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Covering Dates 30th May, to 9th June, 1944.

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COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL
DEBATES
OFFICIAL REPORT

SECOND SERIES

VOLUME XIX

1944

Third Session: 30th May to 9th June, 1944

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List of Members of the Legislative Council

President:

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

Ex Officio Members:

CHIEF SECRETARY (HON. G. M. RENNIE, C.M.G., M.C.)
ATTORNEY GENERAL (HON. S. W. P. FOSTER SUTTON, K.C.)
FINANCIAL SECRETARY (HON. L. TESTER, C.M.G., M.C.)
CHIEF NATIVE COMMISSIONER (HON. W. S. MARCHANT, C.M.G.)
DIRECTOR OF MEDICAL SERVICES, ACTING (DR. THE HON. F. J. C. JOHNSTONE).
DIRECTOR OF AGRICULTURE (HON. D. L. BLUNT).
DIRECTOR OF EDUCATION, ACTING (HON. C. E. DONOVAN)
GENERAL MANAGER, K.U.R. & H. (HON. R. E. ROBINS, C.M.G., O.B.E.)
DIRECTOR OF PUBLIC WORKS (HON. J. C. STRONACH, C.M.G.)
COMMISSIONER OF CUSTOMS (HON. A. W. NORTHROP).
COMMISSIONER OF LANDS AND SETTLEMENT (HON. C. E. MORTIMER, C.B.E.)

Nominated Official Members:

HON. H. M. GARDNER, O.B.E. (Conservator of Forests).
HON. S. O. V. HODGE, C.M.G. (Prov. Commissioner, Coast).
HON. C. TOMKINSON (Prov. Commissioner, Central).
HON. K. L. HUNTER, O.B.E. (Prov. Commissioner, Nyanza).
HON. H. IZARD (Prov. Commissioner, Rift Valley).
HON. T. A. BROWN (Solicitor General).
HON. G. B. HEDDEN, C.M.G. (Postmaster General).
HON. R. PEDRAZA (Commissioner of Mines).
HON. R. DAUBNEY, C.M.G., O.B.E. (Director of Veterinary Services).
(1)

European Elected Members:

MAJ. THE HON. F. W. CAVENDISH-BENTINCK, C.M.G., Nairobi North.
HON. S. V. COOKE, Coast.
HON. F. J. COULDREY, D.S.C., Nyanza. (2)
HON. W. A. C. BOUWER, Uasin Gishu.
COL. THE HON. E. S. GROGAN, D.S.O., Ukamba.
MAJOR THE HON. A. G. KEYSER, Trans Nzola (Acting).
HON. W. G. D. H. NICOL, Mombasa.
LT.-COL. THE HON. LORD FRANCIS SCOTT, K.C.M.G., D.S.O., Rift Valley.
HON. A. VINCENT, Nairobi South.
HON. MRS. O. F. WATKINS, Kiambu.
HON. E. H. WRIGHT, Aberdare.

Indian Elected Members:

HON. SHAMSUD-DEEN (Central). (2)
HON. S. G. AMIN (Central).
HON. A. B. PATEL (Eastern).
HON. K. R. PAROO (Eastern).
HON. DHARM DIN KOHLI (Western).—

LIST OF MEMBERS OF THE LEGISLATIVE COUNCIL—Contd.

Arab Elected Member:

HON. SHERIFF ABDULLA SALIM.

Nominated Unofficial Members:

Representing the Interests of the African Community—

HON. M. R. MONTGOMERY, C.M.G.

REV. THE HON. L. J. BELCHER.

Representing the Interests of the Arab Community—

VACANT.

Acting Clerk to Council:

Mr. K. W. Simmonds.

Reporter:

Mr. A. H. Edwards.

(1) *Present* Mr. W. G. Emerson on return to Colony.

(2) *Absent from Colony.*

ABSENTEES FROM LEGISLATIVE COUNCIL SITTINGS

10th May—

Hon. Commissioner of Customs.

Hon. Member for Nyanza.

Hon. Member for Central Area (Mr. Shamsud-Deen).

1st June—

Hon. Member for Nyanza.

Hon. Member for Central Area (Mr. Shamsud-Deen).

2nd June—

Hon. C. Tomkinson.

Hon. Member for Uasin Gishu.

Hon. Member for Nyanza.

Hon. Member for Central Area (Mr. Shamsud-Deen).

6th June—

Hon. Member for Nyanza.

Hon. Member for Central Area (Mr. Shamsud-Deen).

8th June—

Hon. Member for Nyanza.

Hon. Member for Central Area (Mr. Shamsud-Deen).

Hon. Member for Native Interests (Mr. Montgomery).

9th June—

Hon. H. M. Gardner, O.B.E.

Hon. Member for Nyanza.

Hon. Member for Central Area (Mr. Shamsud-Deen).

Hon. Member for Arab Area.



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

THIRD SESSION, 1944

Tuesday, 30th May, 1944

Council assembled in the Memorial Hall, Nairobi, at 10 a.m. on Tuesday, 30th May, 1944. His Excellency the Governor (Sir Henry Moore, G.C.M.G.) presiding.

His Excellency opened the Council with prayer.

The Proclamation summoning Council was read.

ADMINISTRATION OF OATH

The Oath of Allegiance was administered to R. Daubney, Esq., C.M.G., O.B.E., Director of Veterinary Services.

PRESENTATION OF INSIGNIA

By Command of His Majesty the King, His Excellency presented the insignia of: Commander of the Most Excellent Order of the British Empire to V. B. Atkinson, Esq.; Officer of the Most Excellent Order of the British Empire to K. G. Lindsay, Esq., and Mrs. Rachel Trim; and Member of the Most Excellent Order of the British Empire to D. L. Morgan, Esq., G. C. Reed, Esq., T. Y. Watson, Esq., W. T. Chappel, Esq., and Mrs. M. L. MacIntyre.

MINUTES

The minutes of the meeting of 20th April, 1944, were confirmed.

PAPERS LAID

The following papers were laid on the table:—

BY THE CHIEF SECRETARY (MR. RENNIE):
Labour Department Annual Report, 1943.

Prisons Department Annual Report, 1943.

BY THE ATTORNEY GENERAL (MR. FOSTER SUTTON):

Select Committee Reports on the Bankruptcy (Amendment) Bill and Increased Production of Crops (Amendment) Bill.

BY THE DIRECTOR OF AGRICULTURE (MR. BLUNT):

Agricultural Department Annual Report, 1943.

BY THE COMMISSIONER OF LANDS AND SETTLEMENT (MR. MORTIMER):

Lands Grants Return, 1st January to 31st March, 1944.

BILLS

On the motion of Mr. Foster Sutton the Coffee Industry (Amendment) Bill, the Criminal Procedure Code (Amendment) Bill, and the Water (Amendment) Bill were read a first time, and notice given to move the subsequent readings at a later stage of the session.

ADJOURNMENT

Council adjourned until 10 a.m. on Thursday, 1st June, 1944.

LIST OF MEMBERS OF THE LEGISLATIVE COUNCIL—Contd.

Arab Elected Member:

HON. SUKRIT ABDULLA SALIM.

Nominated Unofficial Members:

Representing the Interests of the African Community—

HON. H. R. MONTGOMERY, C.M.G.

REV. THE HON. I. J. BEECHER.

Representing the Interests of the Arab Community—

VACANT.

Acting Clerk to Council:

Mr. K. W. Simmonds.

Reporter:

Mr. A. H. Edwards.

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Hon. Member for Usasin Gishu.

Hon. Member for Nyanza.

Hon. Member for Central Area (Mr. Shamsud-Deen).

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8th June—

Hon. Member for Nyanza.

Hon. Member for Central Area (Mr. Shamsud-Deen).

Hon. Member for Native Interests (Mr. Montgomery).

9th June—

Hon. H. M. Gardner, O.B.E.

Hon. Member for Nyanza.

Hon. Member for Central Area (Mr. Shamsud-Deen).

Hon. Member for Arab Area.



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By THE ATTORNEY GENERAL (MR. FOSTER SUTTON):

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By THE DIRECTOR OF AGRICULTURE (MR. BLUNT):

Agricultural Department Annual Report, 1943.

By THE COMMISSIONER OF LANDS AND SETTLEMENT (MR. MORTIMER):

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His Excellency opened the Council with prayer.

MINUTES

The minutes of the meeting of 30th May, 1944, were confirmed.

PAPERS LAID

The following papers were laid on the table:—

By Mr. RENNIE:

Report of the Board of the Land and Agricultural Bank of Kenya, 1943.

By THE CHIEF NATIVE COMMISSIONER (Mr. MARCHANT):

Information in reply to Question No. 23 by the Hon. and Rev. Member for Native Interests regarding the control of prices of African-grown foodstuffs in native reserves.

ORAL ANSWERS TO QUESTIONS

No. 23—AFRICAN-GROWN FOODSTUFFS
PRICES

Mr. BEECHER (Native Interests):

Will Government please state what steps are being taken by the Administration to control the prices of African-grown foodstuffs within the reserves, it being understood that very largely as a result of the unrestricted movement of large quantities of food from one district to another by traders, poor people have suffered and are still suffering considerable hardship as a result of unrestricted price inflation.

Mr. MARCHANT: As the answer is somewhat long, a written reply^a has been laid on the table for the information of the Council.

^aExperience has shown that any attempt at rigid control of prices of native foodstuffs in native markets within the reserves has the effect of driving food from the markets and encouraging large-scale sale of foodstuffs at greatly enhanced prices in the villages. For this reason it is considered impracticable effectively to control sales of

fixed prices.

locally produced foodstuffs between natives in reserves by enforcement of

2. As Africans grow their own food in the areas chiefly affected, any rise in the price of foodstuffs only inflicts serious hardship on the poorer community when there is a food shortage. In order to meet this hardship, arrangements have been made for the direct purchase of surplus food in certain producing areas for sale at fair prices to the inhabitants of those areas when shortage occurs. In time of acute shortage, movement has been prohibited by Proclamations made under the Native Foodstuffs Ordinance, and, in addition, large supplies of imported foodstuffs have been sent to such reserves at subsidized prices. The total number of bags so supplied this year amounts to 176,000 bags approximately.

3. In Nyanza Province, increase in prices has been controlled by preventing any large-scale movement of foodstuffs under the Defence (Control of Produce) Regulations. In the Central Province the situation is more complicated owing to the difficulty of preventing the movement of foodstuffs from the reserves, due to the complex road system, the close juxtaposition of the reserves to the settled areas, and the proximity of Nairobi.

4. The situation in Central Province is being kept constantly under review, and consideration is now being given to the possibility of tightening up the Defence (Control of Produce) Regulations in this Province in order to prevent large-scale movement.

BANKRUPTCY (AMENDMENT) BILL

SELECT COMMITTEE REPORT

Mr. FOSTER SUTTON: Your Excellency, I beg to move that the majority report of the select committee of the Bankruptcy (Amendment) Bill be adopted.

When this Bill was debated on the motion for the second reading, there were a number of points raised by hon. members on the other side of Council, and the select committee very carefully considered each one of them. In the result, we came to the conclusion that the only recommendation that we could

(Mr. Foster Sutton)

make was the deletion of clause 11, which has reference to the amount of the debtor's property which may be excluded from being taken into consideration upon his bankruptcy. Those are such things as the tools of his trade, the clothing and bedding of himself and his family. Several hon. members thought that the proposed amendment in the Bill, which considerably limited the value in respect of those articles that a debtor was allowed to retain for his own purposes, was too severe, and the select committee felt able in their report to recommend that the provision in the Principal Ordinance should be allowed to stand and that the court's discretion to allow a larger amount to be retained by the debtor should be kept. I think that has substantially met objections that were raised by hon. members on the other side of Council. Other amendments suggested by the select committee are clauses 15, 16 and 18 for the reason that the Bill itself provides a general penalty clause, and those clauses were only seeking to impose a similar penalty to that imposed by the general penalty clause. They appeared to the select committee to be redundant, and we recommend that they be deleted. The same remarks apply to the suggested amendment in paragraph 5 of the committee's report, which really brings it into line with the general penalty clause.

There is attached to the majority report of the select committee a minority report, and I thought it might be convenient if I dealt briefly with the recommendations contained in that minority report. First of all, it is suggested that clauses 3 and 10 of the Bill are harsh. Well, if I may be pardoned for saying so, I think it is an easy matter to make the statement that a clause is harsh, but that statement is not supported by any reasoning. The particular clause I wish to refer to is clause 3, which is a clause that was debated *ad nauseum*, if I may say so, when the motion for the second reading was taken. That clause, as hon. members will remember, cuts down the period that is to be allowed to a debtor in which to file his statement of affairs when he is lodged his own petition in bankruptcy, or when a petition in bankruptcy has

been lodged by his creditors. If he lodges his own petition, under the recommendation of the majority report he will only be allowed three days in which to file his statement of affairs. We felt that in a man files his own petition he must know exactly what his financial position is and he should be ready with all the information on the day that he files his petition. If he is not there is something phoney about it, and we felt that three days was ample. Under the principal ordinance he is allowed 14 days, which is far too long. Three days follows the bankruptcy practice which has been in existence in the United Kingdom for a great number of years. Then in the case of a petition filed by creditors we recommend that the provision in the Bill should be allowed to stand. There again, we think seven days long enough; it allows a shorter period in which a dishonest debtor can make arrangements whereby he may defeat his creditors. That again follows the English practice. I cannot personally, with all due respect to the minority report on that question, see where the hardship comes in, because if there is any hardship the principal ordinance expressly provides for such a situation by making provision to the effect that the court in case of hardship may extend the periods, and if it is a case of real hardship all the debtor has got to do is to go to the court and explain what the hardship is, and the court will extend the period. So where the hardship comes in I find it difficult to see.

The hon. member who filed this minority report also dealt with the question as to whether debts due to relatives should stand over until all the other creditors have been paid. In a way I suppose there is more argument in favour of that than the other proposition. It may create a certain amount of hardship, but there is a simple remedy, as was pointed out on the last occasion when this matter was under discussion in this Council. If a person chooses to take a loan from a relative—a relative within the meaning of the ordinance—or to take goods or to employ them, the simple remedy is, if he is taking a loan or goods, to give a chattels mortgage on his goods to the relative. That affords complete protection to that relative. It is a simple procedure, and what the diffi-

7. Bankruptcy (Amendment) Bill

[Mr. Foster Sutton] in which is the punishment of culprits and the other is to see as far as possible that innocent persons are not punished. But if, on account of the difficulties which we experience in this country, we overlook the aims which have always been kept in view of making such provision as will exclude the punishment of innocent persons, I think we are adopting the wrong course and are throwing away the long experience of great men in British jurisprudence.

