First of all, it will be recalled that when the Estimates were debated in this Council many of us expressed the view that expenditure must be kept down as low as possible. I think I am correct in saying that the whole of the committee went into committee with that view in mind. It may be said that as a result of our deliberations, as we have increased the expenditure by the net amount of about £15,000, we have not succeeded in our task.

But when one goes into these matters in detail, one is faced with the fact to which I think I drew attention in my speech at the time, that we have built up in this country a machine which is a very costly machine, and we have given the public of all races services which it is very difficult to take away or reduce. In fact, except when a position of great stringency occurs, it cannot be done without a public outcry. The result is, if we are to keep that machine up to a high state of efficiency and are to provide the services which the public demands, it is impossible really to cut down expenditure to the figure which, perhaps, we would like to see.

I can assure this Council that we did scrutinize the Estimates very carefully to see that there was no unnecessary extravagance in any department, or any expenditure involved which we thought was unnecessary. I think in that way we succeeded, except perhaps in the case of some contributions we have to pay to outside bodies over which we have no control.

I should like further to say that I do support the proposal put forward by my hon. friend the Acting Treasurer that in future, when the Estimates are published, there should be some division between Kenya's expenditure and these joint services, which do lead to a certain amount of difficulty in understanding what Kenya is committed to. If some such idea can be

developed I think it will make it easier for the public to realize what we are committed to, and that is very evident in this particular report we have before us.

Taking the revenue side, what the hon. mover said is quite true. We did consider the position of the Colony to-day with regard to the probable revenue very carefully and gave the very deepest thought to it. With regard to the Customs, if the original estimate on which they were framed had been kept to, and if we had put the estimate of revenue from Customs on that basis, I think we would have been justified in putting down a sum of no less than £970,000. It was because we took into consideration the adverse factors which have since occurred—such as the upset of the coffee market, and the low prices of cotton, which affect Uganda much more than Kenya, although we get the repercussions, and the fact that we believe there is considerable overstocking in the trading community of the country, that we brought the estimated revenue from Customs, including excise, down to a total figure of £895,000. This is not just a reduction of £5,000 as it might seem on paper, but a reduction from a very much greater sum if we had taken the original figures actually on their merits.

The hon. mover pointed out that there were £15,000 in reimbursements. That is, under the heading Reimbursements there is a sum amounting to £8,143; under the heading Colonial Development Fund there are sums totalling £6,900; the two together make £15,000. He went on to say that there was a net increase of £4,200; in actual fact, I do not think he is quite correct, because of that sum there is a cross entry of £2,900 under Civil Aviation. In other words, you have got to take £1,900 from the figures of petrol revenue because of rebates given back to Wilson Airways and so on, and £1,000 with regard to landing fees, which are also given back, making £2,900 under Civil Aviation. There is £1,000 under the Transport Licensing Bill, an item which is cancelled out by £1,000 increased expenditure on that account, and, of course, it is not very easy at the moment to know what revenue from that source will come in or what the expenditure will amount to. There is also £1,000 under prisons industries, which is a cross entry, for it has

[Lord F. Scott]

been added as £1,000 to the revenue side and £1,000 on the expenditure side, so that there is another £4,900 in cross entries which are actually in the same category as reimbursements.

Taking these into consideration, we find the actual net effect is a reduction of £700 on the original estimates. I only want to make that clear to show that we have not been unduly optimistic in our estimates of revenue under the other heads.

If you turn to the expenditure side, it is right that you should deduct that total of £20,000 which these amounts come to altogether from the increased expenditure, and that brings it down to a net increase of £15,000. If you further examine the recommendations you find that increase comes under a few major sums required under a few heads. I do not wish to go over all the various increases, but there is one point I should like to draw attention to.

The hon. mover said that the increase in the Education Department vote was due to those alterations of reliefs and so on. I do not think that is quite correct. As I see it, the increase is due to two items. One is £540 for bursaries, which really is not an increase at all. What we have done is to take the bursaries out of the various other heads and put them under the Education Department; they are not new recommendations at all. If you deduct that, you find that the actual increase in the Education Department vote is £200, except for one item, and that is an increase of £425 for grants-in-aid to Indian education.

A very strong case was put up by the Director of Education, supported by the hon. member Mr. Pandya, that there should be an increase in these grants-in-aid to Indians for the purpose of bringing some of their schools on to this grant-in-aid system. Going into it very thoroughly, we agreed that it should be granted.

So that one should get a clear idea of where these increases are, I will just take a few heads.

The hon. mover has already told Council how we agreed that the £1,400 of coffee licences should be handed back to the Coffee Board for the purpose of building up to its proper strength the coffee

team. These licences, which have gone on for a long time, were instituted to enable the coffee industry to have some control over various plantations, as everybody who had a coffee plantation had to take out a licence. It is their own money, and I think everyone must agree that coffee, being the most important economic industry in this country, that money should be put to the use that the industry can be protected, as far as possible, from the dangers of disease, and also to enable adequate research to be followed out for the purpose of improving the coffee crops of the country, which must be definitely a policy of sound economic development in the country.

Actually, there was an increase under the Agricultural Department of about £1,834, and the balance of that amount, apart from the coffee team, was taken up chiefly, first of all, by the appointment of a second plant breeder to the Njoro plant breeding service, so that when the one plant breeder we have at present goes on leave there shall be another man adequately trained to take his place and keep the service going. It must be obvious to anybody that, when there is nobody to take charge when the first officer goes on leave, all the work done in breeding up varieties of wheats and other things will be completely wasted, and that would be false economy. In these Estimates £208 is allowed for the half year and £60 for passage.

The other part of the increase is additional provision for seed for experimental plots and so on, and chiefly to deal with cotton on the coast. It was very urgently asked for by the Acting Director of Agriculture, and it was agreed that that again was a sound economic investment.

It has been pointed out that the second biggest item, contributions to local governments, was inevitable, and again I am delighted to think that Government have agreed with the point of view which has been expressed on this side of Council, that it was no longer justifiable to keep these cuts in the basic grants of district councils which they had voluntarily given up in a time of stringency in Government expenditure. I think everybody must agree that that is only right and proper and should be done, and nothing would be more fatal to confidence in Government

[Mr. Pilling]
Clerk, Mr. Baker-Beall, for the expeditious and accurate manner in which he dealt with the mass of figures and memoranda at extremely high pressure.

MR. STOOKE seconded.

LORD FRANCIS SCOTT: Your Excellency, in rising to support this motion, I have a few comments to make in further support of what the hon. mover has said.

First of all, it will be recalled that when the Estimates were debated in this Council many of us expressed the view that expenditure must be kept down as low as possible. I think I am correct in saying that the whole of the committee went into committee with that view in mind. It may be said that as a result of our deliberations, as we have increased the expenditure by the net amount of about £15,000, we have not succeeded in our task.

But when one goes into these matters in detail, one is faced with the fact to which I think I drew attention in my speech at the time, that we have built up in this country a machine which is a very costly machine, and we have given the public of all races services which it is very difficult to take away or reduce. In fact, except when a position of great stringency occurs, it cannot be done without a public outcry. The result is, if we are to keep that machine up to a high state of efficiency and are to provide the services which the public demands, it is impossible really to cut down expenditure to the figure which, perhaps, we would like to see.

I can assure this Council that we did scrutinize the Estimates very carefully to see that there was no unnecessary extravagance in any department, or any expenditure involved which we thought was unnecessary. I think in that way we succeeded, except perhaps in the case of some contributions we have to pay to outside bodies over which we have no control.

I should like further to say that I do support the proposal put forward by my hon. friend the Acting Treasurer that in future, when the Estimates are published, there should be some division between Kenya's expenditure and these joint services, which do lead to a certain amount of difficulty in understanding what Kenya is committed to. If some such idea can be

developed I think it will make it easier for the public to realize what we are committed to, and that is very evident in this particular report we have before us.

Taking the revenue side, what the hon. mover said is quite true. We did consider the position of the Colony to-day with regard to the probable revenue very carefully and gave the very deepest thought to it. With regard to the Customs, if the original estimate on which they were framed had been kept to, and if we had put the estimate of revenue from Customs on that basis, I think we would have been justified in putting down a sum of no less than £970,000. It was because we took into consideration the adverse factors which have since occurred—such as the upset of the coffee market, and the low prices of cotton, which affect Uganda much more than Kenya, although we get the repercussions, and the fact that we believe there is considerable overstocking in the trading community of the country, that we brought the estimated revenue from Customs, including excise, down to a total figure of £895,000. This is not just a reduction of £5,000 as it might seem on paper, but a reduction from a very much greater sum if we had taken the original figures actually on their merits.

The hon. mover pointed out that there were £15,000 in reimbursements. That is, under the heading Reimbursements there is a sum amounting to £8,143; under the heading Colonial Development Fund there are sums totalling £6,900; the two together make £15,000. He went on to say that there was a net increase of £4,200; in actual fact, I do not think he is quite correct, because of that sum there is a cross entry of £2,900 under Civil Aviation. In other words, you have got to take £1,900 from the figures of petrol revenue because of rebates given back to Wilson Airways and so on, and £1,000 with regard to landing fees, which are also given back, making £2,900 under Civil Aviation. There is £1,000 under the Transport Licensing Bill, an item which is cancelled out by £1,000 increased expenditure on that account, and, of course, it is not very easy at the moment to know what revenue from that source will come in or what the expenditure will amount to. There is also £1,000 under prisons industries, which is a cross entry, for it has

[Lord F. Scott]
been added as £1,000 to the revenue side and £1,000 on the expenditure side, so that there is another £4,900 in cross entries which are actually in the same category as reimbursements.

Taking these into consideration, we find the actual net effect is a reduction of £700 on the original estimates. I only want to make that clear to show that we have not been unduly optimistic in our estimates of revenue under the other heads.

If you turn to the expenditure side, it is right that you should deduct that total of £20,000 which these amounts come to altogether from the increased expenditure, and that brings it down to a net increase of £15,000. If you further examine the recommendations you find that increase comes under a few major sums required under a few heads. I do not wish to go over all the various increases, but there is one point I should like to draw attention to.

The hon. mover said that the increase in the Education Department vote was due to those alterations of reliefs and so on. I do not think that is quite correct. As I see it, the increase is due to two items. One is £540 for bursaries, which really is not an increase at all. What we have done is to take the bursaries out of the various other heads and put them under the Education Department; they are not new recommendations at all. If you deduct that, you find that the actual increase in the Education Department vote is £200, except for one item, and that is an increase of £425 for grants-in-aid to Indian education.

A very strong case was put up by the Director of Education, supported by the hon. member Mr. Pandya, that there should be an increase in these grants-in-aid to Indians for the purpose of bringing some of their schools on to this grant-in-aid system. Going into it very thoroughly, we agreed that it should be granted.

So that one should get a clear idea of where these increases are, I will just take a few heads.

The hon. mover has already told Council how we agreed that the £1,400 of coffee licences should be handed back to the Coffee Board for the purpose of building up to its proper strength the coffee

team. These licences, which have gone on for a long time, were instituted to enable the coffee industry to have some control over various plantations, as everybody who had a coffee plantation had to take out a licence. It is their own money, and I think everyone must agree that coffee, being the most important economic industry in this country, that money should be put to the use that the industry can be protected, as far as possible, from the dangers of disease, and also to enable adequate research to be followed out for the purpose of improving the coffee crops of the country, which must be definitely a policy of sound economic development in the country.

Actually, there was an increase under the Agricultural Department of about £1,834, and the balance of that amount, apart from the coffee team, was taken up chiefly, first of all, by the appointment of a second plant breeder to the Njoro plant breeding service, so that when the one plant breeder we have at present goes on leave there shall be another man adequately trained to take his place and keep the service going. It must be obvious to anybody that, when there is nobody to take charge when the first officer goes on leave, all the work done in breeding up varieties of wheat and other things will be completely wasted, and that would be false economy. In these Estimates £208 is allowed for the half year and £60 for passage.

The other part of the increase is additional provision for seed for experimental plots and so on, and chiefly to deal with cotton on the coast. It was very urgently asked for by the Acting Director of Agriculture; and it was agreed that that again was a sound economic investment.

It has been pointed out that the second biggest item, contributions to local governments, was inevitable, and again I am delighted to think that Government have agreed with the point of view which has been expressed on this side of Council, that it was no longer justifiable to keep these cuts in the basic grants of district councils which they had voluntarily given up in a time of stringency in Government expenditure. I think everybody must agree that that is only right and proper and should be done, and nothing would be more fatal to confidence in Government

{Lord F. Scott} if Government tried to get out of what they are statutorily committed to contributing.

With regard to Kitale Hospital, it was agreed many years ago, and Government made a public announcement to that effect, that they were prepared to put down pound for pound towards the capital development of hospitals if such capital expenditure was approved by the Director of Medical Services. In this case the people of Kitale area did put up the money on a pound for pound basis with Government to build the hospital, but there was not enough money to equip it, and this expenditure is required to equip that hospital. Of course, it is contingent on the local people putting up their £1,000 in the same way.

Then the hon. mover dealt with the increase in the Police and Posts and Telegraph votes, and in both cases, I think we came to the conclusion that the demands put forward could not be refused.

The police service is a very excellent and efficient one, and we did feel that it was only right and proper there should be some better prospects for the more junior European part of the service than there is to-day. When the big cuts in expenditure took place many years ago, there is no question that the department of Government which played the game up to the hilt more than any other department was the Police Department. They came forward and voluntarily cut their expenditure, perhaps almost too far, and so it is inevitable that, as money becomes available, they will make demands for increases. What we are voting to-day will not be the end of what they consider necessary for keeping the internal security of the country in the future. I am very pleased that we were able to insert a certain amount of money for a traffic unit, because it always seems very unsound to bring in a law unless you are in a position to see that it is enforced, and I trust the result of the traffic unit may be the saving of a good deal of money in the upkeep of roads in the various parts of the country.

In addition, £1,000 is put in the Extraordinary vote for linking up police stations by telephone. Of course, it is obvious

that if you have police stations all over the country, wherever possible they should be linked up by telephone. We were asked for £2,700 on this account, but we could not give the whole this year. We thought that if £1,000 were voted they would be able to make a good start in getting some of the more essential police stations linked up.

When we come to the Posts and Telegraphs Department, it has been pointed out that there are very large increases. Where the increase in personal emoluments comes in, my hon. friend the Postmaster General put up such an irrefutable case that they must have some increase that we could not have possibly, I think, ever refused it. If we had, I think we would have been taking advantage of human nature in expecting people in this department to do more than was humanly possible, and, if the money was there, I do not think we should have been justified in refusing his demands on that account.

There is an amount of £2,800, made up really of revotes, under Public Works Extraordinary.

If you take these few items and add them up, they come to over £20,000 which, in effect, is £5,000 net increase in expenditure. The answer is that there have been reductions in expenditure in other directions spread about on various items, which is how the final figure is arrived at.

The hon. mover made it very clear what was the idea in the final paragraphs, 274 to 276, in the Standing Finance Committee report. All I wish to say is that, of course, we all fully realize that the committee is only a sub-committee of Council, and that all we can do is to make recommendations in as convenient a way as we can put them before this Council for final approval. There is no idea that we should abdicate to ourselves the function of Legislative Council in voting increased expenditure.

Finally, I should like to associate myself with all that has been said by the hon. mover as to the efficiency of the Clerk to Council and those who worked with him in getting out this report. Never have we had to work at such high pressure as this year to get the report finished in time, and I would only say that I like

{Lord F. Scott} all other members of the Committee, was filled with amazement at the way in which that work was done, and I should like to associate myself with all that was said by the hon. the Acting Colonial Secretary.