The hon. Attorney General stated that people should pay salary or wages immediately. Therefore in my amendment I am excluding any claim for salary or wages. I say that any claim for salary or wages by relatives should not be paid. They should wait until all the claims of other creditors have been satisfied. I have made it very clear in my amendment, that the relatives should satisfy the trustee or the court that his or her claim is bona fide and for valuable consideration; the Bill therefore on the relative. It will ensure that no dishonest claim is allowed to rank along with other creditors. The hon. Attorney General stated that this difficulty can be overcome by taking out a chattels transfer if the relative had any claim against a debtor. I should like to give one instance. Say X has a business at Mombasa and he has a cousin who has a shop in Kisumu; if we leave clause 10 of the Bill as it is the cousin in Mombasa will be prevented from supplying any goods to the cousin in Kisumu. It is the stranger in Mombasa who can supply goods to the man in Kisumu but not his cousin, even though he may have the goods. In the ordinary course of business, if goods are sold one does not expect to have to take out a chattels mortgage for the day to day or week to week supply of goods. I am aware that members of this Council think that clause 10 should stand as it is to defeat the dishonest claims put forward by the relative of the debtor, and in their zeal they are not prepared to consider the long experience of the British system of law that innocent persons should not be punished, and I am also aware that probably my amendment will not be accepted, but I do submit with all confidence that when provision is made so that the onus is on the relative to satisfy the trustee or the court that a

The other suggestions in paragraph 2 of the minority report are merely consequential to the first suggestion that the clauses relating to relatives should be amended. I do not think it is necessary for me to elaborate on those.

MR. BROWN seconded.

MR. PATEL (Eastern Area): Your Excellency, I beg to move an amendment to the majority report of the select committee, that paragraph 1 (g) be added to the majority report of the select committee after paragraph 1 as follows: "That clause 10 of the Bill be amended by adding thereto immediately after the word 'satisfied' which appears in the last line thereof the words 'unless such relative in respect of his or her claim for other than salary or wages proves to the satisfaction of the court that his or her claim is bona fide and for valuable consideration.'" I appreciate the experience which the administration of the bankruptcy law has shown, and I am aware that dishonest claims have been put forward by relatives in certain bankruptcy cases in the past. I am in full support of suppressing any dishonest claims put forward by relatives of the bankrupt, but at the same time I think we are adopting a wrong tendency in overlooking the value of the principles followed in England in regard to legislation. In the British system of law there are two aims which have been kept in view when drafting any legisla-

tion; one is the punishment of culprits and the other is to see as far as possible that innocent persons are not punished. But if, on account of the difficulties which we experience in this country, we overlook the aims which have always been kept in view of making such provision as will exclude the punishment of innocent persons, I think we are adopting the wrong course and are throwing away the long experience of great men in British jurisprudence.

The hon. Attorney General stated that people should pay salary or wages immediately. Therefore in my amendment I am excluding any claim for salary or wages. I say that any claim for salary or wages by relatives should not be paid. They should wait until all the claims of other creditors have been satisfied. I have made it very clear in my amendment, that the relatives should satisfy the trustee or the court that his or her claim is bona fide and for valuable consideration; the Bill therefore on the relative. It will ensure that no dishonest claim is allowed to rank along with other creditors. The hon. Attorney General stated that this difficulty can be overcome by taking out a chattels transfer if the relative had any claim against a debtor. I should like to give one instance. Say X has a business at Mombasa and he has a cousin who has a shop in Kisumu; if we leave clause 10 of the Bill as it is the cousin in Mombasa will be prevented from supplying any goods to the cousin in Kisumu. It is the stranger in Mombasa who can supply goods to the man in Kisumu but not his cousin, even though he may have the goods. In the ordinary course of business, if goods are sold one does not expect to have to take out a chattels mortgage for the day to day or week to week supply of goods. I am aware that members of this Council think that clause 10 should stand as it is to defeat the dishonest claims put forward by the relative of the debtor, and in their zeal they are not prepared to consider the long experience of the British system of law that innocent persons should not be punished, and I am also aware that probably my amendment will not be accepted, but I do submit with all confidence that when provision is made so that the onus is on the relative to satisfy the trustee or the court that a

[Mr. Patel]

claim is bona fide and for valuable consideration, I do not see any objection to accepting an amendment like that if our aim is to prevent dishonest claims only. But if we want simply to say that there should be no dealings with relatives whatsoever, I have nothing more to say. In my submission we are throwing away the long experience of British jurisprudence. In drafting the legislation of this country we get impatient of culprits or dishonest persons to such an extent that we do not realize to what hardship we may be putting innocent persons.

MR. KOHLI (Western Area): Your Excellency, I beg to second that amendment. This amendment covers the main point raised in my minority report, it only differs in that I excluded under (c) of my minority report certain claims by relatives. What I mean is that I do not put the onus on those claimants, but under this amendment the onus will be on the relatives in respect of all claims put up in the ordinary course of business or put up in the case of creditors. I am not going to take up the time of Council by enlarging on this matter, about which I spoke on the second reading of the Bill, for the hon. mover of the amendment has put the case before Council very excellently, and I hope the amendment will be accepted.

MR. FOSTER SUTTON: Your Excellency, I really, when I heard the amendment of the hon. member Mr. Patel, began to wonder if he was serious in some of the statements made. I am quite sure that he must have had a wide experience in bankruptcy practice, and anybody with any experience of bankruptcy matters knows perfectly well that it is the easiest thing in the world to defeat creditors by false invoices, by documents which show or purport to show that goods have been transferred from one trader to another. Bankruptcy legislation is harsh. Bitter experience has taught the legislatures in various countries that it is necessary to make it harsh. If you do not, you can drive a carriage and pair through it, and that is what I am told has been happening in this country. I have no personal experience of trading here, but I am assured—and I have taken the trouble to seek the advice of a number of persons who are

competent to speak—that this loophole that existed in the principal ordinance was used to a very considerable extent for the purpose of defeating honest traders. If we accept the amendment suggested by the hon. member, Mr. Kohli, I am sure that if they reflect they will be compelled to agree with me that it would make it a fairly easy matter for a trader to produce such documentary evidence to prove that a transaction was a genuine one that a court would be compelled to accept it; if the court did not, the person could appeal, and the appeal court would say the lower court had gone wrong and should have accepted the evidence of proper invoices, properly audited records in the books, and so on. It is so easy to fake it. The object of this clause is to try and close the gap. Normally I would respectfully agree with the hon. mover and seconder of the amendment, but not in the case of bankruptcy. The fact that the proposed amendment seeks to cast the onus of proof on the person who alleges that a debt is due to him is neither here nor there. You can hardly put it on the creditor! I do not think there is much in that concession, for in submitting a claim the onus of proof is on the person who alleges a debt to exist, so that it is really no concession at all; it leaves the matter exactly where it always has been. I suggest that we adhere to our recommendation and try to close this gap.

MR. VINCENT (Nairobi South): Your Excellency, I heartily agree with what the hon. and learned Attorney General has just said. The view was taken by anybody who gave credit had under the laws of the country the opportunity to secure himself by a chattels mortgage or a registered deed of some sort, and I cannot see any hardship, except to people who hitherto have been evading paying revenue to the country, in asking them to take out proper security in the future in order to stop the possibility of the practice which has been pointed out by the hon. Attorney General. There is, however, another point, and that is, I think, that it is only fair to warn this Council that I do not think, from a commercial point of view, they have heard the last of amendments to the Bankruptcy Ordinance. On going through the

[Mr. Vincent]

principal ordinance, we came to the conclusion that it had too many loopholes. It was pointed out that the bankruptcy laws are civil laws and there is nothing criminal about them, and I have a very strong suspicion, which I have often asserted in this Council, that there is a very large percentage of criminal activity under cover of our bankruptcy laws, and even the amendments we are now effecting are not strong enough. They do not close the door, and people are still in a position to make the law look ridiculous. I could not support the amendment on any ground whatsoever.

The question of the amendment was put and negatived.

The debate on the original motion was resumed.

Mr. NICOL (Mombasa): Your Excellency, as the hon. Member for Nairobi South has already said, there are still many more amendments which are desirable to make to our bankruptcy law, and there are, unfortunately, certain amendments which we felt in select committee were desirable which have on reflection been left out. I understand it is the intention of the hon. and learned Attorney General to produce a new Bankruptcy Ordinance, which I sincerely trust will not only tighten up the law but be a real endeavour to make it watertight. The present law not only of Kenya but of East Africa is distinctly rotten. On that distinct understanding I signed the majority report, and hope that at an early date a completely new bill will be introduced into this Council; I cannot possibly subscribe in any way to the minority report, and beg to support the motion.

Mr. FOSTER SUTTON: Your Excellency, I should like to qualify what the last speaker has said. I do not wish to be accused hereafter of breaking my word. I said that an early opportunity would be taken to consider the introduction of new legislation, but I did not go further than that. I readily agree that our legislation is out of date and is leading to evasion, and it is a worthwhile job to tackle it when time permits.

The question of the original motion was put and carried.

INCREASED PRODUCTION OF CROPS (AMENDMENT) BILL

SELECT COMMITTEE REPORT.

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

Before dealing with the majority recommendations, I think it might be useful if I very briefly recapitulate the object of the principal ordinance. As I understand the position, it had as its first object or intention to stimulate the production of crops which were considered necessary and which it was considered in the public interest should be grown during the present emergency. That is one of the main objects of the original legislation. Furthermore, it was felt that if you were going to stimulate production of crops that are needed, you had to have some sanction behind it, and therefore the principal ordinance created a board and conferred on that board powers to direct farmers to grow a particular crop. Then, I think quite rightly, it was felt that if you directed a man to grow a particular crop, which might not be an economic crop although it was necessary, it was right and just that you should guarantee to the man you had directed to grow that crop a minimum return for his labour and for growing it, so the ordinance conferred powers on the board to guarantee to those farmers who received directions from the board a guaranteed minimum return in respect of the crops they were compelled to grow. It went on to provide that the board should be enabled to make advances to farmers who were not in a financial position to carry out, from their own resources, the directions of the board; so that it provided that advances could be made in respect of crops for which there was a guaranteed minimum return. It further enabled the board to make what are referred to in the ordinance as "breaking grants", when a farmer was compelled to dig up and plough completely virgin land. Those, very briefly, were the original objects of the ordinance.

In practice it has been found that it was not a very flexible measure to work under, and the amendments suggested in the original bill were designed to intro-

[Mr. Foster Sutton]

duce a greater degree of flexibility. The select committee gave this matter, if I may say so, very careful consideration. We had the advantage of having on that committee the chairman of the board whose experience in the working of the measure is far greater, I venture to think, than that of anybody else in this country, so that we had the benefit of his experience when considering our recommendations. The majority report contains several recommendations which are merely drafting matters, and I think it might be convenient if I point out the purely drafting matters and dispose of them first. The first one is contained in paragraph 2. I refer to the proviso. There is nothing new about that proviso. Originally it was to be found as a proviso to section 21 (2) of the principal ordinance, and when the committee came to consider it we decided it was in the wrong place. We found it difficult to understand how it would be a proviso to section 21 (2), so we put it where we thought it ought to go, as in 4 (1). This is the section which deals with guaranteed minimum returns, which the proviso does, and there can be very little doubt that that is probably the better place to have it, because it is of more assistance when a person is considering the matter to have it in its proper place. Then we recommended in paragraph 5 of the report that we delete completely section 21 (2), and the suggested amendment be inserted in its stead. I do not think I need go into details of it. We took the advice of people who have been working under the ordinance, and this gives effect to the present practice and is exactly the way in which the principal ordinance has been construed and worked.

Coming to the clauses that introduce new principle, I refer to paragraph 2 of the majority report, which seeks to amend section 14 of the principal ordinance. Paragraphs (a) and (b) of the suggested new section 14 are the same as before, but new matter is introduced in (c), which seeks to enable the board to make "advances for any purpose" which may, on the advice of the board, be approved by the Governor in Council by notice in the Gazette. Very briefly, our reason for suggesting the amendment, and it is a matter the minority

report deals with, was this: Under the law, advances are made on the guaranteed minimum return, and the guaranteed minimum return can only be based on an annual crop. I will take the simplest example. Pyrethrum is referred to in the ordinance, and it was intended that growers should be assisted. But that growers should be assisted by an annual pyrethrum, I am told, is not an annual crop, and it was found in practice, by the board, that legally no advances could be made to pyrethrum growers for the simple reason that it was impossible to ascertain what the value of the annual crop would be, because farmers may be picking from two or three years' crops at the same time. We suggest that new paragraph (c) be added to introduce a greater degree of flexibility which is not to be found in the ordinance now. I readily agree, if I may say so with respect to the hon. member who has made the minority report, that it does introduce in a sense a new policy, but the intention is to give effect to the old policy. It is not intended to introduce anything new, but we suggest this amendment in the hope that full effect can be given to the policy of the principal ordinance. The amendment to section 15 is consequential to the suggested amendment. I have just dealt with. Then we suggest the insertion of a new sub-section to be numbered (3) in section 21 of the principal ordinance. The object of this is to protect the position where the board has made advances which in the result are greater than the guaranteed minimum return. It seeks to protect the taxpayers by making any surplus a first charge on the farmer's crops growing or to be grown and on any chattels he may possess. It is really intended to cover a very rare type of case, because normally advances are limited to the amount of the guaranteed return, but I understand there have been one or two cases where it has been exceeded, and we want to ensure that in such cases the taxpayers are fully protected.

Then there is a slight amendment suggested to section 21 (6); there was a mistake in the principal ordinance, and this merely seeks to rectify it. Then a peculiar situation has arisen under section 21 (6) of the principal ordinance. I will not weary the Council by giving a long explanation, but in short this is the position: I am taking an extreme

[Mr. Foster Sutton]

case, because it is a good example. If two farmers have obtained an advance against the guaranteed minimum return, and the value of Farmer A's crop is one shilling below the amount of the guaranteed minimum return, he escapes any liability for the payment of interest on the advance, so that if he has borrowed £1,000 and the interest is 4 per cent he gets away with £1,000 free of interest, he is £40 to the good. The value of the crop of Farmer B is one shilling in excess of the guaranteed minimum return, he has to pay the full amount of the interest. In other words, because of that one shilling, Farmer B is £39-19-0 worse off than Farmer A. We felt it was an extraordinary situation which should be rectified. There is the other type of case, where a man may be ordered to grow crops on a certain portion of his property, and he gets an advance against the guaranteed minimum return. Then there is a failure of the crop, but on the other portion of his farm he has bumper crops and has made considerable money. So far as the select committee could see, there is no particular reason why he should be allowed to have the advance free of interest, to the detriment of the general taxpayers. For those reasons we suggest an amendment giving power to the board to say what amount of interest, if any, should be written off. In other words, what amount of interest, if any, the farmer should be relieved from paying. That is the only object of the amendment. Coming down to the suggested amendment to section 37, the existing section reads: "The board may, by resolution, delegate any of the powers conferred upon it by this ordinance to the chairman of the board". The committee suggest that it be deleted and the following substituted in its place: "The board may, by resolution, delegate to any person any of the powers conferred upon it by this ordinance". In working under the ordinance the chairman of the board has found there are thousands of documents, routine matters in the main, that have to be signed, and he is the only person under the existing provisions who is allowed, legally, to sign them. The select committee felt it was right and proper that the board should be given powers to delegate to other

persons certain purely routine matters to relieve the chairman of this enormous amount of purely routine work. That is the object of that amendment, which does not introduce any new principle. The board, we felt, can be trusted to delegate to fit and proper persons.

I have dealt with the matters raised in the minority report, and I do not think I can usefully add anything to what I have already said, except to say that it was not the intention of the select committee in recommending these amendments to introduce any new policy. It was our intention only to make the operation of the ordinance a little more flexible, and afford more protection to the general taxpayers.

MR. BROWN seconded.

MR. AMIN (Central Area): Your Excellency, in appending the minority report to the main report, my only idea was to ensure that this new measure which is being brought in under section 14 of the ordinance, that is to say under new section 14 (c), is not limited to the objects which the ordinance is intended to cover. If advances in respect of non-annual crops are intended, then I am quite sure it is easy to say so in the section itself—advances in respect of non-annual crops for which no guaranteed minimum return can be prescribed—and then the law will be in conformity with the practice which is stated to have been established by the board and which has been found necessary. That is the only object that I had in mind in making that particular point in my minority report. If the hon. and learned Attorney General or anybody on behalf of Government or the board can say that the only intention under new section 14 (c) is that advances in respect of non-annual crops are to be covered, then I am satisfied. There is at the moment nothing either in the amending bill or in the select committee report to suggest that the words "advances for any purpose" will only mean advances in respect of non-annual crops for which no minimum return can be prescribed. We do not know what advances are intended to be covered. There may be a practice established, a necessary practice established, of which we know nothing, and if something more than non-annual crops are to be covered by this amendment we should be so in-

[Mr. Amin]

formed. That is my contention on that particular point, and this can be met either by amendment of the clause by the insertion after "any advance for any purpose" of the words "covered by section 4 or section 35 of the ordinance", or such words as "any advances in respect of non-annual crops for which no minimum guaranteed return can be prescribed". If only Government could give that assurance I have nothing more to say.

MAJOR CAWENDISH-BENTINCK (Nairobi North): Your Excellency, there was a special reason for making this amendment to the principal ordinance to which I think the hon. member alluded, but perhaps did not explain fully. I may say as a preface that the object of this amendment, far from being to give the farmer more money, is to safeguard the public purse. We have had some difficulty in dealing with payments for work done on behalf of farmers by the machinery pool. We have, as you know, a fairly large amount of equipment which goes round the country and has to break land, cultivate land and harvest crops on behalf of farmers who have not got sufficient equipment of their own, and it was most important that we should make legal provision for the repayment to Government of the cost of those services. A good deal of such work has been done in pursuance of the war production, as an example in respect of pyrethrum acreages. Pyrethrum has no minimum guaranteed return, and therefore a farmer growing pyrethrum cannot ask for an advance in order to repay Government for work done by the Machinery Pool. In accordance with this amended clause as it now stands, I propose in future to make such farmers sign a document before the work is done, whereby either they undertake to pay within 60 days or we shall automatically recoup from an advance against their pyrethrum crop, which will be paid to the Machinery Pool by the selling agents under the ordinance. At the moment I am unable to do that because it would not be legal. So in fact the main object of this alternative clause 14 to which the hon. member has referred, is not to give the farmer anything extra but to make quite certain the farmer pays back his just

dues to Government. I hope the hon. member will accept that explanation.

MR. FOSTER SUTTON: I do not wish to add anything. I thought possibly the hon. mover of the minority report might be prepared, after having heard the last hon. speaker, to withdraw his amendment.

HIS EXCELLENCY: He has not formally moved an amendment.

The question was put and carried.

WARTIME CONTINGENCY FUND

FINANCIAL SECRETARY (Mr. Tester): Your Excellency, I beg to move: That Your Excellency approves of the transfer of this Council approves of the transfer of a sum of £500,000 from the 1943 revenue balance of the Colony and Protectorate of Kenya to the reserve fund entitled "A War-time Contingency Fund".

When the Standing Finance Committee was considering the budget for 1944 they naturally reviewed the financial position as it appeared it might be at the end of 1943, and they recommended then that £200,000 should be passed from the 1943 revenues to the War-time Contingency Fund. About a month ago, in view of the Accountant General was closing his books for 1943, it was discovered that the surplus would be in the region of half a million pounds. I went to see him over it, and actually the surplus is £520,000, and as a result of that the Standing Finance Committee recommended that another £300,000, making half a million, should be transferred from 1943 revenue to the War-time Contingency Fund. Your Excellency accepted the advice of the Standing Finance Committee; hence this resolution.

I think perhaps Council would like a few more details before making up their minds finally to place this sum to the War-time Contingency Fund. They would like to know whether we can afford to lock up another half million knowing it can only be taken out of the Fund by resolution of this Council. I think we can well afford to pass this amount to the War-time Contingency Fund because at the end of 1943 we shall have, after that has been done, a general revenue balance of £1,571,000. The War-time Contingency Fund itself will amount to £800,000. We have also a reserve fund,

[Mr. Tester] as hon. members know, lent to His Majesty's Government free of interest of £500,000, and we have an excess profits fund, which we must remember may be diminished by withdrawals, but which amounted at the end of 1943 to over £1,250,000. That is a total at the end of 1943 of £4,121,000. As I said, I think it is quite safe to lock up another £500,000 in the Wartime Contingency Fund. I think hon. members of this Council who are now coming to the end of their stewardship would like to know the comparable figures in March, 1938, in the way of reserves and general revenue balance when this Council came into being. The figure was £600,000 approximately, all in the general revenue balance, so there has been an advance of about 3 million in the total reserves of one sort or another during this Council's period of office.

Mr. BROWN seconded.

The question was put and carried.

AGRICULTURAL ADVANCE WAIVED

MR. TESTER: Your Excellency, I beg to move: That this Council approve of recovery being waived of a sum of £6,427-15-13 advanced under the provisions of the Agricultural Advances Ordinance, 1930.

This particular account received an advance of £10,037 during the years 1930 to 1936. Capital of some £3,610 was repaid, leaving this write-off of £6,427 odd. In the meantime the debtor had also paid £2,899 interest, so altogether the debtor, having been advanced some £10,000, has repaid something in the region of £6,500. Perhaps the Council would like to know a little bit more about advances made under the Agricultural Advances Ordinance which commenced to function in 1930. Altogether roughly £211,000 has been advanced, £113,000 has been recovered, £35,000 has been received in the way of interest; written off, including the amount which is the subject of this resolution, £61,000; still outstanding, £16,000.

Mr. BROWN seconded.

Mr. COOKS (Coast): Your Excellency, before we are asked to vote on this motion, would the hon. member give us

a little bit more information as regards the steps taken to foreclose on any security that this particular gentleman who borrowed had? It is notorious, I think, in this country that when of old sums were advanced there were certain sums which were not spent on purely agricultural development. One gentleman, for instance, is said to have spent his borrowings on purchasing racehorses and, much as I like attending race meetings, I do not see why I should contribute money so that this gentleman may meet, as he obviously did, with little success on the turf. To-day the hon. Attorney General told us about the advances that might be made under the increased Production of Crops Ordinance, and I hope that our heirs and successors on this side of Council, in 14 years time, will not be told that £65,000, of whatever the sum is, has to be written off. I know my hon. friend is just as anxious as I am to protect the finances of this country, but it is really a question of supervision, and I should like to have an assurance from him—I think he actually gave an assurance once before, but there is no harm in repeating it—that no money is advanced at the present time without sufficient security and that the ratepayers' interests are adequately protected.

MR. PAROO (Eastern Area): Your Excellency, I think a motion like this is more or less a half-yearly affair before this Council. The hon. mover has just mentioned that since 1931, when the Agricultural Advances Ordinance came into force, something like £61,000 has been written off, including this sum of £6,427. What I wish to know, before I vote for or against the motion, is whether Government is really satisfied that, despite the fact that the farmers are getting very high prices for their crops to-day and despite the fact that it has been so much advertised that the farmers are paying very high income tax and excess profits tax, this debtor is unable to pay at the present time £6,427. Furthermore, for how long and how frequently are we going to be presented with such a motion in the future, and to what extent is public money to be written off?

Mr. TESTER: Your Excellency, I will take first the point raised by the hon. Member for the Coast as to why we did

[Mr. Tester] not foreclose in this case. The answer is quite simple; it is that there was a first mortgage before the Advances Board who held the second mortgage. The first mortgagor wished to foreclose, and the situation arising was gone into very carefully, and it seemed to the members of the Board that if they had foreclosed probably the net result would have been that the Government would have come off worse than accepting this arrangement. The property has passed from the debtor, so there is no recovery to be got from him.

Mr. COOKS: On a point of order, could the hon. gentleman tell me why money was advanced on a second mortgage? It does not seem very good security.

Mr. TESTER: I am afraid I cannot tell the hon. member in any matter of detail. It was done in 1930. My impression is that this ordinance was passed for the assistance of farmers who had got themselves into deep water. I think my reply to the hon. Member for the Coast is also the reply to the hon. member Mr. Paroo. The Board of the Land Bank, who have now taken on the business of winding up these advance accounts, came to the conclusion that they did the best in the interests of Government. The hon. member Mr. Paroo asked if Government was going to be faced every six months with more of these write-offs. I am quite unable to say. If, as a matter of fact, as the hon. member has just suggested, farmers continue to make good profits, it seems much less likely that we shall be faced with a great many more of these write-offs.

The question was put and carried.

WAR LOAN ORDINANCE FURTHER ISSUE OF BONDS

MR. TESTER: Your Excellency, I beg to move: Be it resolved that, under section 2 of the War Loan Ordinance, 1940, this Council authorizes the raising of further loans not exceeding £1,750,000 by the issue, whether within or without the Colony, of registered bonds.

If this resolution is adopted, the amount which we can issue of registered bonds will be one million pounds. That, I think, is a good all-round figure, and if we attain it East Africa could well be

proud of its achievements in this field. I will not attempt to give the Council any figures because, as is customary (and most convenient to me!), the hon. Member for Mombasa has agreed to second the motion and will give the Council interesting information.

Mr. NICOL: Your Excellency, in rising to second the motion proposed by my hon. friend the Financial Secretary, I would say that I have gone to a certain amount of trouble to get out some figures which I think should be of interest to hon. members, and also, I think it is only right that those figures should be on the record. As I am going to deal with figures, I must crave the indulgence of Council if I stick somewhat closely to my notes. First of all, I should like to give you a bit of the picture of the past. Hon. members will realize that reliable statistics must of necessity be somewhat in arrears, and I would therefore deal with the subscriptions as they were at the end of January this year. The total amount subscribed to the East African war loan as at 31st January, Zanzibar, territories was as follows: Tanganyika, £48,060; Uganda, £654,210; Tanganyika, £1,110,340; Kenya, £5,468,775; making a grand total of £7,280,385. As members are aware, we have now hon. members are aware, we have now entered what we may term the third stage of the East African war loan. The first stage was the 1945-1947 loan, and that closed as at £2,138,445. The second stage was the 1949-1951 loan, which closed as on the 14th April of this year with a total of £5,520,980, and the third stage we have now entered is the 1952-1954 loan—at the 30th of May the last figure I got was £123,315. In all, therefore, to the 30th May this year there has been subscribed to the East African war loan since the 17th December, 1940, when the first subscriptions were made, no less a sum than £7,782,740. That works out at an average monthly saving of £189,823. I do suggest that this is a very creditable performance but, having achieved this figure in war loan, we have no cause to sit back and be complacent. The "B" bondholders, the small holders, hold in this East African war loan to-day two million pounds approximately, an average of £10,000 a week roughly, which I think hon. members will agree is a pretty good average to be able to get up to. To-day we are asking hon. members to sanction the increasing

[Mr. Tester] as hon. members know, lent to His Majesty's Government free of interest of £500,000, and we have an excess profits fund, which we must remember may be diminished by withdrawals, but which amounted at the end of 1943 to over £1,250,000. That is a total at the end of 1943 of £4,121,000. As I said, I think it is quite safe to lock up another £300,000 in the Warlike Contingency Fund. I think hon. members of this Council who are now coming to the end of their stewardship would like to know the comparable figures in March, 1938, in the way of reserves and general revenue balance when this Council came into being. The figure was £600,000 approximately, all in the general revenue balance, so there has been an advance of about 3½ million in the total reserves of one sort or another during this Council's period of office.

Mr. BROWN seconded.

The question was put and carried.

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Mr. BROWN seconded.

Mr. COOKE (Coast): Your Excellency, before we are asked to vote on this motion, would the hon. member give us

a little bit more information as regards the steps taken to foreclose on any security that this particular gentleman who borrowed had? It is notorious, I think, in this country that when of old sums were advanced there were certain sums which were not spent on purely agricultural development. One gentleman, for instance, is said to have spent his borrowings on purchasing race-horses and, much as I like attending race meetings, I do not see why I should contribute money so that this gentleman may meet, as he obviously did, with little success on the turf. To-day the hon. Attorney General told us about the advances that might be made under the Increased Production of Crops Ordinance, and I hope that our heirs and successors on this side of Council, in 14 years time, will not be told that £65,000, or whatever the sum is, has to be written off. I know my hon. friend is just as anxious as I am to protect the finances of this country, but it is really a question of supervision, and I should like to have an assurance from him—I think he actually gave an assurance once before, but there is no harm in repeating it—that no money is advanced at the present time without sufficient security and that the ratepayers' interests are adequately protected.

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The question was put and carried.

WAR LOAN ORDINANCE, 1940

FURTHER ISSUE OF BONDS

Mr. TESTER: Your Excellency, I beg to move: Be it resolved that, under section 2 of the War Loans Ordinance, 1940, this Council authorizes the raising of further loans not exceeding £1,750,000 by the issue, whether within or without the Colony, of registered bonds.

If this resolution is adopted, the amount which we can issue of registered bonds will be two million pounds. That, I think, is a good all-round figure, and if we attain it East Africa could well be

proud of its achievements in this field. I will not attempt to give the Council any figures, because, as it is customary (and most convenient to me), the hon. Member for Mombasa has agreed to second the motion and will give the Council interesting information.

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The "B" bondholders, the small holders, hold in this East African war loan to-day two million pounds approximately, an average of £10,000 a week roughly, which I think hon. members will agree is a pretty good average to be able to get up to. To-day we are asking hon. members to sanction the increasing

[Mr. Nicol] of the loan to ten million pounds, and that is a startling figure, when we remember that, at the time the idea of a war loan first started, the adviser of Government at that particular time said the Government would be lucky if they were able to raise £40,000!

It has been my custom in the past, when I had the privilege of seconding similar motions to this, to deal with the question of savings generally for, speaking as a member of the War Savings Committee, we are not only interested in war loan. Once again, if I may, I should like to take this opportunity of paying special tribute to the honorary secretary of the War Savings Committee, Mr. Vasey. I am quite convinced personally that were it not for his efforts and labour we would not be asking you to-day to increase our target figure to ten millions. At the same time, I should also like to pay a tribute to Mr. Vasey's secretary, Miss Gent-Wood, who has shown considerable enthusiasm and initiative in our drive for savings. The figures I have quoted in regard to war loan are not the only source of savings in East Africa. We have also got the medium of the Post Office Savings Banks, which is a 2 per cent investment, and the funds so collected I understand are lent to His Majesty's Government for the assistance of the war effort. The figures which I have secured show that at a date somewhere between the 15th and 20th May this year there was deposited in the savings banks of Kenya £2,136,607 and in Uganda £309,109.