COL. KIRKWOOD: Your Excellency, I rise to support the motion before Council, and I have a few remarks to make, but I hope I shall not detain hon. members too long. I jump, however, into the breach, as everybody is sitting back, and they apparently want to get outside! If I keep them for a few minutes longer they have only themselves to blame.

First and foremost, I have to thank Government for the sympathetic consideration given to all the proposals I put up during the debate on behalf of my district. I refer to the pound for pound basis for Kitale-European Cottage Hospital, and also the £150 which Government have been good enough to subscribe additional to the £150 raised by Kitale residents to improve the amenities of the native hospital. We are often told in this Council that we do not consider the natives, but I can assure hon. members that my experience is that we always like to give them their due. In regard to this £150, it was money subscribed by the district. The native hospital was run by an unofficial committee of the district, and there was a surplus of £300 when Government decided that the responsibility of the hospital was theirs. I think we are due the credit of seeing that the natives got their share of that surplus balance.

I should also like to thank Government for clarifying the position regarding the Endebess road and classifying it as a five-unit road. I do not think my district will have anything to complain of on that basis.

I also have to thank Government for restoring the basic grant which had been cut during the depression to help the general finances of the Colony.

I would like, in passing, in regard to the Education vote, to emphasize that whereas the grant-in-aid is paid to certain Indian schools no such grant is paid to European schools. I think the number of European children attending school is in the region of 1,800, and, educated outside Government schools, 800, at no cost

to Government but at considerable cost to their parents. I think Government wants to watch these figures and the principle of whether they can keep on issuing grants-in-aid to one race and ignoring the others. I do not wish to stress the point beyond that, and I hope it will be borne in mind in future Estimates.

There is one subject I should like to refer to, the announcement from the chair by Your Excellency this morning, if I am in order.

I understood Your Excellency to say that grants were being received from the Colonial Development Fund of £10,000 and £24,000, making £34,000, for soil conservation and erosion services. I explained very fully my views on this subject during the debate on the budget, and my apprehensions that Government were going to start the reconditioning of the native reserves, making little or no impression. I do insist that my opinion is correct. First and foremost, to get the native reserves back to where they ought to be is by control, and until control is obtained no expenditure on mechanical reconditioning should take place.

One further point, arising out of a question I asked last session, to which I received a reply in writing, No. 73:—

Will Government please state:—

1. The cost of the upkeep of the Kilifi and Shimo-la-Tewa ferries respectively, over a period of years when operated by the Public Works Department?
2. The cost of the upkeep per annum since the ferries were operated on contract?
3. The amount per year received from the contractors operating the ferries?
4. The latest census of traffic passing over the ferries?

Reply

1. The cost of upkeep of Kilifi and Shimo-la-Tewa ferries was—

1934	£442
1935	£493
1936	£398
1937	£400

Prior to the ferries being taken over during 1933 by the Public Works Department, they were operated by the Kenya

(Col. Kirkwood)

and Uganda Railways and Harbours. It is impracticable to give accurate figures for each ferry separately.

2. These ferries have always been operated by contract, both during Railway and Public Works Department periods of control.

3. The amounts received by Government have been: 1934, £639; 1935, £450 (note decrease due to reduction of fees); 1936, £630; 1937, £819.

4. The latest census was taken for the week ending 18th November. Traffic for one week was as follows:—

	Shimo-la-Tewa.	Kilifi.
Cars	25	23
Light lorries	5	3
Heavy Lorries	146	24
Buses	20	15
Cycles	22	35
Passengers	1,413	1,702
Head loads	42	19

The outstanding point in connexion with these ferries is that they are always operated by contract, and the cost, as shown by the Public Works Department, is £400 per year. It seems to me a very heavy expense to run two pontoons, one on each ferry, and I am assured by the hon. Member for Mombasa, who has gone into these figures which were given me, that the estimated revenue on the basis of this reply is £1,650. It seems a very large amount to take out of the users of a public highway. There is also a very large profit going into the pockets of the contractor.

I do suggest that the matter should be given further consideration by Government. At the moment, I do not propose to move a motion, although I did intend this morning moving an amendment. But I do seriously ask Government to consider this position. On these figures, a considerable amount of money has been made in past years out of the users of the two ferries. It applies to Europeans, Asians, and natives, and the latter must be paying a very large amount on the figures of the census supplied to me.

I am also assured by people who have practical knowledge of the coast that when this census was taken it was a very quiet month in which to take the census.

If it had been taken on a different date the number would probably have been trebled or multiplied by four.

Also for Government's consideration, I suggest that ways and means might be found of including the operation of these ferries in the recommendations contained in paragraph 274; there is no other way of dealing with the matter. That is, they should be included in the items which will be dealt with by the Standing Finance Committee should the surplus revenue exceed £100,000 for 1937. Those are the relevant facts, and I need not keep Council any longer beyond saying that it is appalling that these ferries should be used for taxation purposes and to increase the revenue of the Colony at the expense of the road users of the public highway. I think they are entitled to serious consideration, and I hope Government will give that consideration in the future.

Council adjourned for the usual interval.

On resuming:

MR. BEMISTER: Your Excellency, unlike the hon. and gallant Member for Trans Nzoia, I have nothing to thank the Standing Finance Committee for! (Laughter.) I told you at the time they were appointed that I had no confidence, no trust, in them. I think my forecast has been justified!

There is only one thing that I must congratulate one of the members of that committee on, and that is the item under Head XVIII, "contribution in lieu of rates to Mombasa Municipality, £9,800." I think that is a very conscientious subscription. I would like to tell you what I believe to be the history of that.

The Mombasa Municipal Board, for three consecutive times, refused the engagement of an additional engineer to take the place of the Municipal Engineer while the latter was on leave. But the committee which controls our affairs—people like the hon. and gallant Members for Nairobi North and South and the Coast—decided they knew far better than the people of Mombasa, and took a man on at £100 a month, which makes, for the time he was there, £450 to £500. But I congratulate the committee in relieving Mombasa of the payment of that sum.

[Mr. Bemister]

and making the rest of the community in their general contribution to general revenue pay for their interference.

Again, another item which concerns Mombasa and which the hon. mover explained could not be arranged: the provision for the telephone exchange. I do not suppose many members of Council have had much experience of Mombasa. It is a place they see in passing to and from leave mostly; and now that the railway have arranged a train every day they do not even stay there. But it is an important place really, and it must be calculated that the telephone business from Mombasa, taking overseas and coastwise and through the country traffic, must be much heavier, or equally as heavy, as at least Nairobi.

But provision has been made for the expenditure only of £9,000 odd out of revenue. I contend that the whole of the expenditure for the telephone exchange (which I believe is estimated at £20,000 or £21,000) should have been a loan, either from the cheap money the railway is offering us or by some other means, to keep the surplus balance as liquid as possible. What would be the effect if some catastrophic event occurs next year? It is presumed at the moment that you will have plenty of money, and that when you reallocate your surplus, after this £100,000 has been raised, you will give the balance to Mombasa.

But this was a Finance Committee, and a Finance Committee should know something about finance. Surely it is not contended that a first class building which should be put up and furnished with the very latest equipment required by a telephone exchange will wear out in 5, 10, or 15 years? Surely there is a part of it which should come under maintenance, which is recurrent expenditure, which should come out of revenue? But it can never be contended that even a portion of the building will decay under 30 to 35 years, even if the Public Works Department do their worst!

I contend that had that provision been made in a loan in a similar way we have done other buildings and permanent works, the increased revenue from the telephone exchange at Mombasa would

have enabled you to create a sinking fund and interest which would have extinguished the whole business in 10 to 12 years. And the position would have been satisfactory to Mombasa, because Mombasa would then have known that the telephone exchange was a certainty and not an optimistic promise by the Standing Finance Committee! I do hope that it will be possible to make a definite allocation so that Mombasa may know that in the next year this up-to-date exchange will be a fact.

The next item, and final one, is to support most emphatically the remarks made by the hon. and gallant Member for Trans Nzoia. He quoted the figures given in a written answer in connexion with the coast ferries. Those two ferries are a part of the main road system, and are absolutely necessary and essential for people to bring their produce to market.

In the first place I would query the cost of the upkeep which is stated to be £400 of the two ferries. I will deal with the revenue side in a moment. I would like to know from the hon. the Director of Public Works how that £400 is made up in 1937? There was no new pontoon built, but one had a hole in it and it dropped to the bottom! It was alleged afterwards that it had not, that it was tipped. A lot of paint could be bought for £400 and put on. I have crossed these ferries many times, and the only repairs I have seen are to the chains, which were linked up with telephonic wire. I do not think there has been a new length of chain for the last 4 or 5 years, yet we see that in 4 years there has been a matter of £1,600 spent as upkeep on the ferries.

Now let us look for a moment at the revenue side: this is the revenue Government have. In 1937 they took £419 over their expenditure which, of course, goes into general revenue, but in 1935 they only took £450 from the contract. There is a very interesting note at the side which says: "Note—Decrease due to reduction in rates." Reduction in rates might mean a loss of revenue to the contractor, but it should never mean loss of revenue to the Public Works Department or Government, because you will see that the latest census taken was for the week of 18th November; I would say practically the lowest week in the whole year which

[Mr. Bemister]

there is no tourist traffic, none whatever, no cotton coming in, and yet in that week 146 heavy lorries passed over Shimo-la-Tewa.

I have worked these figures out very carefully, and I have taken them at the lowest possible revenue figure. The total I make comes to Sh. 33,000 per annum in the ferry fees; that is, reckoning all lorry loads and bus loads at 18d. which everybody knows is not the case, because a lorry of over 2 tons pays Sh. 2; and Sh. 4 for return. I have taken these figures as the total back and forth in order to give the lowest possible revenue. Out of that Sh. 33,000 you will see that Government takes Sh. 16,000, leaving Sh. 17,000 to work the ferries. The number of boys on these ferries is 8; I have put it at 12. Their wages are 50 cents a day. I have put it at 75 cents. The consequence is that 12 at 75 cents means exactly Sh. 3,000 a year. Sh. 3,000 a year out of Sh. 17,000 leaves Sh. 14,000 as a profit to the contractor.

But of this money the full Sh. 33,000 comes out of what must be termed the poorest producers in the whole Colony. When I saw the reply to the question, I just wondered what the attitude of one of the members of the Standing Finance Committee would have been if these two ferries existed between here and Kijumu? I just wondered if the whole question would have been ignored and quoted, as it is often quoted, that as ferries are paid for in other parts of the world why should they not be paid for here?

It would only cost Government £550 net to free these ferries, £550 plus of course the £400 which you will lose from the contract. But, taking the upkeep at £400 a year and the working expenses at £150 a year, the only amount you have to pay out is £550 a year. You would I presume, be attacking Indian interests, because it is an Indian who gets £1,000 a year out of the producers, by taking the contract. But I speak on no racial basis; even if it were an Englishman I would cut him out. But the point is, if you free these ferries you would not want collectors of tickets and nobody to control their money, only someone to occasionally see that the ferries kept to the time schedule.

I have recently been talking to a gentleman in the Public Works Department,

who has very strong views on this matter. He is a very interesting gentleman. He has worked out the amount of petrol tax paid by the users of these ferries, calculated on the mileage the lorries run, and at Sh. 1/50 a gallon he finds the total petrol tax paid to Government by the users of that road between Mombasa and Malindi is no less than £900 per annum. That is a fact.

-Think! First of all you take Sh. 33,000 out of the producers' pockets, and then you gain Sh. £18,000 from the petrol, and you could reduce the Sh. 33,000 entirely at an expenditure of Sh. 9,000. Surely such a proposition must appeal to Council. These people who pay to go over the ferries are the poorest in the whole of the Colony. Their produce is mostly made up of head loads, as you will see from the census; the rates paid by these people, and charged by the lorry owners themselves, they must make their lorries pay, and it all falls on the native producers at the coast, and you are dealing with a budget of three million pounds and you cannot even find £550 to give a relief of nearly £1,700 at the very lowest calculation to the poorest people of the Colony. Surely there must be something wrong with your calculations or intentions!

I ask very sincerely that this question be taken up and an allowance made, so that this reduction of £450 may be paid out of general revenue. If the Public Works Department like to do it they can do it with their own vote at the present moment, because they could take that amount out of the supervision fee they receive on the Mombasa water works.

MR. PARKER: Your Excellency, I would like to support the hon. Member for Mombasa in his plea for free ferry services at Shimo-la-Tewa and Kilifi. I believe as a general principle that the services of ferries on main roads should be paid for out of public revenue, and should be free to users of the roads. In this particular case we have a very strong argument in favour of free ferries.

As Government know, and you probably have seen for yourself, Sir, the economic development of the coast is very backward. It is one of the problems of your administrative officers there to try and induce the natives to produce food

[Mr. Parker]

crops and cash crops. I think that the biggest inducement to do this would be to give the native free access to the Mombasa market. The native, like all of us, is generally actuated by motives of gain, and if you give him some inducement to grow food crops and sell the surplus in Mombasa the whole position would be greatly improved.

Sir Daniel Hall said that reading and writing did not matter until the material basis of living was assured. So that I think if Government cannot afford to pay this comparatively small sum for free ferry services there is a very strong case for reducing the grant-say for education in order that they may encourage the natives to grow proper food stuffs.

MR. SHARIF ABULLA BIN SALIM: Your Excellency, the hon. Member for Mombasa asked me this morning to support this question of free coast ferries. I have not had much time to study the question, but I should like to say that I associate myself with him on this question.

MR. ISHER DASS: Your Excellency, I have a few comments to make in connexion with the report of the Standing Finance Committee on the Estimates of Revenue and Expenditure.

I will refer first to page 11, Item 21, "miscellaneous expenses in connexion with Empire air mail scheme." Whatever subsidy the Government of Kenya has to pay, we should make it clearly understood that it is paid for an efficient service. I regret that, from my personal experience, for the last 34 months the air mail to this country has only arrived four times on time, and it has been 24, 36, and 48 hours late on occasion. I suggest that before we give away any more money we should make it clear that there must be some improvement.

My second comment is in connexion with the Education Department, and I refer to paragraph 121 on page 13, where it says:—

"In answer to questions he (the Director of Education) stated that he was not of the opinion that there was any responsibility on the part of Government to provide education for resi-

dents of the Colony, except insofar as the Colony's financial position warranted."

That is a very strange statement given by the hon. member. The constitution in every country provides that medical and educational facilities shall be the duty of the State to provide for its inhabitants and the statement by the hon. the Director of Education is absolutely contradictory to the constitutional policy in England and everywhere else. I maintain that when the hon. the Acting Colonial Secretary replies to the debate he should correct that statement, and make it definite that it has always been and shall be the policy of the State to provide education for its residents.

If I correctly understood the hon. member, he said the Standing Finance Committee is not empowered to express any view on the general policy of education or otherwise of Government and yet, in paragraph 123, it says:—

"The committee directed that it should be recorded that they were of the opinion that provision under this vote (grants-in-aid to Indian schools) was becoming unduly large and that the time had arrived when a limit must be placed on its further expansion."

If the statement made by the hon. member was correct, the Standing Finance Committee definitely went beyond its limits, and if his statement is not correct, then the position is very different. I hope the hon. member will make it clear that, if I have rightly understood him, the committee is not empowered to express any views, in which case these lines should be deleted from the report.

The hon. Member for Trans Nzoia as usual made a very wrong statement suggesting there were no aided European schools in the country. For his information, I refer him to page 48 of the Draft Estimates for 1938 under Head IX, Education Department: "Item 35, grants-in-aid to schools, £279." The actual amount for 1936 given to European schools.

In paragraph 124, the dissenting minute by the hon. member Mr. Pandya, I entirely associate myself with him in every word he has said. For the information of Council, I would like to

[Mr. Isher Dass]

read what appeared in a local newspaper the day before yesterday:—

"It will be interesting to know that in 1936, for which figures are available, 1,114 European children were educated in Government schools and 776 in private schools. The figures for Indian children for the same year were 3,394 in Government schools and 3,833 in private schools. The totals were: European children in Government and private schools, 1,890; Indian children in Government and private schools, 7,227. It will now be possible to assess the disparity in the cost to Government of Indian and European schools if only we analyse the expenditure figures for that year. The tuition costs for European education, deducting the revenue by tuition fees, was £30,500 in 1936, whilst that for Indian education, less tuition fees, was £23,000. Again, the boarding expenses for European children, deducting the revenue on this service, amounted to about £2,000 for 1936, whilst those for Indian boarding were, in similar circumstances, a little over £200."

In the face of those figures and circumstances we are told in paragraph 123 of this report that the provision for grants-in-aid to Indian schools was "becoming unduly large."

With regard to page 18, paragraph 171, it is very interesting to note that as soon as there is a little sign of prosperity all the grants-in-aid to district councils are being restored, and the amount has been provided for as the paragraph indicates. Yet when it comes to a question of the restoration of grants under the Education head, to Indian schools, it is said either that funds are not available or that the provision is "becoming unduly large."

Under the head Police Department, page 22, I would refer to paragraph 206 in which it is stated:—

"The committee approved a proposal to transfer the officer shown under this item to the Port Police Section and to replace him with the Arab and African assistant sub-inspector shown under Item 110 and recommended a reduction of £150."

The appointment of the Arab and African I have no quarrel with, but I complain that if there is a vacancy on the transfer of the Indian sub-inspector from one place to another Government should make it clear whether it is their future policy to replace them by Africans or Arabs. If it is, as an hon. member on this side suggested, in the interests of economy that as much as possible European inspectors should be replaced by Africans and Arabs also, it is very amusing in the case of Europeans.

I will now refer to Head XXXV, Treasury and Inland Revenue Office, on page 27, to say that I hope that with the appointment of Financial Secretary under the new scheme the Treasury and Inland Revenue Office will be separated. This would give more efficient service so far as the Revenue Office is concerned and would be more useful and also in the interests of Government.

With regard to paragraph 274 (vi) on page 29, I think the hon. Member for Nairobi South suggested and the Indian members suggested, that it was high time the furniture in this hall was more in accordance with the dignity of this Council, and it is a pity that the Standing Finance Committee have not seen fit to make any such provision.

Before I sit down, I have, on behalf of myself and my colleagues, to express our appreciation not only of the efficient manner in which the Clerk to Legislative Council has performed his duties, but also for the courtesies he is always ready to give to individual members. Wherever his assistance or advice is sought it is always given cheerfully. And I should be failing in my duty if I did not also express our appreciation to the staff who have been a ways very helpful to Indian members.

MR. MAXWELL: Your Excellency, there is only one point I wish to discuss on this report, and that is the question of customs duties.

Were it not for one circumstance I should be in agreement with the revised estimate of £895,000, although it may perhaps be on the high side in view of the continued falls of commodity prices. But one circumstance requires consideration. Speaking about a month ago on this point, I indicated that merchants had placed

[Mr. Maxwell]

large orders forward because they anticipated considerable delays in receiving them and because they thought such orders might be apportioned and they would only get a small proportion of the orders they had placed. But I also said there were signs that such orders were coming forward more quickly than had been expected.

In arriving at this figure of £895,000, I imagine that the Standing Finance Committee has given a certain amount of attention to that point. But this acceleration of delivery has increased more than could possibly have been foreseen when I was speaking, and to-day the position is that orders have come forward which were not expected to arrive until later on in next year, and warehouses are all overflowing. The result of this is, I think, that we will receive this year customs duties amounting to a considerable sum which, normally, we would have received even up to March and later on next year.

Therefore I do feel that the estimate of £895,000 in next year's customs duties is likely to be an over-estimate to the extent that the revised estimate for this year of £875,000 is exceeded by the actual receipts this year. This figure, I understand, may be anywhere from £40,000 to £50,000, although it is difficult to-day to estimate it.

If this is so, I am a bit worried when I look at paragraph 276 of this report. As I understand it, this suggests that all surplus revenue, which will include the £40,000 or £50,000 I have referred to, will be expended on the items under paragraph 274. Normally, of course, I should very much like to see this happen, but I do submit that it would be wiser this year, in view of the special circumstances, to earmark any increase over £875,000 for 1937 to be set against a possible decrease (which I expect) below the £895,000 estimated for next year, on account of this one special reason I have given.

I do feel that if we do not do this the next Council may be left with a rather unpleasant legacy from this Council, that hon. members next year, when they come to ask for reductions in taxation which interfere with development, may be told that, owing to the shortfall in customs, such reductions cannot be given.

MR. WRIGHT: Your Excellency, I have only one point of objection to the report of the Standing Finance Committee, and I take this possibly last opportunity in the life of this Council to register my objection to the continued inclusion of item 13 under Head II, the item called income tax.

In his excellent introductory speech to the motion, the hon. the Acting Colonial Secretary, paying tribute to his colleagues on the Standing Finance Committee, referred to their spirit of reasonableness and compromise. I thought it was an unhappy choice of expression, and I was dismayed at the juxtaposition of the two words. No less an authority than Carlyle described compromise as the "grave of the soul." I for one, deplore the increasing tendency to talk of compromise on matters of principle. Indeed, I believe it is not honourably possible to compromise on matters of principle. That, however, does not prevent me—and I hope it will be recognized—approaching this budget in a spirit of sweet reasonableness. As I have heard many arguments—and the Council have heard many—against the introduction and imposition of income tax, and I have yet to hear any in its favour.

I do not want to repeat any of these objections, but I would rather bring to the attention of Council one or two illustrative cases showing what has already happened under the incidence of this Ordinance.

The first is that of a limited liability company which was about to be registered in Kenya. As it is a company in Kenya, its memorandum and articles of association were prepared in Nairobi. But, on the introduction of income tax, they transferred to Dar es Salaam where it has duly become registered. In citing this illustration, I want to say that, while they are necessarily confidential to me, I have authority to state that what I have recited will be disclosed to any responsible person appointed by Government so long as the details are treated as confidential.

The second case is that of a business which has existed in Kenya for 15 years and has done very well indeed, which, while a limited liability company, was

[Mr. Wright]

largely owned by two or three big shareholders. They have had occasion to rearrange their finance, and the matter of debentures arose. On making inquiries, they discovered that the bond holders are very willing to extend facilities, the debentures were held on good security, but they were only prepared to do so and finance to the extent of £8,000 on condition that the debenture interest was raised from 6 to 7 per cent on account of income tax.

It may be said that such a good company as that would be able to find better financial facilities elsewhere, but I believe efforts were made and so far there has been no response.

The third illustration concerns a gentleman now in Australia, formerly resident in this Colony for many years. When he left Kenya, he left on mortgage sums totalling between £30,000 and £40,000. A certain amount of that was realized gradually, but the bulk of it still remains. After the imposition of this tax, the gentleman gave his solicitors instructions to make what speed they could towards the realization of his investments and remit the money to Australia. It is fair to say that this decision had nothing to do with the exchange rate as between Kenya and Australia because that has more or less adjusted itself in recent times: it can be ascribed to his concern over the uncontrolled income tax prevailing in Kenya.

If I may give a fourth illustration, which goes from the sublime to the ridiculous. A girl, resident in England, whose mother lives in Kenya, is a contributory mortgagee in the sum of £300, bearing interest at 6½ per cent payable quarterly. She is also the owner of another contributory mortgage in £100, her mother holding the bulk of the mortgage. Four times a year, therefore, she receives a sum in the first instance of Sh. 97/50 and duly pays, or it is taxed at source, Sh. 9/75 in income tax, half of which, after a considerable period of time is presumably subject to refund from the United Kingdom. Taking this illustration of a few hundreds held as contributory mortgage, the presumption is that eight payments are made to the girl annually; therefore, she must submit eight claims for refund with,

alternatively, authorities here and overseas writing eight cheques, with a vexatious amount of correspondence taking place in respect of comparatively paltry sums. That is what income tax means.

There is another company with interests in Kenya and Tanganyika. Recently the firm decided to register in Tanganyika, which country of course enjoys the benefit of the stamp duty, registration fees and its trade, the company having its main accounts in the country.

I want to know from Government (because I think we are entitled to know) when and in what manner such cases called evasion, which I dispute, shall be dealt with? What manner of legislation Tanganyika or Uganda has introduced which, while upholding the Secretary of State's promise of December last year to find machinery to stop such evasion, can do so without definitely hurting the countries which adopt such legislation? I am very anxious to learn how legislation is to be effected or if it has been passed since the promise was made. A considerable time has passed since the introduction of the Ordinance, and these so-called evasions (which I think are perfectly legitimate matters of business) are going on. What legislation can be devised to stop them that will not act detrimentally to our neighbours? and why do we stand by so complacently and watch our own revenue and our own loss to the country by big sums being withdrawn from the country because of the existence of this pernicious thing?

One other thing. It is probably hardly realized, particularly by numbers of trades people in the country, that a great number of people in this Colony derive their incomes from overseas. Such incomes hitherto have been tax free, and have increased the purchasing power in this and other towns throughout the country. But we know of cases—and again quite legitimate—whereby such people will spend their income in the country of origin and bring that income in in terms of commodities required by them to this country, so that while paying customs duty, and rightly so, they evade income tax, because the problematical risks of having to pay if the money is spent in England to remit the essentials of life to Kenya, are very much in their favour.

[Mr. Wright]

That must affect the business of this country, it must vitally affect the turnover. Is it wise to go on with it? I am puzzled more and more—and I am seeking information now. We have an organization here controlling our interests in two territories, an organization no less than that controlled by the hon. the General Manager of the Railway. I should like to know what the position is in respect of, say, the traffic superintendent, who in Nairobi is subject to income tax whereas his half-section in the same grade posted to Kampala escapes the tax. I imagine it must be so. But is it equitable? I hope it will not be deemed impertinent to suggest to the hon. the General Manager that if he received his salary in Kampala he would escape the unjust exaction of the tax in Kenya. It may also apply to the staff of the department controlled by the hon. the Postmaster General.

But these and other questions will continually crop up, and arising out of it all, what case has ever been made for income tax in this young undeveloped Colony of Kenya? Why "give a run" to a fruitless Ordinance causing such infinite trouble, difficulties and vexation to people throughout the Colony?

Amongst the farming community I can vouch for the fact that settlers are being caused unnecessary trouble; some in desperate straits are poring over old bank pass books to try to discover and balance their position, and they find, with the best will in the world, that it can only be done by employing professional accountants, who are reaping a good business to-day. It is all wrong, unnecessary and vexing.

In his answers to one of my questions the other day—and I was impressed by the transparent honesty of the answers—the hon. the Acting Treasurer indicated little more than the fact that we have a tax costing an unknown amount to secure a problematical amount of revenue over a long period of years before the assessments are closed. Obviously the tax is nothing more than a device for the advancement of bureaucracy which, heaven knows, is powerful enough in Kenya as it is.

I have almost done. I do urge that the case against income tax be considered. It

has actually been considered before: an Ordinance of a similar nature was on the statute book years ago, and the same findings against it were made by an impartial committee. It was then stated on unassailable bankers' evidence that the inflow of capital had ceased with the introduction of the tax. I have cited these facts before in this Council *ad nauseam*, but I repeat my protest in all sincerity, actuated by a firm belief in the future welfare of Kenya, that the sooner this wretched tax comes off the statute book the better for the Colony.

MR. HARVEY: Your Excellency, as one of the members of the Standing Finance Committee I should like to assure the hon. and gallant Member for Nairobi South that the retardation factor which he mentioned was very seriously considered in no little detail by that committee. The object, may I repeat, I have said it already—in postponing consideration of a considerable number of deserving subjects for public expenditure until later is in order that those charged with executive responsibility should be in a better position to know how the money was coming in as a result of this year's operations.

We have heard a good deal lately in the Council, in the Press, and elsewhere on the subject of compromise, and definitions, like figures, can be made to prove anything according to the views and feelings of their manipulators. The definition which I prefer is one which was given the world by that distinguished scholar Burke, who said:—

"Every human benefit and enjoyment, every virtue and every prudent act, is founded on compromise and barter."

(Laughter.)

ARCHDEACON BURNS: Your Excellency, I rise to support the motion before Council, and there are just three points which I want to dwell on very briefly.

First of all, I should like to give my whole hearted support to the suggestions made by the hon. Member for Trans Nzoia with regard to the ferries at the coast. When you come to think of 1,413 natives passing over one of those ferries,

[Archdeacon Burns]

or 2,800 if one includes the return journey, every week bringing in their baskets of produce to market where they can dispose of it, and having to pay not only a fare for themselves but also a fee for their small loads of produce; and when you imagine those people returning after having sold that bit of produce to their own homes and looking in their hands at what that produce has brought them, you can quite understand how keenly disappointed they are.

I am speaking from the native point of view, others have dealt with lorries and motor cars and have gone into finance and shown how much it will cost Government, but from the natives' point of view it would be beneficial and a help to them and a way of making them understand that Government is interested in their welfare—if these ferries; not only at Shimola-Tewa and Kilifi but at Freretown and Kisauni; where even larger numbers cross, were free. I do hope Government will give this serious consideration, particularly in face of the fact that for next year the revenue derived from native taxation throughout the whole Colony has been raised by £15,800 beyond the revenue estimated for 1937. That £1,800 mentioned in paragraph 9 of the committee's report will go a long way towards helping reduce the cost of making the ferries free, certainly to the natives.

I entirely agree that they should be free to all, they should be part of the trunk road services for those who have to bring produce from Kilifi and other places into Mombasa where they can dispose of it or put it on board ship to send home to sell. I agree that both lorries and pedestrians should be dealt with in this way.

One other point I am rather sorry about, which I mentioned when speaking on the budget before, is that the Standing Finance Committee, perhaps for good reasons, have not been able to put in any sum, however small, to provide a provident fund for the African members of the Civil Service. This part of the Service is merely beginning to crawl, it can hardly walk, and Government could show they are interested in them and appreciate the work they are doing by giving them encouragement in this way it would be a help. It apparently cannot be done in the

1938 Estimates, but I hope when the 1939 Estimates come up for consideration the point will not be lost sight of but that those responsible for the Estimates will remember the African Civil Service and try to encourage them with a provident fund.

I have only one other point. I am rather sorry that the native hut and poll tax should be increased by £15,800 more than last year. We are told that the people are prosperous. It may be so, but there are districts of which Your Excellency's advisers will no doubt make you cognisant of where the people are very poor indeed. Every relief that can be given them, as far as taxation is concerned, taking into consideration the large amount they are paying in indirect taxation through the customs, should be given the Africans, so that they may be able to gain their livelihood in some decent sort of way.

Those are my only points, and I support the motion but I do beg that a provident fund for the African Civil Service will not be lost sight of when the 1939 Estimates come to be considered.

MR. SHAMSUD-DEEN: Your Excellency, I wish to refer to paragraph 127 of the report of the Standing Finance Committee, and to the paragraph referred to by the hon. member Mr. Isher Dass; for I say the two paragraphs contain two most dangerous principles which are enunciated and embodied in this report. One is that the State is not responsible for the education of the children of its subjects; the other is, that it recognises its duty to look after the education of other than British subjects who are living in this Colony as foreign subjects.

I might as well say at the beginning that I am not against this Government being liberal and generous to other communities, but I submit that charity always begins at home, and British subjects and their concerns have the first right on the revenues of the Colony. If there is a surplus, there is no objection or harm in extending generosity to nationalists of other countries.