So far as Tanganyika is concerned, about the 22nd May the deposits in the savings banks were £274,421. In other words, the savings bank held £2,720,137 in deposits. In regard to encouraging depositors to make use of the savings facilities, I would take the opportunity of complimenting the hon. Postmaster General in inaugurating this mobile post office van services—in other words, a facility for saving it being taken to the African in the reserves rather than the African having to spend some considerable time in making a long *safari* to get to the Post Office. A new venture such as that will take time to instil confidence, but I am sure the hon. Postmaster General will agree that the scheme, so far, has not been without success and can be considered in fact encouraging.

A glance at the figures indicating an increase in the use of savings banks over a period of years is, I think, of considerable interest. In 1928 there were 878 depositors; in 1933, 2,658; in 1938, 12,218; on the 31st December, 1943, 47,648, of whom 21,353 were Africans. These are Kenya figures. In Uganda there are 21,000 odd depositors, of whom 16,000 are Africans. The savings in war loan plus those in the Post Office amount to £10,502,877, and I think that hon. members will agree with me that that is a very good achievement for the East African territories. There is another method of saving, the savings card, but I am afraid that the results have not been particularly encouraging. I take the opportunity, however, of once again trying to impress on employers the advantage of these savings cards and to start savings groups, and I hope large employers will continue to try and encourage more savings by this method. The main thing is that everyone in East Africa has got to realize that we have to save and save and still save, and I sincerely trust that by the time the new Council meets it will be necessary once again to seek approval to raising the target figure by at least another million pounds.

I think hon. members for bearing with me on this and other occasions in speaking on this subject, and to say how happy I am before we dissolve to have the privilege of seconding the motion raising the target figure for war loan in East Africa to ten million pounds. (Hear, hear.)

MR. COOKE: Sir, from time to time we have to listen to these colossal figures being presented to us. I must confess they are absolute Greek to me, not being a higher mathematician, but would the hon. Member for Mombasa who, if I may so describe him without offence, has rapidly become the unofficial Chancellor of the Exchequer on this side of Council (laughter), tell us what proportion of these vast sums have been contributed by the banks, companies, and corporations, and what proportion has been contributed by individuals, especially the individuals living in Kenya?

MS. WATKINS: Your Excellency, there is one point I want to make and, that is, that there would be a number

[Mrs. Watkins] of more contributions from the natives if withdrawals were not such a very cumbersome business. I should like to express my admiration of the way the hon. Postmaster General runs his department; it is quite one of the most efficient departments in Government service, so far as we are concerned. I do want to say that as far as the native is concerned, it is difficult for him to withdraw any money at all without at least a three-hour wait in Nairobi and a much longer wait—and a much-further walk up-country. They may walk 20 miles up-country and then have to wait in a queue until one rather slow clerk has decided it is time to close, and the native walks back again. If some method of quick identification of natives were introduced—not only the *Alpanaka*, but anybody can produce another *Alpanaka*—but some method of identification and quicker withdrawals, I am quite certain all these 40 odd employees of mine, as a very small example, would become subscribers. For present not one of them is a subscriber. If only that reason: I feel very strongly on this matter for reasons not entirely connected with war savings, but connected with the natives themselves because, when an employer wants to raise a good boy's pay, if he knew it went into his Post Office savings, he would be much more inclined to do so than when he knows the native is only going to get extra tight on Saturday. It does not help me, to increase the boy's drinking capacity or to give him the wherewithal to obtain it. That is the only result on a farm when a boy has no incentive to save. I have asked sought for this before, and have asked our natives if they have any suggestions to make. One or two suggestions might be brought to the notice of the Postmaster General. If you want over 50 per cent of the natives of this country to become subscribers you have got to deal with them. One difficulty probably can be dealt with by the Commissioner of Labour, but with easier and quicker identification.

HIS EXCELLENCY: Order, order! I do not want to interrupt the hon. member, but I have already given her considerable latitude. The motion before Council is the raising of further loans, and the question of the Post Office only very indirectly arises.

MR. TESTER: Your Excellency, the hon. Member for the Coast wishes to know what proportion of war bonds is held by big subscribers and by small subscribers. I think the hon. Member for Mombasa told us that in "B" bonds there is something like £2,000,000 and there is something made for a steady demand was made for them. These "B" bonds are, on the whole, held by small subscribers. On the other hand, I do know that the banks and so on hold substantial amounts. (MR. COOKE: What proportion?) I regret that I am unable to tell the hon. member the proportion, but a statement could easily be obtained and I will get it and give it to him.

The question was put and carried.

COURTS (EMERGENCY POWERS) BILL

SECOND READING

MR. BROWN (Solicitor General): Your Excellency, I beg to move that the Courts (Emergency Powers) Bill be read a second time.

The second reading of this Bill was postponed at the last session because certain representations were made by the Chamber of Commerce in Mombasa, and both my hon. friend the Member for Mombasa and I thought that they could more suitably be dealt with by an interchange of correspondence. I believe that course has been fully justified, and I think a good many misunderstandings have been removed. There is nothing new in the principles of this Bill. The principle of protecting serving soldiers and other persons who, through no fault of their own, are financially hit by the war, the principle of protecting them from the rigours of legal process, was accepted in 1940 when our existing Courts (Emergency Powers) Ordinance became law. In the early months of the war the Imperial Government enacted the Courts (Emergency Powers) Act, 1939, and we followed the Act almost word for word in our 1940 Ordinance. Since then the Imperial Act has been amended many times, until at the end of last year they had a consolidating Act. We have never amended our 1940 ordinance. The result is that it is very out of date, and just as in our 1940 ordinance we followed the Imperial Act of 1939, so now, in this Bill, we are following almost word for

[Mr. Nicol]. of the loan to ten million pounds, and that is a startling figure, when we remember that, at the time the idea of a war loan first started, the advisers of Government at that particular time said that Government would be lucky if they were able to raise £40,000!

It has been my custom in the past, when I had the privilege of seconding similar motions to this, to deal with the question of savings generally for, speaking as a member of the War Savings Committee, we are not only interested in war loan. Once again, if I may, I should like to take this opportunity of paying special tribute to the honorary secretary of the War Savings Committee, Mr. Vasey. I am quite convinced personally that were it not for his efforts and labour we would not be asking you to-day to increase our target figure to ten millions. At the same time, I should also like to pay a tribute to Mr. Vasey's secretary, Miss Gent-Wood, who has shown considerable enthusiasm and initiative in our drive for savings. The figures I have quoted in regard to war loan are not the only source of savings in East Africa. We have also got the medium of the Post Office Savings Bank, which is a 2½ per cent investment, and the funds so collected I understand are lent to His Majesty's Government for the status of the war effort. The figures which I have quoted show that at a date somewhere between the 15th and 20th May this year, there was deposited in the savings banks of Kenya £2,136,607 and in Uganda £309,109. So far as Tanganyika is concerned, about the 22nd May the deposits in the savings bank were £274,421. In other words, the savings bank held £2,720,137 in deposits. In regard to encouraging depositors to make use of the savings facilities, I would take the opportunity of complimenting the hon. Postmaster General in inaugurating this mobile post office van service; in other words, the facility for saving is being taken to the African in the reserves rather than the African having to spend some considerable time in making a long *saftari* to get to the Post Office. A new venture such as that will take time to gain confidence, but I am sure the hon. Postmaster General will agree that the scheme, so far, has not been without success and can be considered in fact encouraging.

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[Mr. Brown] word the consolidating Act which was enacted in the United Kingdom at the end of last year.

The object of this legislation is to protect people who have become so impoverished as a result of the war that, however much they may desire it, they literally have not the means to resist legal process. Put in another way, it protects people from having enforced against them certain vested legal rights, by which I mean the right of a judgment creditor, who has obtained judgment for the payment of money, to enforce that right by execution; the right of a lessor, whose lessee has committed a breach of covenant to pay rent, to re-enter the premises without any order of the court at all, because that is a common law right of the lessor. These are the rights against the enforcement of which this legislation protects people who have become impoverished, not through their own fault but at a result of the war. One of the misunderstandings which the correspondence disclosed was the idea that the burden of proof that a debtor could pay was upon the person who was seeking to enforce his legal right. That is not so, except in one case which I will deal with in a moment. Except in that one case, the burden is always upon the debtor to satisfy the court that he cannot pay, and that the reason why he cannot pay is an account of circumstances which are attributable to the war.

Another misunderstanding which I think has been removed by the correspondence is the idea that the court, once it is satisfied that a person's inability to pay is due to the war, has necessarily got to grant relief. That most emphatically is not so. First of all, the defendant debtor has got to satisfy the court that he is unable immediately to pay the debt; secondly, he has got to satisfy the court that his inability to pay the debt is due to circumstances directly or indirectly attributable to the war. Until he satisfies the court on these two things the court has no discretion in the matter. No question of granting any relief arises. It is only after the debtor has satisfied the court on those two things that a court may, in a proper case, grant relief to that debtor either by refusing leave to the person seeking to enforce his right, or by giving him leave subject to

certain restrictions and conditions. But although the debtor might satisfy the court that the circumstances were attributable to the war—almost invariably they would be—nevertheless, if it was apparent to the court that the real cause of his misfortune was not so much the war as his own fault, his own bad training in speculating on a risk which was bad, no court would grant relief. It is only in genuine cases of hardship where a person is as much a victim of the war as if he had had his house destroyed by bombs that the court would grant this relief.

Turning to the clauses of the Bill, by clause 1 (2) a time limit is imposed by which the ordinance, comes to an end on the official date of the end of the war. Clause 3 (1) deals with judgments and court orders for the recovery of money, and says that before you can enforce those judgments by execution you have got to get the leave of what is called throughout this Bill the appropriate court. The proviso to that sub-clause excludes three cases from the operation of this Bill. The first is a judgment in tort. Say, for example, if a person knocks someone down in a motor car and the victim of the accident demands damages, the defendant cannot plea that he was so impoverished as a result of the war that he cannot pay, for the very good reason that the fault is not the war, the fault is his in knocking down the plaintiff in his motor car. Secondly, any judgment or order under which no sum of money is recoverable—otherwise than in respect of costs. That is excluded from the operation of this Bill. Thirdly, an order made for the payment of penalty in criminal or in quasi-criminal proceedings. By clause 3 (2) the remedies of what I might call self-help, where a person can enforce his vested legal right without normally having recourse to the courts, are dealt with, and this sub-clause says that before you can enforce these remedies you have got first of all to obtain the leave of the appropriate court. Sub-clause (3) deals with court judgments for the recovery of possession of land, and (4) is really the operative part which gives power to a person seeking to enforce his legal right or to grant leave subject to conditions and restrictions. Clause 4 of the Bill is new, and is the best example of what I mean when

[Mr. Brown] I say that this Bill in effect only brings our existing law up to date. Under the existing law a judgment of a debtor under a judgment in respect of a contract could get no relief unless the contract was made before the commencement of the ordinance, that is to say the 24th August, 1940. Under this new clause he can get relief if the contract was made before the 1st December, 1940, provided that he can show that his inability to pay is attributable to circumstances due to the war. If the contract was made after 1st December, 1940, he can get relief if he can show not only that his inability to pay is due to circumstances attributable to the war but also that those circumstances arose after the contract was made. But, overriding all that, as I made clear earlier, it is only in a proper case and only if the court is satisfied that it is really due to the war and not to his own fault.

Clauses 5 and 6 contain certain special provisions in the case of leases and mortgages which are not covered by the Rent Restriction Ordinance. No provision is necessary in cases which are so covered because under that ordinance a landlord cannot recover possession without an order of the court. There is one important provision in clause 6 (2). That is the one case under this legislation where the burden of proof is upon the person seeking to enforce his right. That is the case of a mortgagee who is either a member of the Forces or is a person mainly dependent upon a member of the Forces. In that case, before the mortgagee can exercise his right to foreclose, he has to satisfy the court that the serving soldier or person dependent on the serving soldier is able to pay or, if he is not able to pay, that his inability to pay is not due to circumstances attributable to the war. Clause 8 empowers a court in exercise of its discretion to take account of all the liabilities of a debtor, both present and future, and clause 9 deals with the procedure and explains what up to now may have been a mystery, the expression "appropriate court". It is the court which is declared to be the appropriate court by rules made by the Chief Justice. Clause 10 preserves the rules which have already been made and were made under the 1940 ordinance. It was said in the course of the correspondence that the

drafting of this Bill was complicated. With that I am inclined to agree and, as I say, it is taken word for word from the English Act. The reason why it is important that it should follow the English Act is that there is now a good deal of case law on this legislation, and it is extremely important that the courts here should have the decided cases by which to be guided.

MR. TESTER seconded.

MR. NICOL: Your Excellency, first of all I should like to thank Government for having had this Bill put back to this session from the last session, because I am quite certain that that action has been more than fully justified as it has enabled myself and the Mombasa Chamber of Commerce to go into this matter in correspondence with the Solicitor General. I have been asked by the Mombasa Chamber of Commerce to convey their very sincere thanks to him for the time any trouble he has taken in trying to explain this extraordinarily complicated Bill. Quite frankly, I really do not understand it myself, but I do not suppose that is an unusual thing for a "B.A." Failed! Anyhow, we have flattened out most things, but the clause we are frightened of is clause 3 (5). We fear that that does cut right across the Bankruptcy Ordinance, and at the same time, while we appreciate that a court has got to be satisfied on various matters, I do submit it is pretty well possible that anything can be attributable to the war. I think there is a feeling, too, that in this country the courts are perhaps somewhat lenient, and although they have the English Act, as the hon. member said, with case law behind it to support said, with case law behind it to support their cases, I should prefer to see this sub-clause taken out; if it is not taken out, that some limitation is inserted for the guidance of the courts, or some additional rules. I would ask particularly that it should come out Mombasa Chamber of Commerce is very anxious that that should be done, as they are really frightened of that sub-clause. The other clause which appears to need amending is 8 (b), and the sentence should end with the word "given" and 10, and a new paragraph started, "May take account of other liabilities". With those remarks I am prepared to support the Bill, but I do hope that Government will be able to accede to

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drafting of this Bill was complicated. With that I am inclined to agree and, as I say, it is taken word for word from the English Act. The reason why it is important that it should follow the English Act is that there is now a good deal of case law on this legislation, and it is extremely important that the courts here should have the decided cases by which to be guided.

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21. Coffee Industry—

[Mr. Nicol] may request that clause 3 (5) may be deleted.

Mr. Brown: Sir, I agree with what the hon. member said about clause 3, and the opportunity will be taken to move an amendment in the committee stage. With regard to what he has said about clause 3 (5) and bankruptcy, I do not think he need fear that this will in any way at all cut across the bankruptcy-legislation. Whether it is a case of bankruptcy or whether it is any other application to enforce a legal right, what I explained in moving this measure applies. Before a court has any discretion whatever as to whether the defendant has got to prove (a) that he cannot immediately pay, and (b) that his inability is directly or indirectly attributable to the war. Then, and only then, does the discretion of the court arise, and no court would grant relief whether in bankruptcy or in any other respect unless it was satisfied that he was really a genuine victim of the war and not a victim of his own folly in business. This sub-clause cannot be deleted because that would frustrate the whole object of this legislation. A vindictive creditor, having failed to get leave to enforce his remedy by other means, would say "Right, let us make him bankrupt". If this sub-clause were deleted, if a man was made bankrupt there is no power in the court to give a debtor relief under the ordinance. But in bankruptcy, as in every other case where the court decides to exercise its discretion and grant relief, it may do so for such a time and subject to such conditions as the court thinks fit. I honestly do not think there is anything whatsoever to apprehend about this sub-clause dealing with bankruptcy. There is certainly nothing to apprehend which could not be similarly apprehended from every other clause in the Bill. We have had this sub-clause now in existence for four years—it is taken from the existing 1940 ordinance—and I do not think there have been any cases which really give justifiable grounds for apprehension.