If it were only a case of a block grant of £1,200 and there was no responsibility at all for any future contributions to the education of the Goan community,

[Mr. Shamsud-Deen]

probably I should have kept quiet, although I submit that the sum of £1,200 as represented in this year's budget may be thought the process of the thin end of the wedge, starting at £600 and going on increasing, in spite of all that has been said.

Reference is made in this paragraph 127 to what was stated in the Memorandum on the Draft Estimates, in which, in paragraph 164, the hon. the Director of Education evidently had in view the taking over of the Goan schools:—

"It was apparent from his inquiry that the cost of taking over one of the Goan schools would be excessive, and he expressed the view that a block grant would be the most practical solution to the question and also most economic from the Government point of view."

It also said:—

"On the basis of a fair proportion of the estimated contribution by the Goan community to general revenue, the Director of Education recommended a grant of £1,200."

I am not here to pick a quarrel with other races and nationals of other countries, but all I say is that foreign subjects in this Colony are only entitled to the same treatment as would be meted out to British subjects in their colonies. Here we are dealing with Portuguese subjects, and giving them a grant of £1,200, increased from £600, money which could be most advantageously used for the education of the children of British Indian subjects.

In order to find a precedent I go far. I go to Portuguese East Africa. Do you think the children of British Indian subjects in that Colony would be given any such help as we are proposing to give them to-day? In that Colony, to the best of my information, the Government introduced a law that not only will there always be preference for Portuguese subjects in Government employment, but in private firms up to 60 per cent of the staff engaged would be Portuguese subjects. I think that is the right spirit in which any nation should treat its subjects. The result of that law is that the merchants there who are British Indian subjects have had to dispense with a very large number of

their staffs in order to make room for Portuguese subjects, but no help of that kind is extended to the British subjects in that Colony.

I submit that this amount of £600 would be very useful if added to the grants in aid for British Indian children. As regards the Goan contribution to general revenue, that is a very fallacious argument indeed. Whatever the contribution may be, it is repaid to them ten times over in salaries paid to a staff of foreign subjects. I think if any gentleman here has been to Goa he would see that half the buildings in that country were erected out of the revenue of East African colonies, and Kenya in particular. Therefore, there is no question of their being paid *quid pro quo* for any contribution they make to this Colony.

In this Colony, all British subjects have had to pay continuously for 12 years the education tax, but the Goan community have never paid a single cent. I do not think there is any case for consideration of any increase in their educational grant now. If the grant stopped at £1,200, I would not care. I do not pretend to be a prophet, but I know from past experience that once you begin to recognise a particular principle there is no end to it. In order to show that this is not the viewpoint of the Goan community as suggested by the hon. the Director of Education, that they do not consider the grant in this respect, I will give you an idea of what they understand by it and what they expect in the future. I shall not be very long, but I should like you to excuse me if I give you a few quotations, very brief ones, from one of the Goan newspapers, in which they express what they understand of the recognition of this particular principle.

I am quoting from *The Goan World* of May, 1937, and this is what the Goan community understands by this grant-in-aid. Under the caption of "A distinguished Goan Parliamentarian," the article says:—

"The Black Continent although several thousands of miles away from our land has no doubt been a field of pioneering work for the early Goan settlers, very many of whom have distinguished themselves in all the walks.

[Mr. Shamsud-Deen]

of life that they chose for their career. The *Colonial Times* of Nairobi sent us by last mail a booklet reproducing the Kenya budget speeches by Dr. de Souza, A. C. L. de Souza, M.L.C., whose brilliant and masterly language familiar only to great Parliamentarians has many a time filled the hall with admiration. Undaunted by any hindrance Dr. de Souza has put his case on behalf of the illiterate natives, for their uplift and progress, morally as well as economically not only as an experienced medical person but as one that has identified himself with the native population as if he was their advocate. His regard to the Indian settlers has always been a great factor of his life. Their education, medical facilities, hospital accommodation and general welfare have been subjects upon which he has always maintained a strong defence. Dr. de Souza has built a special case for the increase in the budget grant towards the education of the Goan community, who despite their sacrifices have so far received very small amounts on the education that is imparted which is of very modern type. Through Dr. de Souza's representation the vote has been doubled from £600 to £1,200 but as this increase is conditional upon the coming of the income tax Dr. de Souza has put a very strong case to the Government urging it to give its serious consideration.

In the report of the Standing Finance Committee Dr. de Souza makes a special mention of 'Goan Education.'

This is what the Goan community is given to understand:

"He states:—

"This subject has been of great importance to me and people like myself for many years, and I am grateful to Government for what they have done. . . . The sympathies of the Governor, the Colonial Secretary and the Director of Education are reflected in the proposal made for taking over one of the Goan schools by Government and run as a Government school. That is a proposal which relieves me of a bugbear, the yearly recurrence of an *ex gratia* grant in the budget. I think that Government have done well in recognizing

its responsibility to undertake Goan education, and to that extent I must record my gratitude."

Then he gives the reason for the increase:—

"In any case, I am glad that the Director of Education has agreed that the Goan schools, being in such a high state of efficiency, deserve more than other schools, and are to get £3 per child."

From the report of the Standing Finance Committee the grant given to Indian children varies from £2 to £2-10 and in very few cases is £3. In the present case, the grant of £1,200 is given to the Goan schools, who have only 273 pupils in the whole Colony, there being 195 at Dr. Ribiero's school at Nairobi and 78 at the Mombasa girls' school, so that the grant amounts to something like £5 per head.

What do you think the repercussions of this will be on the minds of British Indian subjects who are in rare cases only get £3 as against £5? It is stated in this article that it is for the more efficient teaching which is going on in the Goan schools for which it is being granted. I submit that the hon. the Director of Education should not be influenced by any noise that might be made by any tuppenny-ha-penny local rags of this town, but simply first of all recognise the number of British Indian subjects and then afterwards of other people.

I do not wish to refer to other comparisons which savour of any racial bias, but since the point was brought up by some hon. members I only wish to say that the grant given to Indian education is not particularly generous. It has been said that there are 1,810 European children who go to school; in fact, there are only 1,159, because it is said that 731 go to schools not aided by Government. The 651 of those 1,159 European children to the Colony is no less than £49,579, and the cost of 7,227 Indian children is only £43,345. I do not include the grants given to Goans as being part of the grant to the Indian community. If you refer to the report of the Director of Education, you will find that the cost of European education in secondary schools is no less than £50 per head and in primary schools £33, as against the Indian cost of only £12 in

[Mr. Shamsud-Deen]

secondary schools and £6 in primary schools. The average cost to the Colony of education for a European child is £26 as against £6 for an Indian child.

As regards the principle enunciated in the Standing Finance Committee report, that the State is not responsible for the education of the children of its subjects, I will not refer to the constitution, as the hon. member Mr. Isher Dass has done, but if you are unable to educate all those children and allow them to be brought up as illiterate members of society, what will be the consequences? Do you really want illiterate people in the Colony? I submit that it has always been recognised that it certainly is the duty of the State to provide all possible facilities, of course revenue permitting, for the education of its children. As far as the Indian community is concerned, I think the Medical and Education Departments are the only two from which we get any indirect social services, and these are the two departments which deserve more sympathetic treatment from Government.

In any case, I hope that this grant for the Goan schools will not become an established principle by which all communities may consider this Colony a sort of hunting ground, an Eldorado, for all European and Asian countries. If there was a colony of Chinese or Italians by some chance in Kenya, surely we should not have to educate their children? I submit that British Indian subjects have the first right of consideration, but it is too much for me to expect that this increase of £600 should be excluded from the budget and used on more important services.

There are only one or two other heads I wish to refer to.

As regards paragraphs 199 to 202 under Head XXIV, Police, I have never been averse to a proper amount being allocated to the Police, because I think that is one of the departments where economy might prove to be most disastrous. The police in this Colony are custodians of the peace, property and lives of the inhabitants, and I think that in the past we have indulged in too drastic economy. Government have done very right in increasing this vote to engage more assistant inspectors.

While that is a matter of gratification, I am very sorry to see the committee has evidently omitted to consider that, in that department, there is a branch of service carried on by subordinate officers. These are the sub-inspectors and assistant sub-inspectors. They are a very cheap sort of executive officer who, according to paragraph 206, instead of receiving any consideration from the Standing Finance Committee have had their particular grant reduced by about £150.

In this respect, if I may be permitted to quote again some figures which I have been able to obtain, the great difficulty is that the sub-inspectors and assistant sub-inspectors are executive officers, entrusted with very great responsibilities and are very often confronted with grave dangers but are paid in such a miserly manner that they would be far better off if engaged as clerks instead of entering as sub-inspectors or assistant sub-inspectors. I have a comparative statement which shows that the clerks who joined the Police Department in 1919 are now in receipt of Sh. 500 per month, whereas the inspectors who joined about the same date have not been given any increase since 1919 and have stopped at Sh. 350; some are stopped at Sh. 300.

I submit that that is false economy and the wrong way of regulating the grades of your services. The clerks undoubtedly do important work, but these inspectors are executive officers with the responsibilities of looking after the peace and lives and property of the inhabitants. I think it is a wrong policy that they should be given less than the clerks, and with that sort of treatment it will never make for a contented staff. I do submit for consideration by Government this very serious matter, which should be dealt with at the earliest opportunity.

The only other department I wish to refer to is the Postal Department. I am glad that the hon. the Postmaster General has seen fit to include the sum of £700 for the payment of overtime. As a matter of fact, it is a very inadequate sum. The people in his department have been paid no overtime for three or four years and the result has been dissatisfaction.

In this department also are the same sort of anomalous positions prevailing as

[Mr. Shamsud-Deen]

in the Police Department. Many clerks, inefficient, and recommended by their superior officers, have had no promotion for the last 10 or 12 years, in some cases more, and their efficiency is impaired, their interest in life reduced, and the standard of working of the department not maintained.

There is only one other item under this head, learners. I know of local boys who have passed their examinations with credit and have gone to the Post Office, and they have been offered the generous salary of £2 per month, and I think it costs their parents more than that to keep them in clothes. Not only that, but my information is that such learners who have joined in the hopes that at some future time their perseverance and services will be recognised, have been kept in the department and given the work of a full clerk and yet only receive a small increment. I submit that that is not a proper way of dealing with the youth of the Colony.

I am quite certain that most of the boys who leave school after passing their examinations are more efficient than the clerks who have been in the department for some years. Without exception, I think, they are very brilliant boys, and I do hope Government will give them some encouragement. In saying this, I am not apologising either unduly or unnecessarily. There was a case only recently of a locally educated boy who was successful in passing his B.A. examination at the London University. I submit that in all these cases, if you give them a reasonable chance, you will find they will not be lacking in capabilities as compared to the youth of any other country or race. It is only fair Government should give them a fair opportunity to rise, so that they shall not be like some sub-assistant inspectors who, after working for 26 years, might have been Superintendents of Police but that they cannot rise beyond the position of assistant sub-inspectors.

The debate was adjourned.

ADJOURNMENT

Council adjourned to 10 a.m. on Tuesday, 21st December, 1937.

Tuesday, 21st December, 1937

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Tuesday, 21st December, 1937. His Excellency the Governor (Sir Robert Brooke-Popham, G.C.V.O., K.C.B., C.M.G., D.S.O., A.F.C.) presiding.

His Excellency opened the Council with prayer.

MINUTES

The minutes of the meeting of the 20th December, 1937, were confirmed.

DRAFT ESTIMATES, 1938

STANDING FINANCE COMMITTEE REPORT.

The debate was resumed.

MAJOR RIDDELL: Your Excellency, I have only one or two small things to say, and they are mainly agreements with those people who have already spoken.

First of all, I should like to agree with the contention of the hon. Member for Mombasa. In my opinion, the coast ferries to the north of Mombasa should be free. It seems to me that the Mombasa ferries are, in fact, the King's Highway, and should be treated in the same way that ordinary bridges over rivers are treated.

In that connexion, during the lifetime of the former Member for the Coast, the late Major Robertson-Eustace, he and I went together to reconnoitre an alternative road from Malindi to Mombasa. There is one much longer than the ferry road, and if it were available and kept in order by the Public Works Department, which of course it is not, there is an argument for putting a charge on the coast ferries, because it is a shorter alternative and a charge would therefore be right. In the absence of that road, I cannot see that there is any argument, so that I become the fifth member who has spoken in favour of the freedom of these coast ferries.

I should also like to agree with the remarks made by the hon. Member for Trans Nzoia as regards the grant of £34,000 for soil erosion work, because, as I stated at some length in my budget speech, I believe with him that all questions of spending money on soil erosion should be preceded by a proper control of land in the native reserves. I believe

[Major Riddell]

there is grave risk of dissipating a lot of money on small range schemes as regards soil erosion before we go into the first question, which is control of the reserves in regard to their land.

Thirdly, I should like to agree with the remarks of the hon. Member for Aberdare with regard to the imposition of income tax, and I should specially like to agree with that part of his speech in which he said that he does not believe that one can compromise in a matter of principle. Nor do I do not believe that one can compromise in a matter of principle, and I have always been against the principle of income tax as applied to this country, and have invariably stated so in this Council.

The hon. Member for Nyanza in this Council yesterday gave us a definition of the word "compromise." However instructive and amusing that may be, I suggest to him with all humility and for the future Council itself, that when he is searching for a definition in Burke, the one he should look for is "surrender," and not a definition of the word "compromise," because that is actually what it was—surrender. Of course, there is the excuse for the hon. member that he is a member of that group who believe in compromise under those conditions, and who have become known in this country as "Compromisers," with headquarters I believe at Muthaiga. But actually, the word I should have looked for is the word "surrender."

However, I glad to be able to say that in this country it is quite obvious that the people, including the farmers, are beginning to realize that, in fact, income tax is not the panacea for all the ills which it was explained it was. They are beginning to learn for the second time, because it happened once before, that it is an evil, and they are beginning to realize that Uganda for once were right, including in Uganda those members of the Indian community who were sufficiently wise to agree with Government in opposition to this tax.

MR. MORRIS: Your Excellency, during the course of the debate, one or two points have been made by hon. members, and perhaps it would be as well that I should answer them.

The hon. member Mr. Isher Dass raised this question of the responsibility of Government for education. I think it is quite clear from the Memorandum that Government do not deny that responsibility, but it was stated that the responsibility must be limited by the financial situation. I do not think that the hon. member perhaps realized that, if Government was immediately to assume all responsibility for education for all races, this Council would be faced with a recurrent expenditure of at least £750,000 a year, not to mention probably a million pounds for capital expenditure.

The present situation is that Government is helping to the maximum of its capacity.

As regards the communities, they are doing their share too, the Europeans and the Indians, by the provision of private schools, and Government gives a grant of just over £8,000 a year to Indian schools as against an amount of £500 a year to the European private schools; but the Africans are taxing themselves. Last year they contributed £12,000 recurrent expenditure and about £1,100 capital expenditure. That is the present position.

The hon. member Mr. Shamsud-Deen raised a question of principle, over the vote to the Goan school. I think he must have overlooked the fact that, since Kenya was proclaimed a colony in 1921, all Goan children born in the Colony become British subjects. I have not the figures for Mombasa, but in regard to the Goan school in Nairobi, on the roll are 206 children, of whom 141 are British born Goans, and 24 British born Indians, which gives a total of 165, or over 80 per cent of the school roll.

Apart from this fact, I think that any one who has had a long residence in East Africa must admit that many members of the Goan community during that period have rendered very real loyal and devoted service to Government.

MR. STOOKE: Your Excellency, there are only two points on which I have anything to say.

Firstly, the hon. Member for Mombasa asked whether the Mombasa telephone exchange could not be provided for out of loan funds. The exchange consists of

[Mr. Stooke]

(two parts)—the building and the machinery inside it. The more permanent of the two parts is, of course, the building. That only represents a fraction of the total cost, and £1,400 was included under Public Works Extraordinary for the cost of the building. The Standing Finance Committee have not said anything about that, so that it stands.