The question was put and carried.

THE COFFEE INDUSTRY (AMENDMENT) BILL.

DIRECTOR OF AGRICULTURE. (Mr. Blunt): Your Excellency, I beg to move

that the Coffee Industry (Amendment) Bill be read a second time.

This Bill is designed almost entirely to deal with the question of licences for persons dealing in coffee; and its object is to try and improve the methods of trading and provide more control over trading in coffee, and to bring the general trading methods on to a sounder basis. At the present moment there is only one form of licence which any kind of trader in coffee is required to have. In the ordinance as it stands at present a coffee dealer includes "any person who buys or sells, hudds, hucks or grades commercially in a factory other than on a plantation, or otherwise deals in, un-roasted coffee". It will be appreciated that that definition covers all large exporting firms exporting Kenya coffees to the markets of the world, and at the same time covers the small Somali trader in buni coffee in a small area of the Colony. The result of having that single definition and single form of licence has been, in an endeavour to obtain more control over the trade, some restriction in the issue of licences in recent years. This Bill now proposes to distinguish between the various kinds of people who deal in coffee, and various kinds of licences are given for various purposes. At the present moment licences to deal in coffee are issued in districts by district commissioners. A district commissioner is required to consult the Director of Agriculture on the subject, but the issue of a licence is in his discretion, and it does happen that this question of licensing is not dealt with on quite the same basis by one district commissioner as by another one. The Bill proposes to make the Director of Agriculture the central authority for issuing licences, and the licensing fees are somewhat altered in certain cases but still, as before, are paid to the Coffee Levy Fund.

If I may turn to the Bill in detail, Clause 2 contains a number of definitions defining the particular types of people who deal in coffee. There are definitions of coffee broker, coffee commission agent, coffee dealer, and coffee warehouseman, and in clause 3 it will be seen that all these persons deal with differently and issue with specific licences to carry out the specific type of trade in coffee that they wish to carry out. In the first part of clause 3

33. Coffee Industry—

[Mr. Blunt] the provision which exists in the present ordinance is repeated, that no retail seller of provisions requires a licence to deal in small quantities, and later there is a description of the different types of licences which it is proposed to issue. First of all, there is the coffee dealer's "A" licence, which authorizes the holder to deal in and export coffee of any country of origin. Secondly, a coffee dealer's "B" licence, which authorizes the holder to deal in coffee of any country of origin within the Colony, but not to export it. Thirdly, a coffee dealer's "C" licence authorizes the holder to deal in and export any coffee grown outside the Colony. Then we have the buni dealer's, coffee broker's, coffee commission agent's, coffee-miller's, and coffee warehouseman's licences, for each particular type of dealer. It will be noted that this clause provides for a Licensing Advisory Committee. No such provision exists in the present ordinance, so that this is new, but it is a fact that for the past two or three years we have been working on this basis with an advisory panel appointed in the same way as this clause proposes, and we have found that it works very satisfactorily. In considering the recommendations I should make to district commissioners on the issue of licences, I have consulted that advisory panel, which is made up in the same way as is here proposed in this Bill. In the proposed clause 4c (1) is a most important provision of the Bill. It is there provided that "no coffee dealer's 'A' licence shall be issued to any person who, in the opinion of the Advisory Committee, has not sufficient knowledge or experience properly to conduct the business specified in the licence". That is, that a licence to export coffee shall be issued only when the Advisory Committee is satisfied that either the individual himself or, in the case of firms, somebody on the staff, has sufficient knowledge and experience properly to conduct the business specified in the licence, and the Coffee Board and the trade feel that that is a necessary proviso. If we are going to keep up the reputation of Kenya coffee we need the exports to be made by people who really know the coffee business and what they are doing.

In (3) of clause 4c the fees payable for the different types of licences are set

out. It will be seen that they vary according to the type of licence. A coffee dealer's "A" licence is the same as at present, Sh. 200; for the licence limited to trading within the Colony it is Sh. 150, and the "C" licence is Sh. 5. That may at first sight seem rather peculiar, but the "C" licence is for the man or firm who have their places of business in Kenya, but deal only in coffee originating outside Kenya. This was a question which it was felt desirable to refer to two other countries concerned, Uganda and Tanganyika, to see what they had to say about it, and the point was made by Tanganyika that these people probably had to pay a large licence fee in Tanganyika and it would be a bit hard, in order to continue their business in that country, that they should be called on to pay a high fee in Kenya as well, and since they are not dealing in Kenya coffee we propose that the fee for this particular licence should be Sh. 5. At the same time, it is very desirable that they should be licensed, we feel. In fact, it is one particular point on which the board and trade feel very strongly, since we have had cases in which people who claimed to deal only in coffee from outside Kenya and thereby did not require a Kenya licence, have in the past dealt to some extent in Kenya coffee. Provision is made in (5) of this same section that the district commissioner of every district shall endorse the licence issued; that is merely a means of entitling him that he shall know who is licensed in his particular district. New clause 4b repeats a section which was inserted comparatively recently in the principal ordinance, to the effect that agents of licensed dealers must also obtain and have about them a licence that they can produce when they wish to trade, to enable the seller or buyer to make sure they are properly authorized agents of a licensed dealer. Clause 4 of the Bill I welcome, and so does everybody who will have to deal with the measure in future. It enables a consolidating ordinance to be printed, so that we shall not be bothered in future with hunting up a number of ordinances to find out exactly the position. This Bill was drafted with the assistance of the Coffee Board. It was put forward by the Board, and has been to the Coffee Traders Association, who have been through it, and in the form in which it is now they unani-

[Mr. Blunt] the most support it. It therefore, has the full support of both sides of the coffee industry and, I trust, will have the full support of this Council.

MR. TESTER seconded.

MR. WATKINS (Kiambu): Your Excellency, on behalf of Kiambu, which produces half of the coffee of this country, I should like to welcome this Bill, but I am not quite clear on one or two points, and the one I want to bring up most particularly is on the subject of licensing. The hon. Director of Agriculture has told us that section 4 of the principal ordinance is going to be re-kinia. There is one word in that principal ordinance that I think should stay in in the new amendment, and that is in section 4 of the principal ordinance: "every licence under this section shall be issued annually—annually—and subject to any regulation," etc. It is that word "annually" which I cannot find in the amended version. If it is to remain in—and as has been pointed out on the other side of Council I am not very good at law—I should welcome an explanation from the hon. Director of Agriculture that it is so, and that the licence will be issued annually. If it has not been included I should like to move an amendment that licences should be issued with a time limit, preferably annually. I also want to move formally another amendment, which is "that licences under 4A, 4B, 4C, 4D and 4E should not be re-issued to persons, whether previous licensees or not, who have been convicted by the courts of this country for stealing coffee or of employing others, particularly natives, to do so". We seem to have taken no opportunity in drafting this Bill, which should have been a golden opportunity, of further protecting the coffee farmer. The distinction between the different kinds of buyers which the hon. Director of Agriculture pointed out are all important, and we welcome these distinctions, but I also want one further distinction, that is between the people who have been convicted of being receivers and those who have not been convicted and/or who are quite honest traders. An annual licence should not be re-issued if it happens that in the meanwhile the new applicant or a previous licensee has been convicted of such an offence under the Coffee Ordinance.

I have fought for this before; all of you here know that I have spoken on it once or twice in this Council. It has been a long uphill fight to protect one of the biggest industries in this Colony. I have been advised by a member on the opposite side of Council that I ought to keep the coffee under lock and key, and so ought other farmers. I can only say that that emanated from the mind of a man as new to coffee as I am perhaps to law. It is almost impossible to get even 10 tons of coffee spread out over a sufficient locked-up area to dry; it takes about a fortnight to three weeks to do. The ordinary way of stealing our coffee is to re-kinia a load or two per night off the barbecues and trays, and perhaps a bag off the lorries, making from several farms a ton or two per week. This happens all over the country. It would not, it could not, happen if no licence for coffee dealing was given to these people who were receivers. They would gradually be weeded out. It will remind this Council of an authentic case where coffee was stolen—two tons; it was hidden, it was discovered, the receiver got five months and the natives concerned got two years. The receiver was re-issued or continued with his licence. I do not know whether it was re-issued or what happened, but anyway he was dealing in coffee the next season as soon as he was out of prison. The position is serious, because it is almost impossible for us to deal with these native gangs employed by receivers, and as long as there is the possibility of these receivers flourishing with the minimum penalty and continuing to do so after they have been convicted, there is no hope of our stopping them. Two tons out of 20 tons, all on one farm. Now I want to bring up a most astonishing fact there, and that is that one of the tasters in court on oath said that was our coffee. They were challenged by the court, and they proved it up to the hilt by having 10 samples of coffee before them and picking out which was our coffee. To me and many of you here that is a miracle; it shows how extraordinarily difficult it is to prove the coffee receiver.

It is almost impossible, and when you do catch them they ought to be dealt with with the utmost severity. The first thing we can do here is to put an amendment in this law by which it is illegal for a proved receiver to continue

[Mrs. Watkins]

It is very difficult for us farmers who are the losers. Incidentally, it may be interesting to know that not only was our coffee involved, but somebody who had never noticed his coffee was going, and it came out in court that this gang had been continually doing it, going from one farm to another. It is a widespread gang organization and we have got to deal with receivers. So far we have failed to get anything done about it and I am now going to ask the Director of Agriculture whether he would consider an amendment to cover this point. It never seems just that a man who is stealing, or training natives to steal from all over the country and to bring the proceeds to him; should be allowed to continue to trade in coffee. I do not think it is very much to ask and I do ask it. I am not quite certain whether I ought to put in the full amendment that there should be a time limit to the licence because I am not certain if it is already in (MR. RENNIE: It is.) Then may I ask that the second amendment may come in. I will read it again slowly: "That licences under 4A, 4B, 4C, 4D and 4E should not be re-issued to persons, whether previous licensees or not, who have been convicted by the courts of this country—or of neighbouring territories—for stealing coffee or of employing others, particularly natives, to do so".

MR. COOKE seconded.

HIS EXCELLENCY: I suggest to the hon. member that the proper place to propose that amendment would be when we are in committee of the whole Council, when she will have opportunity to do so.

MR. PARDO (Eastern Area): Your Excellency, it is stated at the foot of the Bill which was circulated to members that the object of this Bill is to ensure that all persons and firms dealing in Kenya with any coffee should be licensed. In very many countries it is the practice that various branches of trade or industry are licensed separately, and if that is the whole object of this Bill I do not think I have anything to object to, because the principle of having separate licences for an important industry and trade such as coffee is in Kenya cannot be objected to by anybody. But reading the various clauses of this Bill, it is

abundantly clear that the sole object of this Bill is not merely to impose licence fees; in my opinion it is more to protect existing traders, and secondly, it is clear from the various clauses enumerated in the Bill that a certain section of the community will be favoured by its administration, because the whole administrative power and full discretionary power is vested in one administrator. Thirdly, I feel that it is going to cause a more or less monopolistic trade in our coffee. A bill such as this I know, Your Excellency, as I am also a coffee exporter, has been in demand by a certain group of traders for a great many years and I am rather surprised that Government has been able to resist it for so many years.

I will refer to one or two clauses which I think are most objectionable. Under an ordinary trading licence a person is allowed to trade without any restriction. If he just takes out a trading licence, with the exception that for the last couple of years restriction has been imposed; but previously anybody could trade in any goods or any commodity. He by just taking out a trading licence, this could not be refused, while under this Bill full discretionary power is vested in the Director of Agriculture, who can to some extent and to some extent according to the pressure that is brought on him from outside, and, if he has to refer to his advisory committee, I consider that would be even worse, because it will consist of the interested people themselves. As I stated, full powers are given to the Director of Agriculture to refuse or accept any application for a licence without showing any reason, and a further objectionable clause I consider is the proviso to 3-4 (1)—which says: "Provided that no Coffee Dealer's Licence shall be issued to any person who, in the opinion of the Advisory Committee, has not sufficient knowledge or experience properly to conduct the business specified in the licence." I should like to know how the hon. Director of Agriculture will judge whether a person has sufficient knowledge and experience properly to conduct his business. For instance, I myself have done business in various types of coffee other than Kenya. I can recognize types of Kenya coffee. I have sufficient finance to export and market coffee. I wonder how he would judge whether I am experienced or not

(Mr. Brown)

to prison for non-payment of a sum of money which has been ordered to pay, if he pays part of the money he has his term of imprisonment reduced by the number of days which bear the same proportion to the total sentence of imprisonment as the amount of money he has paid to the total sum he is liable to pay. As the section is drafted, it was argued, that it would only apply to cases where a person was committed to prison in lieu of a distress warrant and no other case. This clause is designed to remove that doubt. Clause 6 refers to people who are subject to police supervision, and makes it clear that the court which makes the order that an accused person, after coming out of prison, shall be subject to police supervision, may give certain directions with regard to where he shall reside and where he shall report and may give those directions at any time, not merely at the time of making the order. Clause 7 is designed to ensure that a person who finds a dead body in certain circumstances which make it desirable that an inquest shall be held shall notify the authorities that he has found that dead body.

MR. TESTER seconded.

The question was put and carried.

ADJOURNMENT

Council adjourned till 10 a.m. on Friday, 2nd June, 1944.

Friday, 2nd June, 1944

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Friday, 2nd June, 1944. His Excellency the Governor (Sir Henry Moore, G.C.M.G.) presiding. His Excellency opened the Council with prayer.

MINUTES

The minutes of the meeting of 1st June, 1944, were confirmed.

PAPERS LAID

The following papers were laid on the table:—

By THE CHIEF SECRETARY (MR. RENNIE):
Secretariat Letter No. 44 of 29th April, 1944, dealing with the preparation of development plans.

By THE ATTORNEY GENERAL (MR. FOSTER SUTTON):

Select Committee Report on the Land Control Bill.

ORAL ANSWERS TO QUESTIONS

NO. 40—NATURALIZATION

LORD FRANCIS SCOTT (Rift Valley):

Will Government agree not to naturalize as British subjects any more Europeans of foreign extraction till after the war is finished?

MR. RENNIE: No, sir. The procedure at present followed by the Government of Kenya is in accordance with instructions received from the Secretary of State for the Colonies as to the policy which should be pursued in the Colonies in this matter.

I can, however, assure the hon. member that every application for naturalization is most carefully scrutinized before it is recommended by the Governor to the Secretary of State.

LORD FRANCIS SCOTT: Arising out of that answer, is Government aware that there is a great feeling of perturbation among the people of the Colony at the number of foreigners being naturalized?