As regards the machinery, the actual exchange; the life of the exchange would be less than the probable period of any loan which we might be able to raise, and I do not think it would be sound finance to provide that out of loan moneys for that reason; in other words, before the loan was paid off one would have to raise more money to replace the machinery.

The hon. Member for Aberdare made some remarks about income tax. He quoted several income tax cases, but I am afraid I cannot comment on them, without having rather more detail. In regard to the general question of evasion of income tax, I am informed by the Income Tax Commissioner that no case has yet come to his notice of evasion which should be prevented by legislation in any adjoining territory; that is, evasion other than the sort of evasion everybody is entitled to practice—(laughter)—if they can!

SIR ROBERT SHAW: Your Excellency, I feel a little bit uneasy about one thing in this report of the Standing Finance Committee, paragraphs 274 to 276, which have already been discussed at some length. My only point is this: In paragraph 274 we have a list of several undoubtedly very desirable objects on which we would like to spend some money if we had it. In paragraph 276 the Committee recommend that if we have, as a result of this year's workings, any funds over and above a surplus of £100,000, at which they would like to place the general reserve, we might use some of that money for some of these purposes.

In view of existing circumstances, I should like to suggest that there be added to paragraph 274: (x) assistance to the coffee industry. It is perhaps not quite fair if it should go in there, because I admit that such an item does not come into exactly

the same category as the other nine various things enumerated. But, at the same time, we must face the fact that the coffee industry has a serious position in front of it which may last for a considerable time. I feel sure that if we have any money to spare next year all hon. members here, at least, will agree that we should not let our most important export industry suffer disaster for lack of any assistance we can give.

It would not be right to go further than that, but it is right to strike, if I may, a slight note of warning on that matter. If we have a little money over and have to spend it all on the nine things detailed in paragraph 274, we may find we are going to be disappointed.

There is only one other matter. If I may term it, the etymological side of the discussions in the effort to find meanings of words.

If I remember aright, the word compromise was applied to a certain recommendation made by this Standing Finance Committee in their report on the Estimates last year. The recommendation they made was in order to try and put an end to a devastating and absolutely intolerable dispute on the subject of taxation which had embittered our lives during previous years. Some people liked the arrangement and some did not, and I am rather entertained to find, after a lapse of several months, that during the last few weeks it has become the fashion among those who dislike the arrangement so much to try and prove that the word compromise must of necessity have some entirely nefarious meaning.

Books of reference and learned men are quoted in Press and Parliament to try and prove that compromise was something horrid. Somewhat overwhelmed by all this erudition, I went home in a humble frame of mind, got out my own dictionary—which I keep on my bookshelf for crossword puzzles—and looked up the meaning there. I found that compromise means: A settlement of differences by mutual concession, adjustment of theories or principles; and the verb means "to settle by mutual agreement and concession." I can find no nefarious significance in that meaning whatever, and with all due respect to the hon. Member for

[Sir R. Shaw]

Kiambu it would appear that by means of a compromise you may adjust your views in regard to matters of principle. Though I would hate to say that I can aspire to any such standard of rectitude as my hon. and gallant friend; at the same time, to excuse a somewhat venal attitude towards life, I may say that all of us here, at some time or other in our lives, have heard of such things as false principles!

I think that in human history there are many examples of men and bodies of men who have endeavoured conscientiously to adhere to certain principles, or set of principles, and who have found, in the light of grave experience, that they had to modify their views. Take, for example, the fundamental principle of our own constitutional monarchy. That, after all, is only a compromise as a result of a conflict of earlier principles once so diametrically opposed as to plunge the nation into civil war, so that I hardly agree with the rather sweeping statement of the hon. Member for Kiambu that it is impossible to compromise on a matter of principle.

Having listened to this debate with some care, and having studied the dictionary with equal care, I find myself satisfied that the word compromise may be fairly and legitimately applied to the arrangement made last year. I am also satisfied that in the acceptance of the arrangement neither of the parties thereto did, in fact, bury their souls under a load of infamy!—(Laughter.)

MAJOR CAVENDISH-BENTINCK: Your Excellency, I should like to say something in support of the hon. the Director of Education with reference to paragraphs 124 to 127 of our report. It is only possible to spend on education, as we have been told this morning, as much as we can possibly afford, and we are in fact already spending nearly one-tenth of the total expenditure figures that we have managed to scrape together.

As regards the increases this in the Education Department estimates as submitted to the Standing Finance Committee, £1,166 is for head office, £1,044 for Europeans, £48 for Arabs, £4,693 for Indian, and £5,066 for African education; so that I think we did our best to try and get the increase as fairly allocated as possible.

Looking at it from another point of view, sometimes it is not uninteresting to find out what percentage of these various votes is spent on different races. If you work out these percentages, after allowing for reimbursements, fees, etc., we are spending 74 per cent on the administration of the Education Department, 19 per cent on European education, 20 per cent on Indian education, 34 per cent on Arab education, 48 per cent on African education (apart from the Africans' own contribution of £18,000), and 1 per cent only on Goan education.

I do not think it is unreasonable, in view of the number of these children born here and in view of the part the Goan community has played in this country and in East Africa as a whole, to spend 4 per cent of the total education expenditure on Goan education. As regards the other allocations, all I can say is that they are as fair as we can possibly arrive at. It must be remembered that, in addition to education, one has to find money for agriculture, administration, medical, military, pensions, police, posts and telegraphs and public works; and I do not think it is possible to find more than the money already found for purposes of education at the present time.

There are two small matters I should like to refer to, and which I should have brought up during the deliberations of the Standing Finance Committee. One was actually discussed; the other was not.

The first that I would deal with is the recommendation as regards the Survey Department under Local Government, Lands and Settlement. It was discussed at the Standing Finance Committee as to whether any improvement in a more rapid passing of deed plans could be effected. I only mention this, as I do hope that during the course of the next few months Government will watch this position. I believe the Director of Surveys is also going to do what he can to remedy the position. The fact remains that at the present time deed plans submitted as long ago as July and August last are still not approved, and it is hanging up a lot of land transactions to a greater extent than I realized at the time the Committee were sitting. I have had information since then which leads me to believe that the position is really rather serious.

[Major Cavendish-Bentick]

The other very small matter is that possibly the hon. the Director of Public Works could say whether something could be done about the Magadi road. It has for many years been kept up privately by the Magadi Soda Co., but it is used by Nairobi residents and tourists, and it really is not fair to ask a private company to keep that road up out of its own funds.

It has been stated by my hon. friend the Member for Mombasa that he has no faith in the Standing Finance Committee. (Mr. Bemister: Hear, hear.) I only wish to refer to his remark to draw attention to two aspects.

Firstly, I should like to stress what has been said already by the hon. the Acting Colonial Secretary and by the Noble Lord, that the committee is, after all, only a committee of this Council, and whether you trust it or not you still have every right, as an elected member on behalf of your constituents, to make any representations you may wish. The committee merely reports back to Council, and Council has the right to bring any amendment to its report. It may wish to bring in. Personally, I have had experience of the original procedure, of this later procedure of the Standing Finance Committee, and I have no hesitation whatever in saying that, actually, this procedure by which we work through the Standing Finance Committee is infinitely better from every point of view than the old procedure.

I believe that by means of having the Standing Finance Committee, Government's budgetary proposals and much more carefully gone into and controlled. But, quite apart from that, there is one inestimable advantage which has not been mentioned yet. That is, it enables a small committee of Council to keep in touch with the financial position month by month during the year. In that way, if things go wrong, it is always possible for that committee to make representations to Council, which may enable the position to be rectified before it is too late.

I would like, as a member who has been a member for some years of the Standing Finance Committee, to pay tribute to Government in that they do keep

the committee in the closest possible touch with everything that goes on.

Lastly, I would like to refer to procedure.

Actually, when the Standing Finance Committee was brought in, we went most carefully into what we considered the best procedure for dealing with a budget session, and the hon. and learned Attorney General will, I think, bear me out. The idea was that when Government's proposals were introduced, every member had a perfect right to deal with those proposals in principle and in detail. Then the proposals are referred to the Standing Finance Committee, and, in order to enable those who represent constituencies here to bring up any point that might have been omitted by that committee, in the interests of those whom they represent, it was carefully laid down that if they wished to do so they could move an amendment, but it would be desirable that that should be done in writing and by giving one day's notice.

A good many people have spoken during this debate—I have just now, about the Magadi road as an instance—and I believe it is far better to stick to this procedure and, if members have anything they wish to suggest after the Standing Finance Committee has reported, they should do it by way of amendment, and they are more likely to do it that way than by a vague discussion going on interminably in the Council. We should therefore try and stick to the procedure laid down. After that, there is another chance on the Appropriation Bill if they have anything to say on matters of principle.

MR. PILLING: Your Excellency, there are not a great number of matters to which I have to reply.

The Noble Lord, the hon. Member for Rift Valley, took me to task somewhat in regard to two deductions which I made with regard to the revenue and expenditure figures. As regards the expenditure one, I plead guilty, but in the deductions which I made I was referring only to reimbursements. There are, as the Noble Lord says, cross entries, which if taken into account do result in a somewhat better picture than possibly I gave.

[Mr. Pilling]

In regard to the Education vote, the Noble Lord said I had drawn a wrong picture concerning the expenditure on the provision of permanent relief officers. I will not plead guilty to that. There were a great number of adjustments in the Education vote, a great number of additions on the increase side and additions on the decrease side, and it is a matter of choice to some extent which items one quoted as counterbalancing the other items. There was an additional provision for the permanent relief officers, and as to my mind it was the most important alteration in the Education estimates since they were last referred to this Council, I selected that item as explaining the reason for the slight increase in the vote.

The hon. Member for Trans Nzoia was in a very happy mood, and it was refreshing to see him in that mood. He certainly did fare very well at the hands of the Standing Finance Committee, and I should like to say—and I am sorry he is not in his seat to-day—that I think his district is to be congratulated on having so successful and zealous an advocate of their requirements.

I consider, however, that he and other members who spoke on the coast ferries were speaking without the book. One would gain the impression that it was a matter on which Government were entirely negligent of the interests of the coast, whereas the actual position is this. The matter of these ferries has come up time after time for consideration by the Central Roads and Traffic Board, and it occupied the board for a period of nearly two hours at the last meeting, when the whole matter was thoroughly discussed. I am not giving away any confidence, the board is not altogether a secret body, when I say that three alternatives were discussed.

The first was that the ferries should be run free by Government. That would seem the obvious course to take, but there are objections to that course. If Government were to run the ferries it would mean that Government would have to employ two sets of crews, a day and a night crew. A private contractor gets over the difficulty of an extra crew for night work—the traffic at night is not very heavy—by allowing the boys, so the

Board were given to understand, to keep what fees they collect at night. The boys thus do not object to the overtime, and are perfectly ready to turn out whenever required.

Government could not very well do that, and it would entail a heavy expenditure in order to supply crews, one for day and one for night. There are other ways in which a private contractor can run the ferries more cheaply, and possibly more economically, than Government, which necessarily, and properly so, are subject to various rules and regulations; there would be the cost of additional supervision, etc.

The Board gave the proposal the fullest consideration, and a majority of the Board recommended against it.

Another alternative discussed was a proposal to free the ferries and still put the operation of them out to contract. A great many members of the Board thought that that would not be satisfactory, for there would be no incentive to the contractor to give an efficient service. He would try and run the ferries as cheaply as he possibly could, by perhaps holding up passengers until there was a sufficient load, and so on. It was thought by a majority of members that that scheme would be unsatisfactory.

The third alternative was to halve the fees and still let the ferries out to contract. That has obvious advantages. It lessens the cost to the users of the ferries, and it does ensure that the contract is run smoothly and efficiently. That decision, whether it was right or wrong, was taken deliberately, and was taken with the best interests of the coast in view.

The hon. Member for Trans Nzoia also drew attention to the danger of Government spending money extravagantly on soil erosion measures unless certain preliminary steps were taken. I can assure him and other hon. members who referred to this question of soil erosion that Government is not going to undertake any very large engineering schemes or adopt measures calling for large capital expenditure. It is proposed to follow the lines which are already working successfully in South Africa, and a large amount of area will be covered by the expenditure proposed.

[Mr. Pilling]

Government realizes, I think, possibly as well as the hon. Member for Kiambu, that the question of control of land before and after measures taken for improvement of conditions and prevention of soil erosion is a very important matter, and it is one which is under very close investigation by Government. It is not an easy matter suddenly to bring in new principles of land control into native reserves, but Government are exploring the position and are taking whatever steps are found practicable.

The hon. Member for Mombasa said that he did not trust the Standing Finance Committee. The only report that I can make to that is, the Standing Finance Committee, on its part, did see fit to increase the police force in Mombasa!

As regards the Mombasa telephone exchange, the hon. the Acting Treasurer has explained why it is not possible to provide the money for this from loan funds. It is not a proper subject for loan funds, and there is also another disability; in so far as there are no loan funds available. The members of the Standing Finance Committee were quite alive to the very urgent need of improving the telephone exchange in Mombasa, and would, if it could possibly have been done, have made the full provision in the Estimates.

That would have meant cutting out several other services for which provision had to be made, and the Noble Lord was good enough to point out that this would have meant continuing a very inequitable and very harsh treatment of certain officers. I refer particularly to the Post Office, where it is quite true a number of officers have for some time been doing an enormous amount of overtime work and have received little, if any, overtime fees.

I sincerely hope it will be possible to provide the money in April. Even if that is not possible, the £9,900 provided in the Estimates will not be entirely wasted. It can be expended on the purchase of cables and other plant, but admittedly it would be more economical to purchase the whole equipment at one time.

The hon. member Mr. Isher Dass charged Imperial Airways with unpunctuality regarding the mail schedule. I admit that the service has been somewhat

irregular recently, but I would remind the hon. member that the service is comparatively in its infancy, and as time goes on and with experience it will no doubt improve. Hon. members probably are aware that similar charges have been made in England and that the Government there has appointed a committee of inquiry to go into charges of inefficiency. It was announced in the House of Commons that the chairman would be Lord Cadnam, and the members Sir Warren Fisher and Sir William Brown, so that I suggest the hon. member might wish to communicate his complaints to that official inquiry!

My colleague the Director of Education has dealt with the contention that Government are constitutionally required to provide education for all their subjects. There is no substance in that contention, and, as the hon. the Director has shown, it would cost some millions of pounds to provide education for all the African children, even if such a proposal were possible of adoption.

If I understood the hon. member aright, he said that the Standing Finance Committee had no right to express an opinion. The expression of opinions on matters referred to them is the main function of the committee; otherwise, their recommendations would be of no value.

He also alleged that unfair racial discrimination was shown in that the basic road grant was restored in full, whereas grants-in-aid to Indian education had not been restored or increased. Of course, the answer to that is, as one hon. member pointed out during the debate, that the basic grant is a statutory obligation on Government.

The hon. Member for Nairobi South considered that the present Customs estimate as framed by the Standing Finance Committee too optimistic, and made the suggestion that instead of utilizing any excess of surplus funds in respect of the present year's working over and above £100,000, such excess should be earmarked to meet any shortfall in Customs figures for 1938. I think I am safe in assuring the hon. member that if, during the first few months of the year, the Customs revenue shows any marked decrease or there are indications that the economic position of the Colony on the world's

[Mr. Pilling]

markets has deteriorated very considerably, as the Standing Finance Committee is composed of a body of reasonable and sensible men they would recommend that the excess be not earmarked, which would have, of course, the effect that it would not be spent but would remain surplus funds and be available to off-set the shortfall, which is what the hon. member suggested: that the surplus be specifically earmarked to meet any shortfall in Customs revenue.

The hon. Member for Aberdare quoted various incidents to show that income tax was an unsuitable tax for this Colony. That is purely an *ex parte* statement, and I do not suppose it is at all hard to make out just as convincing a case to show that the tax was a highly suitable tax for this Colony. Hon. members will be very glad to hear that I do not propose to make that attempt at the present time! (Laughter.)

The ven. and hon. member Archdeacon Burns made an able electioneering speech on what are rather hackneyed subjects. I have already dealt with the ferries, and I have nothing to add to what has already been said in the last two sessions of Council in regard to the provision of an Arab and African Civil Service provident fund.

As regards the estimated increase in the yield of native hut and poll tax, it seems to be a subject for regret to the hon. member. I may say that there have only been one or two districts in which the rate has been increased at all, and it has only been increased in those areas in which Government is quite satisfied that no hardship will be experienced by the natives in meeting that higher rate. The increase actually is a reflection of the increased circulation of money among native people, and does indicate a return to greater prosperity among the natives which would, I should have thought, have been a matter of gratification rather than regret on the part of the hon. member.

The hon. member Mr. Shamsud-Deen dealt with the question of Goan education. That, I think, has been quite adequately dealt with by several speakers. There is, however, one point which has not yet been met by them, and that is, the hon. member said the limitation would not be observed, the limitation appearing

in paragraph 127. The Standing Finance Committee went to some considerable trouble to make that limitation, or that restriction, as clear and as definite as it was possible to make it, and I feel sure that subsequent Standing Finance Committees, unless there is some unprecedented change in the situation of the Goans which cannot be anticipated now, will observe that limitation.

The hon. member also referred to the question of the position of the Asian sub-inspectors of police. I have not been able to investigate the matter fully, but I have a statement from the Commissioner of Police giving particulars. If I understood the hon. member correctly, he said that some officers had been on their maximum salaries for a very considerable number of years. It is true that in the second grade sub-inspectors cadre three were appointed in 1926 and one in 1927, and of the first grade sub-assistant inspectors two were appointed to their present rank in 1926, one in 1927, and four in 1928. The position is that there is a fixed establishment for those grades of officers, and as that establishment is a fixed one officers have to wait for vacancies in the higher ranks.

I asked the Commissioner of Police if the officers concerned had complained, and apparently no complaints have been made to him. He also gave me an assurance that all the officers thoroughly understood what the position was when they were recruited, that they would remain on the maximum salary of their rank until such time as vacancies occurred in the rank above.

MR. SHAMSUD-DEEN: On a point of explanation, Sir, that was not my point, but I propose to send to the hon. the Acting Colonial Secretary a detailed statement showing that certain sub-inspectors have had no promotion since 1919, while the clerical staff have risen up to their maximum.

MR. PILLING: Well, I will be glad to receive such a communication.

All the points which the hon. Member for Kiambu raised have been answered for me by other speakers.

The hon. Member for Ukamba asked that if the position of the coffee industry

[Mr. Pilling]

grew worse, Government would consider the question of giving some assistance to that industry in April in connexion with the financial recommendations of the Standing Finance Committee. This matter has not been considered at all by Government as yet, but I feel sure that in circumstances of that type, if assistance can be given by Government and it is advisable for Government to give such assistance, Government will be very glad to do so.

The hon. Member for Nairobi North drew attention to the delay in the passing of survey plans. I see my colleague, the hon. the Acting Commissioner for Local Government, nod his head, so that I can say that the matter is under consideration and that such steps as may be practicable will be taken.

He also raised a point in regard to Magadi road. I personally had no idea that that was a private road, and I must say that I have enjoyed driving on it on several occasions. I have no doubt my colleague the hon. the Acting Director of Public Works will go into that matter.

That, I think, covers all the points raised during the debate.

The question was put and carried.

ENTERTAINMENTS TAX ORDINANCE, 1931 CONTINUED IN FORCE

MR. STOOKE: Your Excellency, I beg to move:—

"That the Entertainments Tax Ordinance, 1931, as amended by Ordinance No. XLVI of 1933, shall remain in force until the 31st day of December, 1938."

In this connexion I would draw hon. members' attention to paragraph 16 of the Standing Finance Committee Report, which has just been adopted, from which they will see that the Committee considered the abolition of the tax should be deferred until such time as the revenue policy of the Colony came under review.

As the report has only just this minute been adopted, Government has not yet had an opportunity of considering the proviso contained in that paragraph, but I am authorized to say that Government will give consideration to the proposal

that the powers of exemption allowed the Governor in Council should be extended.

MR. HARRAGIN seconded.

The question was put and carried.

TEA ORDINANCE, 1934

CONTINUED IN FORCE

MR. HARRAGIN: Your Excellency, I beg to move:—

"That the Tea Ordinance, 1934, shall remain in force until the 31st day of December, 1938."

As hon. members are aware, the Tea Ordinance will come to an end on the 31st March of next year, and as it is not certain that Council will be reassembled by that date it is necessary that authority be given Your Excellency to issue the necessary proclamation under the Ordinance to continue the Ordinance in force for the time being.

I am well aware that negotiations are at present proceeding between the various interested parties with regard to the production and marketing of tea, and it had been hoped at one time that it would be unnecessary to renew the Ordinance for another year. Actually, no finality has been reached, and thus it is necessary for us to introduce this motion.

MR. STOOKE seconded.

MR. WRIGHT: Your Excellency, I do trust that this motion will not be put through as a rush measure, because I feel that there is a considerable difference of opinion in this country, where we are very apt to be dominated by overseas interests.

The position, as I know it to-day, is that Kenya, an excellent country from a tea-growing point of view, got a very raw deal at the hands of the International Tea Committee. Nyasaland got the greater advantage, and is probably not so well suited; and Uganda got a big slice of the quota allotted for these territories. There is a good deal, I dare say, to be said for imposing restriction of areas; but I doubt, generally, if the creation of an artificial scarcity by restriction or adjustment for a very prolonged period of time is not contrary to economic laws.

In this Colony we have districts eminently well suited for tea, while small

[Mr. Wright]

growers, hitherto growing coffee, have suffered very badly indeed. Were he here, I believe (I have no right to say so) that the hon. Member for Nyanza would have something to say in support of my view on this subject. In his own constituency, in Sotik and Kaimosi, the settlers have suffered from coffee berry disease, and their coffee is practically wiped out as a crop, and to such people the growing of tea, even in small areas, would be their salvation. Other districts, such as Nyeri, where the rainfall is ample, where people have suffered coffee losses, planters might rehabilitate their estates and restore their position by the establishment of tea.

Why the International Tea Committee, representing India, Ceylon, Java, and Siam, should have this dominating influence over a young, undeveloped colony such as Kenya, defeats me, as lots of other things defeat me, in my review of life after 26 years as a settler in this Colony. I do believe that Kenya is practically at the top of tea production. We have not yet produced quality; it takes years to do that, but the fact is that Kenya in its production gives far greater crops than were ever estimated by experts from overseas; India notably. Its quality is equal to the best of South India tea, and there is no question, even allowing for necessary increased labour wages (which must in the ordinary way of things take place), that Kenya will take pride of place in economic tea production for many years to come.

I should like to ask the hon. and learned Attorney General for a little free legal advice; if he would be so kind as to give it, for it will affect a lot of people in this country.

Is it legally justifiable for Government to impose restrictions on any crop? To say to any man who has a bit of land, ostensibly tea land or what you like, "You shall not grow any more tea, or coffee, or whatever it is here because of this or that Ordinance"? If a man has legal ownership of his land, can he legally be prohibited from growing any crop he likes if by so doing he is not endangering the welfare of his neighbours by disease or otherwise?

Acknowledging even that Government may legally restrict the export of tea, this is the second question:—May Government legally prohibit or limit legally local sales of tea?

The third question is: If Government may indulge special vested interests who seek extensions and who may, on the face of things, be specially worthy of having extensions of tea areas, can they arbitrarily preclude others from planting tea or, alternatively, extending their areas?

I must apologise, Sir; I should first have stated that I am interested, even though indirectly, in the tea industry.

While speaking, my concern has not been for big interests but for the small farmers who will be saved if this motion is held back.

LORD FRANCIS SCOTT: Your Excellency, I should like to support the remarks made by the last speaker.

I presume it is inevitable that this motion must go through now to keep the position going, but I do hope Government will see that the strongest representations are made with regard to any readjustment of this international tea restriction plan in the interests of the tea-growers in Kenya. What the hon. member said is perfectly true. There are areas in the country where tea has been proved to grow as well as anywhere in the world, and in the last quota given us there was no question that Kenya did not come off as well as she deserved.

MR. HARRAGIN: Sir, naturally Government is extremely sympathetic with the views expressed by the hon. Member for Aberdare, but he must remember that this Ordinance was brought in at a time of stress, and I do not think that even he would allege that in those days there was an inducement to anyone to grow more tea, as the bottom dropped out of the market. It was for that reason that this international body which the hon. member referred to got busy and imposed, or got various Governments to impose, the restriction which we now have.

The hon. member stated that Nyasaland came off much better than this Colony. I do not know whether he is correct or not, but I know Nyasaland is

[Mr. Harragin] the time thought it had come off extremely badly, as I happened to be there, and they complained very bitterly! Whether we are even worse off than they were is a matter for experts and not for me.

The hon. member asked me to give him some free advice. For once I am able to give him an answer right away. A far greater man than I, when asked a similar question, replied, "Parliament may do anything save turn man into woman and woman into man." (Laughter.) So he can take it from me that if an Ordinance declares that a man cannot plant any more tea, he may not.

I would like to say that it is necessary in view of the negotiations which are going on—and I suspect the hon. member knows a great deal more about them than I do—to stabilize the tea market and at the moment prevent further expansion by re-enacting this Ordinance. You will notice that we are only re-imposing it for another nine months, as it would expire on the 31st March next, and the hon. member can rest assured that Government will do its utmost to see that Kenya's interests are properly represented in the deliberations now in progress.

The question was put and carried.

APPROPRIATION BILL

FIRST READING

MR. HARRAGIN moved that Standing Rules and Orders be suspended to enable the Appropriation Bill to be taken through all its stages.

MR. STOOKE seconded.

The question was put and carried.

Standing Rules and Orders were suspended. On the motion of Mr. Stooke, seconded by Mr. Harragin, the Appropriation Bill was read a first time.

SECOND READING

MR. STOOKE moved that the Bill be read a second time.

MR. HARRAGIN seconded.

The question was put and carried.

MR. STOOKE moved that Council do resolve itself into committee of the whole Council to consider the Bill clause by clause.

MR. HARRAGIN seconded.

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

His Excellency moved into the chair.

The Bill was considered clause by clause.

MR. STOOKE moved that the Bill be reported without amendment.

The question was put and carried.

His Excellency vacated the chair.

Council resumed its sitting.

HIS EXCELLENCY reported the Bill without amendment.

THIRD READING

MR. STOOKE moved that the Bill be read the third time and passed.

MR. HARRAGIN seconded.

The question was put and carried.

The Bill was read the third time and passed.

SEASONAL GREETINGS

HIS EXCELLENCY: As we shall not meet before Christmas or the New Year, I will take this opportunity of wishing hon. members of Council a very happy Christmas and all the best of luck for 1938.

LORD FRANCIS SCOTT: On behalf of the unofficial side of Council, I thank you for your good wishes and say that we heartily reciprocate them.

ADJOURNMENT

Council adjourned *sine die*.

Written Answers to Questions

No. 66—CIVIL SERVICE VACANCIES

BY MR. SHAMSUD-DEEN:

Will Government be pleased to give the following information as regards the operation of Government Circular No. 36 of the 21st September, 1934, in which it was laid down that the policy of Government was to make appointments to vacancies occurring in Government offices by giving preference to

retrenched Civil Servants and to candidates educated in the Colony, provided that no sacrifice of efficiency was involved?

2. Since the issue of the above Circular, how many inquiries were received by the Secretariat from heads of departments for candidates to fill vacancies?

3. Since the issue of the above Circular, how many—

(a) retrenched Civil Servants have been re-engaged to fill vacancies in Government offices in the Colony and Protectorate?

(b) candidates educated in the Colony and Protectorate have been engaged?

(c) outsiders who do not come in either of these two categories have been engaged to fill vacancies?

4. In supplying this information, will Government please state how many of the vacancies were filled by the appointment of—

(1) British subjects;

(2) foreign subjects?

5. Will Government endeavour to arrange for a similar policy to that outlined in the Circular being adopted by the Administration of the Kenya and Uganda Railways and Harbours when filling vacancies in the future?

Reply:

1. Such information as possible will be given.

2. No record has been kept, but the number is considerable.

3. (a) 24.

(b) 118.

(c) 251.

These figures relate to the European and Asian staff, and have been furnished by the departments concerned.

4. Heads of departments state that of the 393 vacancies, 367 were filled by British subjects and 26 by foreign subjects or persons of foreign origin.

5. The General Manager of the Kenya and Uganda Railways and Harbours Administration is aware of the instructions

issued by Government to its departments in 1934, and it is understood that his Administration follows similar policy as far as practicable.

No. 70—INOCULATIONS

BY COL. KIRKWOOD:

(a) Will Government please state the gross casualties due to the recent double inoculations in the Trans Nzoia?

(b) The percentage of deaths?

(c) With reference to (b), was the percentage of deaths considered abnormal? If the answer is in the affirmative, what factors were responsible?

Reply:

(a) 1,412.

(b) 7 per cent.

(c) The answer is in the affirmative.

The factors responsible were: element weather conditions, i.e. excessive rain during the period when cattle were reacting, and the existence of intercurrent diseases—anthrax, blackquarter, and East Coast fever in particular.

No. 71—MINING AND PROSPECTING CLAIMS

BY MR. DEMISTER:

1. Does the existing law relating to mining and prospecting give any protection to the holders of claims, pegged under the existing mining laws, in respect of any precious stones which may be discovered on such claims?

2. If the answer is in the negative, is it proposed to introduce legislation that will protect claim holders in respect of precious stones on such claims?

Reply:

The existing mining laws provide for the pegging of "Precious Stones Locations," vide Regulation 15 (2) of the Mining Regulations, 1937. The rights of a holder of a precious stone location, as set out in section 31 of the Mining Ordinance, 1933, include exclusive rights and consequently protection.

No. 72—PAYMENTS RE AVIATION
BY MAJOR CAVENDISH-BENTINCK:

With reference to the reply given by the hon. the Postmaster General to a question-put by the hon. Elected Member for Rift Valley in the course of the debate, can I be informed:—

(a) Whether the subsidy of £8,750 payable in respect of the last six months of the year 1937 to Wilson Airways, as laid down in the Air Ministry White Paper, Cmd. 5523, dated July, 1937, is being continued on the same scale for the year 1938?

(b) If so, is this sum or any portion thereof, being paid directly or indirectly by Kenya? And, if so, is it included in item 17 of Head V of the Draft Estimates for 1938?

(c) Was any allowance made in the hon. the Postmaster General's figures for the fact that no housing or landing fees are charged and, if not, what would these reliefs amount to?

(d) To what amount does this Colony contribute by way of relief from duties on aircraft and equipment imported for the purposes of the service?

(e) To what extent does this Colony contribute in relief from duties on the fuel and oil used on the flights made by Wilson Airways?

(f) To what extent does this Colony contribute in relief on duties on fuel and oil used by Imperial Airways?

Reply:

(a) No definite information is as yet available regarding the amount of the subsidy which will be payable for the year 1938 in respect of the light trunk service between Lusaka and Kisumu.