MR. RENNIE: The Government is aware that there is a certain amount of feeling on the subject.

INTERIM PROVISIONAL PENSIONS

W. M. ALLEN

MR. TESTER: Your Excellency, I beg to move: That this Council approves the payment until further notice of a provisional interim pension at the rate of £159-2-6d. a year with effect from 8th June, 1944, inclusive, to Mr. William Martin Allen, formerly assistant accountant, Public Works Department, in respect of his service from 1st May, 1927, to 7th June, 1944, both days inclusive, in lieu of his own and Government contributions to the provident fund plus the interest thereon amounting in all to £749-10-8d. which reverts to the general revenue of the Colony.

This motion is in line with several motions which have been before this Council during the last year or so to provide interim pensions to those people who are not entitled to a pension according to the pension law, and I commend it to Council's approval.

MR. BROWN seconded.

The question was put and carried.

H. SHAH

MR. TESTER: Your Excellency, I beg to move: That this Council approves the payment until further notice of a provisional interim pension at the rate of £59-15-0d. a year with effect from 5th September, 1944, inclusive, to Mr. Halder Shah, formerly operative, Printing and Stationery Department, in respect of his service from 1st May, 1927, to 4th September, 1944, both days inclusive, in lieu of his own and Government contributions to the provident fund plus the interest thereon, amounting in all to £365-0-6d. which reverts to the general revenue of the Colony.

This again is a motion which has precedents in this Council, and I trust that Council will approve of it.

MR. BROWN seconded.

The question was put and carried.

A. K. GHOURI

MR. TESTER: Your Excellency, I beg to move: That this Council approves the payment until further notice of a provisional interim pension at the rate of £50-6-3d. a year with effect from 5th April, 1944, inclusive, to Mr. A. K.

Ghuri, formerly Asian assistant master, Education Department, in respect of his service from 17th August, 1929, to 4th April, 1944, both days inclusive, in lieu of his own and Government contributions to the provident fund plus interest thereon amounting in all to £283-9-34 which reverts to the general revenue of the Colony.

This is again precisely on the same lines as the former resolution, and I trust that Council will also approve it.

MR. BROWN seconded.

The question was put and carried.

KENYA EUROPEAN CIVIL SERVICE

MR. VINCENT: Your Excellency, I beg to move: That the Kenya European Civil Service Committee's Report dated 1st December, 1943, be approved in principle and that Government request the Secretary of State to establish one Service only for all European civil servants in Kenya in accordance with paragraph 9 thereof, as soon as possible.

It is not my intention, sir, to drag you through this report, which I take it that some members of this Council have read (laughter), but I do think it is essential at the outset, in order to give members on the other side who feel they may be affected by the outcome of this resolution, an interpretation or a meaning of the motion. The first part of the motion, of course, is quite clear, that the report be adopted in principle. The second part is the part that I want thoroughly explained before you get any hazy notions as to what I do mean. What the motion means is this, that we do not want two Services in this country, one superior and the other inferior. We want a contented, an efficient Service, and above all a Service which the country can afford. We want the youth of this country to have the first opportunity, provided they are qualified, to secure appointments to such a Service and to have nothing to debar them from reaching the highest office. We thus want to avoid the youth of the country being forced into an inferior Service, with possibly some gleam of hope of one day moving up to the superior Service, but in no circumstances do we suggest that the terms and conditions of present holders of overseas posts should in any way be encroached upon or adversely affected. I hope that

[Mr. Vincent] is fully understood, so that any prejudice towards what I may say may be removed at the outset.

Also I think it is absolutely necessary to understand what paragraph 9 means in terms of the motion. Paragraph 9 was the result of overwhelming evidence which came before the Committee from all portions of the community—I will not say particular portions of the community but emphasize all portions of the community. "After careful examination of the evidence," says paragraph 9, "we have reached the conclusion that it is desirable that the terms of service offered to European officers of the Government should be identical, irrespective of the posts which they hold, since any variations are bound to lead to a greater or less degree of discontent, even though such discontent may have no logical foundation in fact. This does not mean that we are prepared to recommend to Your Excellency that the two Services should now be unified on the terms and conditions of service at present applying to the Overseas Service since we consider that those terms themselves are capable of considerable modification. Although we realize that there are serious difficulties involved in any attempt to modify overseas terms and conditions of service, we think that the terms which we intend to recommend for application to the Kenya European Civil Service are suitable for all Government European employees, and we recommend that the Government should consider the desirability of making them of general application. We recognize, however, that in examining this matter careful thought must be given to the possible effect on overseas recruitment which must be undertaken in competition with other Colonies." Now I hope to move logically and sanely to members of the Council at a later stage that contributory pensions as such are not a modification of the terms of service but are indeed the very opposite as compared to free pensions. A further point is in regard to the terms of reference. As I see many members have not got a copy of the report with them, the terms of reference were "to examine the present terms and conditions attached to appointments in the Kenya European Civil Service and to make recommendations with a view to such

modifications as may be considered necessary". Those who have read the report will realize that those terms have been exceeded, and there was a very good reason for it.

On the 3rd June, 1943, before the Committee, of which I was a member, say, I wrote to the Chairman the following letter in order to try and clarify the position from the outset:

"Dear Mr. Surridge,

Your proposal to hold Meetings (on such and such a date), is suitable as far as I am concerned. I am very much exercised in my mind, however, as to whether this Committee is going to be much use, *vide* the Resolutions passed by the Civil Servants' Association. I feel that it is one question and not two, and that the questions are not separate—i.e. the 'K.E.C.S.' and 'Overseas', and I think it would be a waste of time—anyway of my time—if our terms of reference did not include the possibility of the amalgamation of the two Services so that all invidious comparisons cease. I should also hate to feel that this Committee now sitting should in any way, because of its terms of reference, widen the gap between these two forms of Service and form yet another barrier between them. Whilst being well aware that I have pressed for the conditions of the K.E.C.S. to be improved, such improvement was obviously not intended to be merely within a watertight compartment. The logical progressive trend of improvement must be towards the amalgamation of the Services, so that progress is possible in the Service as a whole, irrespective of the point of employment. Can you, therefore, get Government's decision upon it now, because if essential findings can be brushed aside by Government as being 'highly laudable, but outside your terms of reference', then I shall not be interested in continuing to be a member of the Committee, so that it is just as well to ascertain how we stand from the very commencement. I would also ask if it would not be possible to ascertain the Secretary of State's reaction to the Resolution sent to him by the C.S.A. which may completely alter the whole method of dealing with the discontent prevailing throughout the Service at

[Mr. Vincent] the present time, on the much wider issue!" The Chairman happily replied as follows:

"Dear Mr. Vincent,

I have your letter of the 3rd June regarding the Kenya Civil Service Committee, which I have discussed with the Chief Secretary. I suggest that you should raise this question at our first meeting, and if it is then ruled that the question which you wish to raise is outside the terms of reference, and the majority of the Committee consider that the terms of reference should be revised, they are at liberty to ask the Government for revised terms. I may add that the Government is most anxious that every reasonable suggestion should be examined by the Committee, and that it will certainly not rule out any suggestion made by the Committee merely because it is outside their terms of reference. If the above reply is not satisfactory to you, would you let me know, and we could then discuss the matter."

That was a very satisfactory beginning. It showed an endeavour on the part of Government to throw this matter open in order to give it an opportunity of really being solved, and at the first meeting we were informed that if the commission was appointed as suggested or requested by the Civil Servants Association, His Excellency was of opinion that the report of this Committee which had been appointed would be of great value to such a commission.

The creation of the Local Civil Service as such is very clearly set out in the report, and is part of the history of the country. It was done at a time of extreme depression, and it is very easy to be wise after the event, but the consensus of opinion then was that something had to be done in order to effect economies, and now as a result of the passing of time and experience it is proved, on the evidence which came before us, and I think it is generally known, that it has not done what was expected of it. I am afraid I must refer to the very unhappy condition of the Civil Service of this country to-day, and I do it not to attack this Government, because I do not think that this particular Government, which is now

servicing is wholly or to a great extent responsible for the present condition. I think that it is a result of a rotten, antiquated, obstructionist system. I do not think anybody will deny that the Civil Service to-day is in a bad state, I might describe it as in a sea of discontent, distress and almost bitterness, and in order to record the evidence on the other side in substantiation, in case I may be accused of exaggeration, and I hope I will not be, I should like to quote the last paragraph of the resolution which was sent home to the Secretary of State by the Civil Servants' Association last April: "This Association has no confidence in Government's attitude in matters affecting its staff, in as much as the attitude adopted in a great variety of matters over a number of years has evidenced a meagre degree of sympathy, understanding and impartiality... and therefore, appeals to the Secretary of State that His Majesty's Government in the United Kingdom may be pleased to appoint a Royal Commission to enquire immediately into the state of dissatisfaction widespread throughout all sections of the European Service, and to make recommendations for removing the sources of discontent which are matters of serious concern to many senior members of the Service but to the gravity of which the Kenya Government appears to be indifferent."

We know we have hot-heads in every walk of life; we know we have fools in every walk of life, but I maintain that this resolution was voted for by 527 officials, members of this Association, and even though you may be prejudiced against Government officials, I do not believe we can say, with any degree of veracity that there are 527 fools or dishonest officials among them, and I cannot believe that such a body of men, unless they sincerely believed that they had right entirely on their side, would dare to send such a resolution to the Secretary of State through the Government of this country. I believe that this feeling of frustration and bitterness is because these men, or their friends they are supporting, have been the victims of circumstances which I have described before and will describe again as deplorable and antiquated.

When the change was made it was inevitable that somebody had to suffer. It

[Mr. Vincent] is always that way, and certainly I am convinced that a number of men did suffer in comparison with others. Although I also do not want to be accused of quoting the report out of its context, I want you to realize that in paragraphs 42 and 43 the committee did acknowledge that fact, and those paragraphs read as follows: "42. We have noted earlier in this Report that the European Civil Servants' Association have never accepted the argument that wholesale dismissal was really a serious alternative; the avoidance of which could be regarded as mitigating in any way the hardships suffered. On the contrary they contend that, even had wholesale retrenchment been resorted to, it does not follow that this particular group of officers would have been the first to go. 43. We were not convinced, on the information recorded above, that the claims made by the Association on behalf of these officers did not merit further consideration; and we have, therefore, proceeded to an examination of the actual circumstances surrounding the decision finally taken in this matter." You will find the details of that examination, or a résumé of it, in the report so that I will not worry you with it. In commercial practice, when this slump occurred we had to make cuts, or the fabric of organizations could not have survived. When the depression lifted, we put those men back, as far as we could, on to reasonable terms to keep them satisfied, but not always on the generous terms they had received before. My idea in this matter is that these Civil Servants should have been put back into the positions they would have been in if the Local Civil Service had not been created, but on a 1/600th constant and to work up to 55 years of age. This also was our recommendation, XVI, which has had various interpretations put on it. We thought, we hoped, that in the absence of detailed figures of each individual case—there were 160 cases but they are now down to 135 actually serving, the rest are either dead or have retired—we could find a formula for handling all these men. Since the report has been laid, its effect on individual cases has been examined, figures have been worked out on a basis, but I am not prepared to argue whether that basis is right or

wrong, but each individual case has been worked out on a basis which anyway some people, in this complexity of figures and factors, think is equitable.

We find that, due to the alteration of the pension constant from 1/480th to 1/600th, 75 officers will retire with less pension, three with the same pension, and 60 with more pension, on retiring at the age of 55 instead of 50 and after having paid contributions hereto. I am authorized, therefore, to state by the whole three members of the committee, with whose views I entirely agree, that after having studied the position further, they feel that in the case of the officers referred to in paragraphs 27 to 62 inclusive of the report, commonly known as the "press-gang", each individual case be taken on its merits by the newly constituted European Civil Service Advisory Board and be adjusted in such a way as to make their financial position at least approximately equivalent or favourable to what it would have been had the Local Civil Service not been created, but on 1/600th constant instead of 1/480th and, where warranted by circumstances, the equivalent of a free pension on a 1/600th constant be granted on a contributory basis by the adjustment of the officer's salary personal unto himself to cover the whole or part of the officer's contribution to the contributory pension fund; may be decided by the Board. In this way, and in this way alone, do we feel that these cases can be equitably dealt with, and we believe the opportunity has arisen whereby those grievances can be removed entirely, once and for all. In this submission I venture two very important factors do enter into this. One is the newly constituted Civil Service Advisory Board, and the other is this very hairy question of the contributory pension.

Although the newly constituted board is very clearly set out in the report, I make no apology to Council for referring to it in some detail, because in it I believe that Government and the country has the means and the machinery to prevent such a feeling entering into the Civil Service of the country hereafter. The objects of this advisory board are as follows: "To secure the greatest measure of co-operation between the Government in its capacity as employer and the general body of Civil Servants

[Mr. Vincent] in matters affecting the Civil Service, with a view to increased efficiency in the public service combined with the well-being of those employed, to advise on staff problems, and generally to bring together the experience and different points of view of representatives of the various branches of the Civil Service." When you read the objects you really wonder why this was not done years ago on the form set out hereunder. The functions of the board are as follows: "Generally all matters affecting the terms and conditions of service of the staff should be included in the sphere of the Board's activities. More precisely the functions of the Board would be: (i) To provide the best means for utilizing the ideas and experience of the staff; (ii) To secure that representatives of the staff are fully consulted regarding the conditions under which their duties are carried out; (iii) To encourage the further education and training of Civil Servants; (iv) To consider means for the improvement of office machinery and organization and to provide opportunities for full consideration of suggestions by the staff on this subject; (v) To consider and advise on proposed legislation in so far as it has a bearing upon the position of Civil Servants in relation to their employment; (vi) To consider and advise on the general principles governing terms and conditions of service, e.g. recruitment, office hours, promotion, discipline, tenure, housing, leave, allowances, remuneration, superannuation, etc., provided, however, that the discussion of these and like matters by the Board should be restricted to general principles, and that individual cases should not be considered unless they can be regarded as test cases involving the consideration of general principles; (vii) Specifically in regard to (vi)—(a) to advise the Governor upon the appointment, promotion and transfer of officers within the Colony to posts carrying an initial salary of more than £360 per annum, appointments to which do not require the approval of the Secretary of State for the Colonies; (b) to arrange for the control of the various Civil Service examinations; (c) to advise the Governor on such matters affecting the posts or individuals in the Service as he may specifically refer for the opinion of the Board.

I do implore you, Your Excellency, that under (c) you should take those powers, and instruct the advisory board to go into these cases of the X and Y officers or press-gang. The composition of the board is extremely important. A Government official is chairman, to be nominated by the Governor, who should be independent to the extent that he plays little or no part in dealing with staff matters. Members—Two official members to be nominated by the Governor, preferably one from the administrative and one from the financial side. Two members from the staff side, one a senior and one a junior officer, to be nominated by the General Council of the European Civil Servants' Association; the junior officer not to be present during discussions on the promotion of officers of equal seniority or senior to himself, or at any other time at the discretion of the Chairman. Two unofficial members, one, who we suggest should be a member of the Standing Finance Committee, to be nominated by the Governor, and one by the General Council. Secretary—A Government official to be appointed by the Governor. Never have we had the opportunity of appointing a committee or board whose constitution has been, if I may say so, so intelligently suggested. It is not sufficient to have a junior official before you and take his evidence and be satisfied with that, because the result is never satisfactory. You must have him there to represent the case or cases in detail, to listen to the reaction of every argument on the subject, and to carry cases through to the end. I am glad that this advisory board has been accepted, I understand by Government, and I hope it will perform. We ended up by saying as this will recognize that such a board as this will necessarily be purely a consultative and advisory body. "We feel, however, that normally the unanimous recommendations of the board would be accepted by Government." To be perfectly frank, if they are not then I think the advisory board had better not exist. It is no good appointing a representative committee covering the various fields of your employees' activities and, when they make a recommendation, to turn it down, unless there is a very special reason for it. An important addition to the terms is that, "in the event of a decision not being reached, the views of the two staff

[Mr. Vincent] represents officials to be available for full consideration by the Government, and we recommend therefore that the constitution of the Board should contain a provision that in the event of disagreement, it shall be the duty of the Secretary to record in the minutes the views of the dissenting minority, if they so desire, as well as the majority recommendation." In drawing up the terms of reference of any such body as an advisory board of this nature, it often becomes necessary in the light of experience to enlarge those terms, enlarge the board's activities, and to enlarge its powers. I cannot speak for the other members of the committee, but I am sure they will support me in saying that we do not want any frustration to recommence on the excuse that "we were not quite certain we could deal with that matter or not". If a thing does impinge on the nature of the work and efficiency and temper of the Service, it should be handled by them.

I would like to draw your attention to sub-paragraph 3 on page 14 of the report, where it draws attention to the ill-defined nomenclature applied to certain posts for departmental convenience which precluded the holders thereof from being considered for confirmation of appointments since the posts as designated had not been gazetted pensionable offices. When you read that you wonder what it is all about, and I will tell you briefly. I understand that, prior to the introduction of the Local Civil Service, all clerks and persons having "clerk" attached to their designation—such as accounts clerk, audit clerk, stores clerk—became pensionable by virtue of the fact that all clerical posts were accepted as pensionable. Posts such as stock verifier, examiner of accounts, storekeeper, although actually clerical were not gazetted as pensionable. Had they been called stock verifying clerk, audit clerk, stores clerk, they would have been pensionable as clerical posts. In one department an accounts clerk failed to get promotion to the post of assistant accountant, so he remained an accounts clerk, a pensionable clerical post, and was in time confirmed as pensionable on a 1/480th constant, while his immediate seniors remained non-pensionable and were not gazetted as pensionable. I understand there are in the Service to-

day many cases of junior officers who are pensionable because, they were recruited from overseas, while their seniors, doing the same work, are non-pensionable, having been recruited locally. For example, telegraph inspectors recruited from the British Post Office are pensionable, while sub-engineers, a higher rank, are non-pensionable, having been recruited locally, so that if a telegraph engineer pays his own fare out and joins here he forfeits a right to a pension under the circumstances which exist. No wonder such cases as these cause a great deal of dismay and dissatisfaction and the victims are heartily supported by other members of the Service! Such matters—in my view, had the board existed, could and should in my opinion have been put right at once.

The contributory pension scheme: I have to take a little time to show the legal difference—the correct difference—between the so-called free pensions and contributory pensions. I will deal first with the contributory pension scheme, and will take as my guide the present scheme which is in force in the Railway Administration of this country. "A member contributes at the rate of 3 and 3/6ths per cent of his emoluments, and continuous service dates from membership; a man may become a member at 17 years of age and all service from that age counts; a servant has the right to retire on pension on attaining the age of superannuation, provided he has not less than 10 years membership—he can also be required to retire at that age. Apart from the pensions granted above, a pension is also payable under the following circumstances: on medical grounds after 10 years membership, on reduction or re-organization of staff after 10 years membership, on the ground of inefficiency due to changing conditions of work or regarded as not solely within a servant's control after 10 years membership. In these cases a servant has the option of either receiving a pension or taking a refund equal to 2½ times the amount of his contributions accumulated at 3 per cent compound. If a member is retired before ten years membership on grounds of re-organization or inefficiency, or to causes not solely within his own control, he receives 2½ times the amount of his contributions accumulated at 3 per cent compound. In the event of dismissal for

[Mr. Vincent] misconduct, the member gets his own contributions plus interest. If a member resigns before superannuation age, he receives his own contributions plus interest. If a member dies before superannuation, his prescribed dependants receive a sum equal to 2½ times the member's contributions accumulated at 3 per cent compound. On the death of a member after retiring on pension, his dependants receive the difference, that is, any amount between 2½ times his contributions accumulated at 3 per cent compound, less any money he has actually drawn from the Fund by way of pension or commutation." That is the legal right of a contributory pension. There is nothing which you can do to upset it, and it is funded. To me it is a more honest scheme than the other, and I will tell you why.

Under the so-called free pension scheme "(a) The servant does not contribute anything; but this apparent advantage is offset completely if salaries are adjusted by way of increase to cover the cost of contributions; (b) No service under 20 years of age is taken into account in assessing pensionable service; (c) The servant has no right to retire on attaining the age limit, or to complete the requisite period of service, but the Government can require him to retire. This is a very one-sided arrangement from every point of view. Apart from extraordinary cases, such as the grant of a pension to a member who had been seriously injured on duty, the basic principle is that no pension is granted until ten years' service have been completed, and it may then be paid if the servant is retired on the ground of re-organization, or on medical grounds. If he is dismissed from the service, or resigns before he has done his full period of service, or attains the age limit, he receives nothing. If he dies before receiving a pension, his legal representative receives one year's salary, plus house allowance. If he dies the day after he has gone on pension, his dependants receive nothing." The major benefits of a contributory pension scheme as compared with a free pension scheme are as follows: "A servant has the right to a pension; Service under the age of 20 years counts as service; If the pensioner dies the day after he has gone on pen-

sion, his widow receives the difference between what he has drawn, and 2½ times what he has paid to the Fund; If he chooses at any time to resign he does at least get a lump sum of money which he has contributed himself, plus 3 per cent."

I am well aware that under both schemes you can commute a portion of your pension. The contributory pension scheme should be guaranteed by Government. I have heard it argued that actually it all works well, that a lot of Government officials had died soon after retirement and others had lived for many years. I am not concerned about the actuarial difficulties of the benefits, but the individual results. I consider that any system which makes it possible for a man to serve his country and die a few weeks after retiring and his dependants get nothing, can only be said to be a very bad scheme compared to the other. Again, the cost of contributory pensions are shown in your accounts and estimates as a definite commitment. If there is any difficulty regarding contributory pensions it is because of the war, when there are bound to be delays. What should have been done, of course, was to have had a central pension fund created for all scheduled colonies years ago, when we should have known exactly where we stand to-day. I maintain that in the interests of sane finance we should know the cost of our pension commitments each year. In future, if I am returned to this Council—I do not I shall ask my successor to do it—I shall press for a statement to be put in the budget showing approximately the amount contributory pensions would have cost the country had contributory pensions been in vogue, and add to it our pension vote, which amounts to £230,000 I think this year. That statement would give us a fair picture of what we are committed to in pensions, what they are really costing us. It may not be quite accurate, but near enough to satisfy most people, but we want to get somewhere near it.

Let us come to the meaning of one Service. We are well aware that this territory, because of its meagre population, at the moment cannot furnish the personnel for the whole Service, but there is a point that we feel that, "as we pay, we should have the say" that our children and the youth of this country should

[Mr. Vincenzi]

enter a good Service, and that is why we brought in recommendation 42, which also stands liable to misinterpretation but which I hope to put right now.

The first step is that we go forward with the scheduled Government Colonial Service for the youth of this country until such time as the population of this country, and perhaps of neighbouring territories, increases sufficiently to enable us to furnish the whole of the personnel. Then we will have, I hope, an East African Service furnished completely from these territories in exactly the same way as is done in Southern Rhodesia today and also South Africa, but that will probably be after I have reached the age of retirement. Our recommendation 42 is as follows:—"We recommend, however, that before the Secretary of State is informed of any vacancy and requested to make an appointment, the claims of possible local candidates for the post should be carefully examined and that, where a local candidate with the necessary qualifications is found to be available, a recommendation should be made to the Secretary of State that he should be appointed in preference to a candidate from elsewhere." We are not referring there to a man already in the Service, we are referring to any one in this country who becomes qualified to do the job, not to have to go home and wait around there until he can get into the Service and, what is more, I think we are convinced as a result of this war that many men who have not had the opportunity of going home to universities have proved by the intrinsic value of their manhood and their integrity and their capability that they are quite well able to enter the Service as a valuable member of it. (Applause.) One of the causes of the urgency to get the Secretary of State advised that this is the wish of this Council and this country is that, although we have taken into consideration in our report in recommendation 29 the employment of specially qualified staff and of demobilized members of the forces, we are equally determined that under no subterfuge whatsoever, no shilly-shallying, no excuses, will we allow our children to be plunged into an inferior Service. There is no reason for it.

As regards the effect on the present holders of overseas posts, I made it quite

clear in my opening remarks that we do not want to interfere with conditions as established at all; in fact, there is a recommendation, recommendation 19, which states: "We therefore recommend that in respect of the first leave after the war all officers should be granted free passages for themselves and for their families up to a maximum of four children of sixteen years of age or under who are still dependant upon their parents". Whether or not the overseas officers accept the new terms of leave, etc., or remain on the old terms, it was intended by me—and I am certain by the Committee—that all officers should enjoy the benefit of this recommendation in view of the tremendous savings which must have been made in the cost of passages to Government during the war.

Paragraph 102 on page 41 is exceedingly important, and it may be, accordingly, precedents, quite outrageous for a committee to put such a paragraph in their report, but I believe that in these days of multiplying reports and diminishing action this paragraph is fully justified. "We wish to express our strong conviction that unless effect is given to all our major recommendations the main purpose for which this Committee was appointed will not have been served, nor will the conditions of service be sufficiently favourable to attract the best type of recruit and maintain an efficient and contented service in the post-war years". This paragraph is an earnest statement by members of the Committee expressing their strong conviction that the report will have failed to serve its purpose if only those recommendations which suit Government at the present time are accepted. I realize that Government will find that there are a number of aspects which will cause delay in giving effect to this inevitable unification of the Service, but I maintain that there is no reason why a statement cannot be made by the Secretary of State that it is his intention to unify the Service as soon as possible. I cannot believe, from my knowledge of the present Secretary of State, that he indulges in negative obstruction. I believe that if we ask him to do something and he cannot do it, he will give us a reason why he cannot do it; he will not just say "no, refer to paragraph so-and-so sub-paragraph so-and-so".

[Mr. Vincenzi]

The hon. Member for Uasin Gishu wished me to express his complete agreement with this motion and with the views I have expressed. I have little more to say, but I do feel this, sir, that in times such as these, when I know we are all overworked, that should be no excuse for putting off and delaying a principle. It may be, as I said before, quite foreign to precedent, and it may be horrifying to some people who do not understand expedition, but I can see nothing in this motion which cuts across anything which is rational and good. I can only see good in it, and as you, sir, at the outset of this sitting of this Committee showed a very liberal and a very reasonable attitude towards the terms of reference of the Committee and the problems which confronted us, I only hope that that reasonable attitude and that sympathy with a great problem will continue to-day and that you will be able, in the interests of the whole community, to give your sanction to the acceptance of this motion. (Applause.)

MR. NICOL seconded.

MR. TESTER: Your Excellency, there seems to be a school of thought that thinks that Civil Servants should always proceed by way of precedent, and, following that school of thought, I will divide the hon. member's motion into two parts, as he did himself. Government can readily agree to the motion—"That the Kenya European Civil Service Committee's report dated 1st December, 1943, be approved in principle". In fact, some 14 recommendations, which include some of the most important, have already been notified to the Service, and the Secretariat is busy getting ready to inform the Service that a great many other recommendations have been accepted. I am sure this Council will expect me to make some reference to the cost of these recommendations. By the acceptance of the principle of a contributory pension scheme we shall have to put down £112,000 as back-bonus. By accepting the report in principle, we shall find ourselves involved in £28,000 recurrent expenditure, and I exclude Recommendation XIV about passages because, as hon. members know, we have made a great saving on passages which will at least offset the expenditure of the £40,000 as envisaged by the report. The

other recommendations which I excluded when mentioning those figures are two, XXXIII and XXXIV, war bonus. Hon. members will appreciate that Government is prepared; by accepting the recommendations in principle, to go quite a long way in the financial field. The hon. member spoke about anomalies and the difficulties of the Service arising, for example, in connexion with the scheduling of clerks in pensionable posts and the fact that stock verifiers and others did not become pensionable, and blamed the Government for the position. I think there can be but few members in this Council who do not remember that Government was on an undertaking, under pressure from unofficial members, that no further posts should be scheduled for pensionable purposes, and that is the entire explanation of the fact that those unfortunate fellows to whom the hon. mover referred have not been made pensionable, as far as I am aware.

The second part of the hon. member's motion reads as follows: "That Government request the Secretary of State to establish one Service only for all European Civil Servants in Kenya, in accordance with paragraph 9 (of the report) as soon as possible". I think there is quite a lot to be said for that motion in a broad way, because I would not like it to be thought in any sense that, if this motion were not accepted *in toto*, there is the least idea at the back of anyone's mind that Kenya youths should not get equal opportunities as recruits from outside. But I must ask Council to accept the fact that there are enormous practical difficulties in setting up a watertight compartment of the Civil Service, without going deeply into them, that such action might have a detrimental effect on the youths who join in Kenya. The real crux of the matter in connexion with its practicability is the contributory pensions scheme. It may well be that, if we set up a contributory pensions scheme, we may find that people who are brought under it, who have to join in it, will find themselves very much prejudiced if later on they want to go to another colony and I myself do not see why any Kenya youth as well as any other youth should not expect to go on promotion to another colony. It all depends on the question of scheduling. The hon. mover mentioned the idea of a central contributory

[Mr. Tester] pension fund. It is a fact that such a fund has been mooted. The first result was that it was demonstrated that it would be a matter of extreme complication, requiring legal action and agreement by most of the other territories who work with the Colonial Office, and, in fact, it is a thing that could not be rushed; owing to the war action on it has to a large extent been suspended. There are going to be questions of that nature which have to be settled before we can constitute a unified service, and it seems to me all these matters should be gone into, and that the closest possible attention should be given to the effect of a unified service, to see whether or not it would be detrimental, to the people later on who serve in Kenya, and I certainly join with the hon. member in the hope that a great number of them will be Kenya youths.

That leads me to think that if we accept this motion as it stands and get some quick decision that a unified service be set up in accordance with paragraph 9 of the report, whether we shall not be taking a leap in the dark or at least we shall be taking a plunge into the twilight, and Kenya youths in a few years time will not regard us as a very farseeing set of people. In these circumstances, sir, I should like to move an amendment to the hon. member's motion; that the motion be amended by the addition of the words "if after examination it is considered that such a scheme is practicable and desirable".

MR. FOSTER SUTTON seconded.