(b) This Government has been informed that its liabilities for basic direct subsidy payment in respect of the whole Empire Air Mail Scheme, of which the Kisumu-Lusaka auxiliary service is a component part, are limited to £9,000 per annum. This sum is paid to the Air Ministry with the contributions of other Governments

participating in the scheme; the total of these contributions together with the United Kingdom contributions is then allocated for payment to Imperial Airways Ltd. and associated companies for services performed in connexion with the scheme, which are the subject of an agreement concluded between the Secretary of State for Air, the Postmaster General of the United Kingdom, and Imperial Airways Limited. This Government has not been advised what proportion of its subsidy payment of £9,000 is included in the subsidy of £8,750 payable to Wilson Airways. The amount (whatever it is), is, however, included in item 17 of Head V of the Draft Estimates.

(c) The Postmaster General did not take into account the fact that an additional subsidy will be paid locally of an amount equivalent to housing and landing fees paid in connexion with the Empire Air Service. The subsidy payable on this account in connexion with all services, i.e. flying-boat main-trunk services, shuttle services, and the light trunk internal service, is estimated to amount to approximately £2,000 per annum.

(d) Under item 44 of the Schedule to the Tariff Customs Ordinance (No. 1 of 1930), as amended by the Customs Tariff (Amendment No. 2) Ordinance, 1931, airships, aeroplanes and other aircraft and completed parts and accessories thereof can be imported into the Colony free of duty. No separate figures are available as to what aircraft and accessories have been so imported for use in connexion with the Empire Air Mail Scheme.

(e) In respect of Empire Air Mail services operated by Wilson Airways an additional subsidy is payable locally to the Company equivalent to the amounts actually disbursed by them on account of Customs duty and consumption tax on petrol and Customs duty on oil. It is estimated that the amount payable in a full year in respect of Customs duty will be £500, and in respect of consumption tax £350.

(f) In respect of Empire Air-Mail services operated by Imperial Airways a similar subsidy is payable locally. The estimated annual amounts are £1,500 in respect of Customs duty and £1,300 in respect of consumption tax.

It will be appreciated that the payments made under (e) and (f) are largely covered by increased revenue accruing on account of the expansion of the services.

No. 73—COAST FERRIES
BY COL. KIRKWOOD:

Will Government please state:—

1. The cost of the upkeep of the Kilifi and Shimo-la-Tewa ferries respectively, over a period of years when operated by the Public Works Department?

2. The cost of the upkeep per annum since the ferries were operated on contract?

3. The amount per year received from the contractors operating the ferries?

4. The latest census of traffic passing over the ferries?

Reply:

1. The cost of upkeep of Kilifi and Shimo-la-Tewa ferries was: In 1934, £442; in 1935, £493; in 1936, £398; in 1937, £400.

Prior to the ferries being taken over during 1933 by the Public Works Department, they were operated by the Kenya and Uganda Railways and Harbours. It is impracticable to give accurate figures for each ferry separately.

2. These ferries have always been operated by contract both during Railway and Public Works Department periods of control.

3. The amounts received by Government have been: 1934, £639; 1935, £450 (note decrease due to reduction of fees); 1936, £630; 1937, £819.

4. The latest census was taken for the week ending 18th November. Traffic for one week was as follows:—

	Shimo-la-Tewa	Kilifi
Cars	25	23
Light lorries	5	3
Heavy lorries	146	24
Buses	20	15
Cycles	22	35
Passengers	1,413	1,402
Head loads	42	19

No. 74—NATIVE LIQUOR ORDINANCE
BY MR. HARVEY:

With reference to the reply to the ultimate portion of Question No. 68, dated the 15th December, 1937, Will Government be pleased to consider the desirability of limiting the application of the Native Liquor Ordinance in areas in Nyanza Province contiguous to native reserves in conformity with such limited application in the native reserves in Nyanza?

Reply:

The application of the Native Liquor Ordinance to the native reserves in Nyanza Province is not limited in any way. The effect of application of the Ordinance to the native reserves is to make it an offence under section 6 of the Ordinance to manufacture for sale or sell native intoxicating liquor without a licence, while the application of the Ordinance to the areas contiguous to the native reserves in Nyanza has the effect of making it, in addition, an offence under section 17 of the Ordinance to manufacture or possess native intoxicating liquor on a farm without a permit in writing from the occupier.

The Government is not aware that it is desirable to limit or amend the application of the Ordinance in the areas in Nyanza Province contiguous to the native reserves, but is aware of important reasons why the application should remain unaltered. It is considered that no serious disability is suffered under the provisions of section 17 of the Ordinance as it is clear that any native residing on a farm may manufacture or possess for his own or his guests' or friends' consumption native intoxicating liquor provided he first obtains a permit in writing from the occupier. It is considered desirable that this degree of control by the occupier should be retained and not removed.

No. 75—WHEAT SALES

BY MR. SHAMSUD-DEEN:

1. Is Government aware that owing to a complete monopoly having been given to the Kenya Farmers Association for the sale of wheat and wheat flour produced and consumed in East Africa and by reason of the said Kenya

Farmers Association also being the owner of the largest milling plant (Unga Limited), the sale of wheat has been so manipulated as to cause all other mills owned by Europeans and Indians in the Colony, other than the Kenya Farmers Association, to be closed and go out of existence?

2. Is Government aware of the fact that several members of the Wheat Advisory Board are either interested parties by reason of their being shareholders of the Unga, Limited (the mill belonging to the K.F.A.), or are heavily indebted to the Kenya Farmers Association by reason of which the Wheat Advisory Board can exercise no effective control or vigilance over the activities of the Kenya Farmers Association as agents for the sale of wheat?

3. Is Government aware of the continuous opposition to the monopoly created by the agency for the sale of wheat throughout Kenya, Uganda and Tanganyika, by the consumers, as well as the wheat growers, since the year 1932?

4. Is Government aware of the fact that the protective customs duty imposed at present at Sh. 6 per 100 lb. of wheat flour is exorbitantly high and prohibitive, by reason of which the consumers and especially the Indian population (consumers of wheat atta) are the largest sufferers, and extreme dissatisfaction is prevalent throughout Eastern Africa against the present arrangement for the sale of wheat?

5. Should the answer to the preceding question be in the negative, will Government be prepared to take a referendum from the consumers and the wheat growers, asking whether they are satisfied with the present arrangements for the sale of wheat, the prohibitive duty imposed and the heavy railway freight on wheat, wheat flour and atta?

6. Should the answer to the preceding question be in the negative, will Government appoint an independent inquiry to go into the questions mentioned in the preceding question?

7. Is Government aware that as a result of the complaints lodged by an Indian and a European miller recently,

it was revealed that a rebate of over £200 had been unlawfully or erroneously, but admittedly granted by the agents to their own mill as against all other millers?

8. Will Government obtain from the agents and the Wheat Advisory Board a copy of the complaint lodged by the millers referred to in the previous question, together with the report of the independent auditor appointed by the Government and the explanation of the agents and the Wheat Advisory Board for conniving at the serious irregularities committed by the agents not only as regards unlawful rebates being granted to their own mills but as regards unequal distribution of the quality of wheat to mills other than those owned by the agents, which has been mainly the contributory cause of all the mills other than those of the agents being paralysed?

9. Will Government consider the re-examination of all the circumstances commencing from the year 1932 up to date with all the vicissitudes the wheat industry has undergone, and determine whether the time has not arrived when the protection granted to the local wheat industry in its initial stages should be discontinued and the agency for the sale of the wheat be abolished?

10. Will Government at least consider the substitution of the so-called Wheat Advisory Board by a Wheat Control Board with adequate representation of the consumers thereon?

11. Will Government at least consider the substitution of the present agents for the sale of wheat by an independent and disinterested agent or Board who has no interest in the milling industries, on which there should be opportunities for the representatives of the consumers and the wheat growers to control and efficiently check and enforce the equal and equitable distribution of the locally grown wheat among all the millers?

12. Will Government consider the appointment of more than one agent for the sale of wheat as provided for by the law, in order that the present monopoly created should be removed and the millers given the choice of dealing with

more than one agency in case of dissatisfaction?

13. Will Government obtain from the agents the price of wheat paid to the growers since the enforcement of the Sale of Wheat Ordinance and also the quantity of the wheat grown in the Colony, the quantity sold in Kenya and in the adjoining territories in the form of wheat flour and atta respectively, and the prices of the commodity from year to year which the consumer has had to pay, and a statement of whether the agents have ever given the benefit of the protective and prohibitive duty to the consumers of wheat flour and atta?

Reply.

If Government is not aware that the sale of wheat has been so manipulated as to bring about the result postulated in the question. The position is that the Kenya Farmers Association, as the agents appointed under the Sale of Wheat Ordinance, 1930, act not for the Association but for the wheat growers. The Association, neither on their own behalf, nor as agents under the Ordinance, have a monopoly of the sale of wheat flour produced and consumed in East Africa. The Kenya Farmers Association own the ordinary shares of Messrs. Unga, Limited, a company which they promoted for the assistance of Kenya wheat growers; this company has two mills, one at Nairobi and one at Eldoret. There are several mills in operation in the Colony in addition to these two, all others being owned by Indian firms. In addition the agents have been advised of a new mill to be erected in Nairobi by an independent private company. Government is satisfied that the Kenya Farmers Association have no interest in the operations of the agency other than to assist the wheat growers of the Colony, the great majority of whom were members of the Kenya Farmers Association before the enactment of the Sale of Wheat Ordinance. The Association makes no charge to the wheat growers for its services as agents other than the actual costs of such services. Government is satisfied that the agents accord equal treatment to all millers.

2. Government is informed that no member of the Wheat Advisory Board has any financial interest in Messrs. Unga,

Limited, and that two members of the Board, both wheat growers, are indebted to the Kenya Farmers Association only to the extent of the normal advance granted by the Association against wheat raised and in store.

3. Government is aware of opposition only on the part of one firm of wheat millers, and of none on the part of producers. No complaints from consumers have reached Government.

4. The reply is in the negative. Government cannot admit that the customs duty is exorbitant and prohibitive. The cost of wheat to the Kenya mills to-day is Sh. 19/50 per bag free on rail sender's station, and the cost of landing wheat of the same quality at Kilindini to-day is approximately Sh. 23/50 per bag. Government is aware that for some years up to the present date the price of wheat to the mills has been substantially lower in Kenya than in any other British wheat-growing country in Africa south of the equator.

5. & 6. Government sees no reason to institute a referendum or an inquiry of the nature proposed.

7. Government is aware that rebates amounting to £206 were given in error by the agents to Messrs. Unga, Limited, over a period of two years, out of sales of wheat amounting to £234,000, and rebates amounting to £45,620 to this firm over the same period. An inquiry by the Wheat Advisory Board, in which the Agricultural Economist of the Department of Agriculture assisted, showed that the senior administration of the agency was not responsible for this error, which was an inadvertence on the part of subordinate staff. The relatively small sum in question was refunded to the agency by the firm mentioned immediately if became known.

8. The charges made in this part of the question were investigated by the Wheat Advisory Board and were shown to be without foundation. Government is in possession of the papers containing the complaint which was made, as well as the explanation of the agents, and the reports of the independent auditor and of the Wheat Advisory Board.

9. Government is satisfied that the examination proposed is not warranted.

10. The Board contains one Indian miller and one European baker. Government sees no reason to substitute a Wheat Control Board, but has under consideration the question of the appointment on the Wheat Advisory Board of another representative of consumers.

11. The reply is in the negative. Government is satisfied with the work of the Board and with the efficient discharge of their duties by the present agents.

12. The reply is in the negative. The present position of the wheat industry in the Colony does not require the appointment of a second agency.

13. Government has addressed a request to the agency to provide the information asked for. A protective duty, however, on an agricultural product is imposed not for the direct benefit of consumers but for that of producers. Without the duty, during the depression years, there would have been no wheat industry in Kenya. Any substantial diminution in agricultural income in a Colony whose

wealth is derived almost entirely from agricultural production would of course adversely affect the interests of consumers as a class, since their own commercial or professional occupations depend largely upon this source of income.

No. 76.—NATIVE LIQUOR ORDINANCE BY-MR. HARVEY:

Will Government supply me with details of representations made by the public for police intervention under the Native Liquor (Amendment) Ordinance?

Reply:

The prosecutions under the Native Liquor Ordinance in the Kisumu-Londiani District referred to in the reply to Question No. 68 were instituted as a result of general requests for police intervention from members of the public. It is regretted that details of the individual requests, which are not recorded in all cases, are not obtainable.

Index to the Legislative Council Debates

OFFICIAL REPORT

SECOND SERIES

VOLUME III

Third Session, 1937: 29th October to 21st December

EXPLANATION OF ABBREVIATIONS

Bills: Read First, Second, or Third Time—1R, 2R, 3R.
Com.—In Committee. SCR.—Select Committee Report.

Abyssinian refugees— Cost of, 773

Administration of Oath—

Johnstone, Dr. F. J. C., 700
Mordimer, Mr. C. E., 700
Parker, Mr. H., 700
Wallace, Mr. T. D., 277

Attorney General—

See Harragin, Mr. W.

Attorney General, Acting—

See Willan, Mr. H. C.

Bagloy, Major S. E.— Investiture,]

Balo, Mr. E. G.—

Estimates, Draft, 409

Bomister, Mr. F. A.—

Abdulla Khan, Pension, 41
Estimates, Draft, 303, 307
Estimates, Standing Finance Committee Report on, 792
K.U.R. & H. Estimates, 648
Medical Practitioners and Dentists (Amendment) Bill, 731
Mining and prospecting claims, 838
Settlement of minors' estates, 47
Transport Licensing Bill, 745
Voters roll, 60, 68

Bills—

Appropriation, 1R, 853; 2R, 835; Com., 836; 3R, 836
Coffee Industry (Amendment), 1R, 58; 2R, 97; Com., 98; 3R, 98
Employment of Servants, 2R, 21; SCR, 70, 99; 3R, 104
(Note.—For 1R and 2R see Cols. 12 and 215 of Vol. II, 1937.)
Game, 1R, 58; 2R, 86; SCR, 707; 3R, 710
King's African Rifles Reserve of Officers (Amendment), 1R, 58; 2R, 96; Com., 98; 3R, 98

Medical Practitioners and Dentists (Amendment), Com., 728; 3R, 735

(Note.—For 1R, 2R and Com. see Cols. 12, 66, and 111 of Vol. II, 1937.)

Mineral Oil, 1R, 735; 2R, 769; Com., 774; 3R, 774

Native Passes (Amendment), 1R, 20; 2R, 33; Com., 35; 3R, 33

Native Registration (Amendment), 2R, 28; SCR, 83; 3R, 85

(Note.—For 1R and 2R see Cols. 12 and 239 of Vol. II, 1937.)

Native Tribunals (Amendment), 1R, 20; 2R, 33; Com., 35; 3R, 35

Post Office (Amendment), 1R, 58; 2R, 95; Com., 98; 3R, 98

Special Districts (Administration) (Amendment), 1R, 20; 2R, 34; Com., 35; 3R, 35

Transport Licensing, 1R, 58; 2R, 120, 141, 185; SCR, 736; 3R, 749

Brooke-Popham, Sir R. (H.E. the Governor)—

Communications from the Chair, 2, 736, 773

Rules of debate, 767

Valedictory, W. M. Logan, 513

Burns, Archdeacon—

Employment of Servants Bill, 23, 75, 76, 81, 103

Estimates, Draft, 267

Estimates, Standing Finance Committee Report on, 806

K.U.R. & H. Estimates, 666

Medical Practitioners and Dentists (Amendment) Bill, 732

Native Passes (Amendment) Bill, 34

Native Registration (Amendment) Bill, 29

Shop leases, native reserves, 723

Transport Licensing Bill, 191, 746

Valedictory, W. M. Logan, 512

- Cavendish-Bontinck, Major**—
Agricultural Indebtedness Committee, 765
Aviation, payments re, 839
Employment of Servants Bill, 77
Estimates, Draft, 278, 475
Estimates, Standing Finance Committee Report on, 821
Medical Practitioners and Dentists (Amendment) Bill, 730, 733
Schedule of Additional Provision No. 3 of 1937, 106
Settlement of minors' estates, 48, 55
Transport Licensing Bill, 171
Voters roll, 67
- Chief Native Commissioner, Acting**—
See Hosking, Mr. E. B.
- Colonial Secretary, Acting**—
See Pilling, Mr. H. G.
- Commissioner of Customs**—
See Bale, Mr. E. G.
- Commissioner for Local Government, Lands and Settlement**—
See Logan, Mr. W. M.
- Commissioner for Local Government, Lands and Settlement, Acting**—
See Hosking, Mr. E. B., and Mortimer, Mr. C. E.
- Communications from the Chair**—
2, 736, 773
- Daubney, Mr. R.**—
Estimates, Draft, 514, 520
Investiture, 1
- Director of Agriculture, Acting**—
See Wolfe, Mr. H.
- Director of Education**—
See Morris, Mr. E. G.
- Director of Medical Services**—
See Paterson, Dr. A. R.
- Director of Medical Services, Acting**—
See Johnstone, Dr. F. J. C.
- Director of Public Works**—
See Stronach, Mr. J. C.
- Director of Public Works, Acting**—
See Walmsley, Mr. C. H.
- Director of Veterinary Services**—
See Daubney, Mr. R.
- Divisions**—
Estimates, Draft, 476
K.U.R. & H. Estimates, 699
Transport Licensing Bill, 233
- Estimates of Revenue and Expenditure, 1938**—
Draft, Reference to Standing Finance Committee, 107, 234, 278, 323, 386, 431, 467, 514
Amendment to, 472
Standing Finance Committee Report on, 774, 816
- Fazan, Mr. S. H.**—
Estimates, Draft, 520
- FitzGerald, Col.**—
Employment of Servants Bill, 24
Native Registration (Amendment) Bill, 30
Transport Licensing Bill, 207
- General Manager, K.U.R. & H.**—
See Rhodes, Sir Godfrey
- Governor, H.E. the**—
See Brooke-Popham, Sir R.
- Grogan, Major**—
Estimates, Draft, 108, 109, 345, 474
K.U.R. & H. Estimates, 657
Kisumu water supplies, 44
Settlement of minors' estates, 50
Transport Licensing Bill, 163
- Hobdon, Mr. G. B.**—
Estimates, Draft, 431
- Harragin, Mr. W.**—
Agricultural Indebtedness Committee, Motion re, 756, 761
Agricultural Indebtedness Committee, Question re, 608
Agricultural Mortgagees Relief Ordinance, 1934, 39
Coffee Industry (Amendment) Bill, 97
Employment of Servants Bill, 28, 75, 83
Estimates, Draft, 109, 274, 474
Game Bill, 707
Medical Practitioners and Dentists (Amendment) Bill, 728, 731, 732, 733, 735
Mineral Oil Bill, 769, 772
Native Passes (Amendment) Bill, 33, 34
Native Tribunals (Amendment) Bill, 33
Rules of debate, 759, 760, 761
Settlement of minors' estates, 53
Special Districts (Administration) (Amendment) Bill, 34
Tea Ordinance, 1934, 832, 834
Transport Licensing Bill, 120, 218, 736, 746
Voters roll, 63, 67
- Harvey, Mr. C.**—
Agricultural Indebtedness Committee, 608
Coffee Industry (Amendment) Bill, 97

- Employment of Servants Bill, 22, 74, 81
Estimates, Draft, 549
Estimates, Standing Finance Committee Report on, 806
Flood damage, 706
K.U.R. & H. Estimates, 649
Native Liquor Ordinance, 842
Native Liquor (Amendment) Ordinance, 704, 705, 848
Native Registration (Amendment) Bill, 31
Northern Frontier Province Poll Tax Ordinance, 1930, 107
Settlement of minors' estates, 48
Transport Licensing Bill, 175, 186, 201, 743
- Hooy, Mr. A. C.**—
Estimates, Draft, 314, 327
Game Bill, 90
Employment of Servants Bill, 99, 104
- Hosking, Mr. E. B.**—
Estimates, Draft, 311
Native Liquor (Amendment) Ordinance, 704, 705
Northern Frontier Province Poll Tax Ordinance, 1930, 107
Shop leases, native reserves, 724
- Indian Member's Withdrawal**—
38
- Investiture**—
1
- Isher-Dass, Mr.**—
Contagious diseases in Nairobi, 37, 38
Employment of Servants Bill, 79
Estimates, Draft, 386
Estimates, Standing Finance Committee Report on, 797
Indian secondary education inquiry, 59
K.U.R. & H. Estimates, 661
Ladies' compartments, K.U.R. & H., 141
Mombasa Shop Assistants Employment Bill, 36
Order in Council re White Highlands, 431
Prison manufactures, 37
Rules of debate, 759, 760, 761
Thika Indian School, 60
Thika water supply, 36
Transport Licensing Bill, 179, 185, 187, 188
Voters roll, 68
- Johnstone, Dr. F. J. C.**—
Administration of Oath, 700
Medical Practitioners and Dentists (Amendment) Bill, 731
- Employment of Servants Bill, 22, 74, 81
2nd Supplementary Estimates, 1936, 589
1st Supplementary Estimates, 1937, 590
Estimates, 1938, 593, 608
- Kenya Land Commission Recommendations**—
736
- Kirkwood, Col.**—
Agricultural Indebtedness Committee, 757
Coast ferries, 841
Employment of Servants Bill, 24, 79, 99
Estimates, Draft, 410, 563
Estimates, Standing Finance Committee Report on, 789
Game Bill, 93
Inoculations, 838
K.U.R. & H. Estimates, 642
Post Office, Kitale, 514
Settlement of minors' estates, 52
Shop leases, native reserves, 717
Transport Licensing Bill, 162
- La Fontaine, Mr. S. H.**—
Estimates, Draft, 508
- Logan, Mr. W. M.**—
Estimates, Draft, 307, 476
Mombasa Shop Assistants Employment Ordinance, 1937, 36
Order in Council re White Highlands, 431
- Mangat, Mr. N. S.**—
Rules of debate, 760, 766
Transport Licensing Bill, 141
- Maxwell, Mr. M.**—
Estimates, Draft, 337
Estimates, Standing Finance Committee Report on, 800
Game Bill, 89
International driving permits, 277
K.U.R. & H. Estimates, 664
Settlement of minors' estates, 55
Transport Licensing Bill, 177
- Morris, Mr. E. G.**—
Estimates, Draft, 499, 564
Estimates, Standing Finance Committee Report on, 817
Indian secondary education inquiry, 59
Thika Indian School, 60
- Mortimer, Mr. C. E.**—
Oath of Allegiance, 700
Shop leases, native reserves, 717

Motions—

- Abdulla Khan, pension, 39
 Agricultural Indebtedness Committee, 749
 Agricultural Mortgagees Relief Ordinance, 1934, 39
 Entertainments Tax Ordinance, 1931, 831
 Flood damage, 705
 Gordon, Dr. H. L., honorarium, 57
 Kisumu water supplies, 43
 Lowley, Mrs., pension, 706
 Northern Frontier Province Poll Tax Ordinance, 1930, 106
 Patel, G. K., pension, 41
 Plaskett, Miss G., pension, 42
 Rodrigues, Mrs. C., gratuity, 42
 Schedule of Additional Provision No. 3 of 1937, 57, 105
 Settlement of minors' estates, 45
 Shop leases, native reserves, 710
 Tea Ordinance, 1934, 832
 Voters roll, 60
- Oath of Allegiance—**
 1, 700
- Oliver, Mr. R. A.—**
 Investiture, 1
- Pandya, Mr. J. B.—**
 Estimates, Draft, 256
 K.U.R. & H. Estimates, 616
 Shop leases, native reserves, 721
 Transport Licensing Bill, 131, 741
 Valdictory, W. M. Logan, 513
- Papers Laid—**
 Agricultural census, European areas, 1936, 21
 Audit of Accounts, K.U.R. & H. Branch Office, annual report, 1936, with despatch No. 76, 19
 Colonial Audit Department annual report, 1936, with despatch No. 690, 514
 Commissioner for Local Government, Lands and Settlement annual report, 1936, 20
 Department of Agriculture annual report, 1936, Vol. II, 21
 East African Agricultural Research Station, Amani, 9th annual report, 700
 Employment of Servants Bill, committee report, 20
 Employment of Servants Bill, select committee report, 36
 Estimates of Revenue and Expenditure, 1938: Draft, 19; Memorandum on, 19; Standing Finance Committee Report on, 700

- Game Bill, select committee report, 514
 Group Hospital at Nairobi, committee report on, 20
 K.U.R. & H.: 1st Supplementary Estimates, 1937, 99; Estimates of Revenue and Expenditure, 1938, 99
 Land grants, return of, 141
 Medical Department annual report, 1936, 20
 Native Affairs annual report, 1936, 20
 Native Registration (Amendment) Bill, committee report on, 20
 Native Registration (Amendment) Bill, select committee report on, 36
 Schedule of Additional Provision No. 3 of 1937, 20
 Schedule of Additional Provision No. 3 of 1937, Standing Finance Committee report on, 59
 Transport Licensing Bill, select committee report, 700

Parker, Mr. H.—

- Estimates, Standing Finance Committee Report on, 796
 Oath of Allegiance, 700

Paterson, Dr. A. R.—

- Contagious diseases in Nairobi, 38
 Estimates, Draft, 526

Pilling, Mr. H. G.—

- Employment of Servants Bill, 21
 Estimates, Draft, 107, 108, 109, 276, 306, 474, 564, 582
 Estimates, Standing Finance Committee Report on, 774, 824
 International driving permits, 277
 Medical Practitioners and Dentists (Amendment) Bill, 732
 Native Registration (Amendment) Bill, 28
 Post Office, Kitale, 514
 Prison manufactures, 37
 Schedule of Additional Provision No. 3 of 1937, 57, 105, 106
 Settlement of minors' estates, 56
 Thika water supply, 37

Questions, Oral—

- 55—Mombasa Shop Assistants Employment Ordinance, 36
 56—Thika water supply, 36
 57—Indian secondary education inquiry, 59
 58—Prison manufactures, 37
 59—Ladies' compartments, K.U.R. & H., 141
 60—Thika Indian school, 60
 61—Contagious diseases in Nairobi, 37

- 62—Agricultural Indebtedness Committee, 608
 63—Order in Council re White Highlands, 431
 64—Road programme, 322
 65—International driving permits, 277
 67—Income tax, 700
 68—Native Liquor (Amendment) Ordinance, 704
 69—Post Office, Kitale, 514
- Questions, Written—**
 66—Civil Service vacancies, 836
 70—Inoculations, 838
 71—Mining and prospecting claims, 838
 72—Payments re aviation, 839
 73—Coast ferries, 841
 74—Native Liquor Ordinance, 842
 75—Wheat sales, 842
 76—Native Liquor (Amendment) Ordinance, 848

Rhodes, Sir Godfrey—

- K.U.R. & H.: Supplementary Estimates, 589, 590, 591; Estimates, 1938, 593, 673; Ladies' compartments, 141
 Transport Licensing Bill, 208

Riddell, Major—

- Agricultural Indebtedness Committee, 749, 768
 Estimates, Draft, 323, 328
 Estimates, Standing Finance Committee Report on, 816
 K.U.R. & H. Estimates, 635

Rules of Debate—

- 471, 519, 759, 767

Scott, Lord Francis—

- Agricultural Indebtedness Committee, 756, 766, 767
 Agricultural Mortgagees Relief Ordinance, 1934, 39
 Employment of Servants Bill, 22, 79, 83, 102
 Estimates, Draft, 234, 276, 475
 Estimates, Standing Finance Committee Report on, 783
 K.U.R. & H. Estimates, 608
 K.U.R. & H. Supplementary Estimates, 591
 Kenya Land Commission recommendations, 736
 Medical Practitioners and Dentists (Amendment) Bill, 733
 Pensions and gratuities, 40
 Road programme, 322
 Tea Ordinance, 1934, 834
 Transport Licensing Bill, 216
 Valdictory, W. M. Logan, 511

Select Committees—

- Employment of Servants Bill, 28
 Game Bill, 95
 Native Registration (Amendment) Bill, 32
 Transport Licensing Bill, 233
- Shamsud-Deen, Mr.—**
 Agricultural Indebtedness Committee, 764
 Civil Service vacancies, 836
 Estimates, Standing Finance Committee Report on, 803
 Medical Practitioners and Dentists (Amendment) Bill, 730, 732, 734, 735
 Mineral Oil Bill, 772
 Rules of debate, 760
 Shop leases, native reserves, 710, 724
 Special Districts (Administration) (Amendment) Bill, 34
 Transport Licensing Bill, 165
 Voters roll, 66
 Wheat sales, 842
 Withdrawal from Council of, 38

Shaw, Sir Robert—

- Employment of Servants Bill, 27, 78, 81, 83, 103
 Estimates, Draft, 487
 Estimates, Standing Finance Committee Report on, 819
 Game Bill, 93
 K.U.R. & H. Estimates, 638
 Transport Licensing Bill, 158

Sheriff Abdulla bin Salim—

- Estimates, Standing Finance Committee Report on, 797

Soil Erosion—

- 773

Solicitor General—

- See Willan, Mr. H. C.

Sousa Dr. de—

- Agricultural Indebtedness Committee, 755
 Contagious diseases in Nairobi, 38
 Estimates, Draft, 434
 K.U.R. & H. Estimates, 623
 K.U.R. & H. Supplementary Estimates, 591
 Medical Practitioners and Dentists (Amendment) Bill, 729, 731, 732, 733, 734
 Settlement of minors' estates, 51
 Transport Licensing Bill, 198, 201
- Stooke, Mr. G. B.—**
 Appropriation Bill, 835
 Estimates, Draft, 294

- Estimates, Standing Finance Committee Report on, 818
 Entertainments Tax Ordinance, 1931, 831
 Flood damage, 705
 Income tax, 702
 Gordon, Dr. H. L., honorarium, 57
 Kisumu water supplies, 43
 Pensions and gratuities, 39, 41, 42, 706
 Settlement of minors' estates, 45, 56
- Stronach, Mr. J. C.—**
 Flood damage, 706
- Valeditary—**
 Logan, W. M., 511
- Wallaco, Mr. T. D.—**
 Administration of Oath, 277
- Walmsley, Mr. C. H.—**
 Estimates, Draft, 559
 Kisumu water supplies, 44, 45
 Road programme, 322
- Watf, Mr. W. L.—**
 Investiture, 1
- Willan, Mr. H. C.—**
 Employment of Servants Bill, 24, 69, 104
 Game Bill, 86, 94
 King's African Rifles Reserve of Officers (Amendment) Bill, 96
 Native Registration (Amendment) Bill, 32, 83
 Post Office (Amendment) Bill, 95
- Wilson, Dr.—**
 Estimates, Draft, 492
 K.U.R. & H. Estimates, 670
 Medical Practitioners and Dentists (Amendment) Bill, 734
- Wolfe, Mr. H.—**
 Estimates, Draft, 541
- Wright, Mr. E. H.—**
 Agricultural Indebtedness Committee, 755
 Estimates, Draft, 467
 Estimates, Standing Finance Committee Report on, 802
 Income tax, 700
 Tea Ordinance, 1934, 832

KENYA NATIONAL ARCHIVES
PHOTOGRAPHIC SERVICE

Description of Document LEGISLATIVE COUNCIL DEBATES, VOL. III.

29th Oct., to 21st Dec., 1937.

Reference No. From Central Government Library.

END