HIS EXCELLENCY: I do not know whether the hon. member is prepared to accept the amendment?

MR. VINCENT: I am afraid I cannot. It does not mean anything. (Laughter.)

MR. RENNIE: Your Excellency, I rise to speak in support of the amendment. I am in entire sympathy with the desire of the hon. Member for Nairobi South, to have a unified service in this country. I am only too well aware from reports that come in from heads of departments that the present circumstances in departments are not satisfactory when there are sometimes two men in the same type of post working on different terms. We are all anxious, if we can, to get rid of that state of affairs, and I fully sym-

patize with the desire of the hon. member to prevent that sort of thing happening in future. But I think that we must remember that this proposal to have a unified service has been considered in the past. I do not want to go too far back into past history, but some hon. members here will remember that the Expenditure Advisory Committee as far back as 1932 went into the suggestion, and reported: "We favour in principle the first alternative (that is, a contributory pensions scheme), which has already been recommended by other committees which have inquired into this matter in Kenya, but feel that any isolated action on the part of this Colony in adopting a contributory pensions scheme may be found to involve so many difficulties as to render it incapable of application within the period covered by our terms of reference". That was in 1932. In 1935 we had another committee called the Select Committee on Economy, which reported as follows: "We favour in principle the first alternative (again the contributory pensions scheme), which has already been recommended by other committees which have inquired into this matter in Kenya, but feel that any isolated action on the part of the Colony in adopting a contributory pensions scheme may be found to involve many difficulties". This was more or less a repetition of what had already been said. Then we come to the Harragin Committee report, and paragraph 9 of that report said: "We have received one suggestion that the Local Service should be abolished and that in its stead should be created a new Service providing for a sufficiently large quota of permanent posts in which existing members of the Local Service should be absorbed. We are not able to agree that any case exists for the abolition of a Service which, whatever may be its shortcomings, was created as a result of most careful inquiry and does offer a settled career to those who enter its ranks".

I have quoted from only three committees which have gone into this matter in the past 12 years or so, and I do so to sound a note of warning that this proposal for a unified service is not so attractive as it appears at first sight and, indeed, as I will point out in a moment, it may not succeed in removing some of the difficulties which exist at the present time. The hon. Financial Secretary has

[Mr. Rennie] referred to the danger of making service in Kenya less attractive to men in other colonies than it is at present. The hon. member has stressed the point that we in Kenya cannot in present circumstances fill all our posts ourselves, much though we would like to do so. Take the case of Kenya working on a contributory pension basis and other colonies on a free pension basis. If we assume that the terms of service that at present exist are sufficiently attractive to bring men from the outside into the Kenya Service, I think we must also assume that, if we are going to take away from the outside men the possibility of free pensions when they come here, some compensation must be paid therefor. That compensation, it has been suggested, should take the form of an adjustment of salary. Well, if the outside man's salary is going to be adjusted we get into a somewhat similar position to that which obtains at the present time, namely a local man is on his local terms of service and contributory pension, the new man comes along and also goes on to the contributory pension but has his salary adjusted; in other words, he gets more salary than the local man to compensate him for the fact that he is going from the free pension to the contributory pension. That is a possible snag, and it is because of that snag and a good many others that the Government has felt it necessary to suggest the amendment to this motion. I need not go into many of the other difficulties. I have already discussed some of them with the hon. member, and indeed, as a result of our conversation, I rather hoped he would deal with some of the difficulties and show me how they could be removed! That has not been done, and I merely emphasize the fact that this question of a unified Service on a contributory pension basis will present many practical difficulties. If I may quote the Kenya and Uganda Railway Administration in this connection, I may say these practical difficulties have been found to be very real indeed within the past three years in the attempt that the Administration made as a result of a recommendation by the Railway Advisory Council a few years ago to work in future on a superannuation fund.

The first part of the report I do not intend to allude to at this stage, except to say that Recommendation I therein,

the one on which the second part of this motion is based, merely recommends that the Government should consider the desirability of making these terms of general application. As the hon. Member for the Coast has pointed out more than once, consideration is rather a different thing from action, and what we are being asked to do this morning is for Government to commit itself straightaway to requesting the Secretary of State to establish a unified Service forthwith. I think in view of the fact that we have not had a great deal of time to consider a matter which is of the greatest importance to this country, not only to the young men in the Service but to the necessity of getting men from outside into Kenya, I think it is only reasonable to expect that the Government should have a little time to consider this matter and consult the Secretary of State, since as far back as 1939 and 1940 the Colonial Office was itself investigating the question of a contributory pension scheme for the Colonial Service. It is one thing for Kenya to adopt this scheme while others are on a free pension basis. It is an entirely different matter for Kenya to be one of many colonies working on a contributory pension basis. If we arrived at that state of affairs, and there is a good deal to be said for it as the hon. member pointed out, we should be on a much better wicket in working towards a unified Service. So I support the amendment in order that we may have a chance of going into this matter thoroughly and not take another leap in the dark or "plunge into the twilight". I therefore support the amendment.

MR. NICOL: On a point of order, Your Excellency, if I speak of the amendment, have I got an opportunity, if the amendment becomes the main motion, of speaking again?

HIS EXCELLENCY: Yes.

MR. NICOL: Your Excellency, I am afraid that I cannot accept the amendment because, as the hon. Member for Nairobi South said, it really means nothing. I am, however, glad that the Government can accept anyway the first part of the motion, and I hope after I have spoken and perhaps the hon. member, that Government will be able to withdraw their amendment. I am very glad

[Mr. Nicol] to hear that 14 recommendations of the report have already been accepted, but I would like to emphasize once again paragraph 102 of the report, which is a very definite and emphatic paragraph. It has been read once, but I will read it again, because we want it on record: "We wish to express our strong conviction that unless effect is given to all our major recommendations the main purpose for which this Committee was appointed will not have been served, nor will the conditions of service be sufficiently favourable to attract the best type of recruit and maintain an efficient and contented Service in the post-war years". The hon. Financial Secretary told us that, leaving out the question of passages and also war bonus, the recommendations in this report are going to cost the country about £140,000, the contributory pension scheme would be £112,000. Surely that is not too much to ask to secure a contented Service? Widespread discontent throughout the Kenya Civil Service at the present moment is most damaging to the country, to the individuals themselves and, I submit, to the best interests of the future of the country. In regard to the question raised on the scheduling of these various territories, surely that is a matter which, if Government accepts the main motion, and refers the matter to the Secretary of State, the Secretary of State could go into. I do not think that anybody expects Government to sit down and draft a short telegram to the Secretary of State: "Please introduce unified Service at once", and that he will write back: "Go ahead". Of course the matter has got to be examined, Government must put up their point of view to the Secretary of State, and the Secretary of State must have an opportunity of going into the matter and seeing how it affects the Civil Service as a whole. But the point we want to emphasize is that we do not want any hesitation or delay in examining this problem to see whether we can get a unified Service established here, because until we do we shall not escape the discontent abroad in the Service to-day. Naturally none of us want to be unfair to the staff if they come into the Kenya Service from outside or go from the Kenya Service on promotion elsewhere. Those are points to be taken into consideration.

We have gone into the question that there is strong dissatisfaction throughout the Service and the report has made recommendations—and it is a unanimous report too—and in view of that and also the exceedingly clear speech of the hon. mover this morning when speaking to the main motion, surely Government can accept this motion. We are not trying to put to fast one across Government or the Secretary of State. Coming now to the question of pensions, the hon. Chief Secretary gave us a very clear exposition of the position, but it is, on examination, that the obstacles may be overcome. After all, difficulties are not insurmountable, and difficulties are there to be overcome, and we can overcome them. I am quite certain that it is also necessary to have a revision of salaries. I am quite sure on that point. If you turn to Recommendation No. XXXVII of the report, the salary scales were examined by heads of departments and we reported, as per the appendix, accordingly, but I understand that since the report has been published and each head of a department has seen what the others have got for their people, they say they are not satisfied. That is what I have been informed. The whole point is that we want this recommendation to go home to the Secretary of State and to ask him to do it, and if he cannot do it to let us know the actual reasons, and see whether we cannot find a solution to get around the difficulty. We do not want to make this an unattractive colony for men to serve in. As far as we are concerned, we want and must have the best, and only the best is good enough for Kenya, and it is the future we are looking to, a future for our young men and the young men who will come out and join us and make their homes here. We therefore request that the amendment be withdrawn and proceed with the debate on the main motion.

HIS EXCELLENCY: If no other member wishes to speak to the amendment I will put the question, but before doing so I should just like to make this clear. The action of Government in proposing the amendment is not because we wish in any way to burke the issue or not to examine most carefully the possibility of such a general Service. I can assure hon. members that there are very great difficulties, which it is suggested could be

[His Excellency] overcome here, but under the pension scheduling organization of the colonies it will be the other colonies which have got to agree to come in. Such agreement is not governed by an action that we can take locally. We want to be sure that our officers on promotion from here to another colony do not suffer. Here they would be on a contributory pension, whereas in another colony they would go on to a free pension basis. A further reason why we thought it desirable to move this amendment to-day is for the very reason that I am most anxious that we should give no wrong impression to the Local Civil Service that things may happen immediately, quicker than in fact they may do, because, quite frankly, the only way I can see in which there could be an immediate fusion of the Local Service and the Overseas Service would be to put all local officers on overseas terms, giving them free pensions and all the other privileges that are attached to that Service. That, I do not think, is either the intention of the hon. mover or of the signatories to this report, and I feel it is important that the Local Civil Service should realize that, on the one hand, Government is most sympathetic towards the recommendations in the report but, on the other, does not want to create the impression that they are all going to get overseas terms to-morrow.

COL. GROGAN: My Excellency, if the amendment is going to be put, may we ask whether the gramophone will come into operation, because that will automatically determine this debate and there is nothing more to be said?

HIS EXCELLENCY: If the amendment is carried, the motion as amended will then be before Council for debate.

COL. GROGAN: I beg your pardon.

The question of the amendment was put and carried: **Ayes**—Messrs. Blunt, Brown, Daubney, Donovan, Foster Sutton, Gardner, Hebdon, Hodge, Hunter, Izard, Johnstone, Marchant, Mortimer, Northrop, Pedraza, Rennie, Robins, Stronach, Tester, 19. **Noes**—Messrs. Beecher, Cooke, Col. Grogan, Major Keyser, Mr. Nicol, Lord Francis Scott, Messrs. Vincent, Wright, Mrs. Watkins, 9. Did not vote—Messrs. Kohli, Paroo, Patel, Sheriff Abdulla Salim, 4.

The debate on the motion as amended, was resumed.

MR. COOKE: Your Excellency, I suppose I should feel somewhat, but that the hon. mover took exception to what he described as "the meaningless words which the amendment put into the substantive motion because, of course, the more obscurant hon. members who have read the order paper will have noticed that they are precisely, or almost precisely, the words which I have put into the motion which I am moving next week! I am sure the hon. mover could not associate himself with that motion which uses the words "practicable" and "possible"! Actually, I do not think it matters twopence, although I did vote against the amendment, because whatever happens we cannot do what is not practicable and possible and desirable. What I have said about the hon. mover trying to twist me in no way debars me from associating myself wholeheartedly with the points he so persuasively and so pungently made. I personally am bound, however, to agree with the hon. Chief Secretary that these difficulties do exist, but as my hon. friend the Member for Mombasa said, "difficulties are only made to be overcome, and I hope that Government will use every effort, if I may use that cliché, to "explore every avenue" to see if the difficulties are overcome, because it is a matter upon which Civil Servants in this country feel very strongly. I personally could never be an assenter, as an old Civil Servant, to any alteration in the terms of service which would lower the present status of the Kenya Civil Service, because it has had a great and honourable tradition, but there may be ways of overcoming the difficulties which exist.

The hon. mover has made his points, if I may say so, so clearly that I am not going to waste the time of this Council by going over what he himself has said, but I would merely like to support what he has said when referring to the unhappy conditions which prevail in the Civil Service to-day. As he rightly said, 600 reasonable people are not going to take up that attitude without a pretty sound reason, and when we consider that the African Civil Service are also discontented there must be some pretty good reason for this widespread discontent, and no amount of regulations

[Mr. Cooke] will overcome discontent unless the Civil Service is administered in a sympathetic as well as an efficient manner. One of the great reasons for the discontent—and I hope Your Excellency will bear with me if I am a little bit off the subject—is the reason that when a junior Civil Servant brings up his points of view they are not often listened to with the sympathy which should be expected. If I may just give one instance of what happened at an interview which was recounted to me after the interview took place—actually it was not Europeans, it was Africans—and they said that they had been received in an unsympathetic and uncompromising manner. When I took that matter up with the senior functionary in question, he said his impression was that the Africans had left him very happy and very contented with the reception that they had received. It shows that the gentleman was either very ignorant of African psychology or—well, I will not put any other term to it! This is the point I want to make, that no amount of regulations and no amount of alteration in terms of service will have any effect unless the junior people are allowed to express their grievances. And that is one of the reasons why I also welcome this board, because which junior officers should not only be permitted but even encouraged to put their point of view. I hope, sir, that you will permit, as to-day prevails in the armed services, to happen in the Civil Service of this country; that is, that officers are encouraged to express their views. With those few words I heartily support the motion.

LORD FRANCIS SCOTT: Your Excellency, as this Government has moved an amendment which has now been passed, and as it has now become the substantive motion and is therefore inevitably going to be passed by this Council, I do not wish to waste the time of Council by adding anything to the arguments which have been put forward. All I want to ask is this. What steps are Government proposing to take now to put this into effect? (Hear, hear.) In other words, how are they going to hold this examination to see whether the scheme is practicable and desirable? I suggest that this extremely able committee which drew up this report and went so thoroughly into the question and who should know all

the pros and cons of this thing should be reassembled and given the job of producing a scheme that is practicable and reasonable. (Laughter.)

GENERAL MANAGER, K.U.R. & H. (Mr. Robins): Your Excellency, it was not my intention to intervene in this debate, which I have listened to with very great interest, but I do not think it has been realized some of the difficulties which do arise out of the specific proposal that was made, nor do I think it has been realized that swift action on the lines of the original amendment might have been to the detriment of the very people whose interest we are all on both sides of this Council, concerned with. There are few people I imagine in this country who have had the same experience that I have had with contributory pensions (fund, a superannuation fund, and free pensions) which have been the victim of an unsound superannuation scheme; I have also been the victim of a contributory pension scheme. It does not mean, however, that I am opposed to the general principle of a contributory pension—there is a fine distinction between funds and schemes and so on—but I can assure hon. members who are anxious to unify the Service in East Africa that very careful consideration is necessary if unification is to take place under the auspices of a contributory pension or superannuation fund. As the hon. Chief Secretary has pointed out, it is not the difficulties which arise within Kenya itself, it is the difficulties which arise from outside Kenya, from other colonies and other public services, and whatever we may do in Kenya—and we may have very strong persuasive powers—I am very dubious as to whether our persuasive powers are such as to bring other countries readily and rapidly into line. Therefore, I think this requires very full and very careful examination, not only in Kenya itself but in consultation with the Secretary of State, in order to see how these difficulties can be overcome. Difficulties do exist. We, the Railway Administration, has, in the interests of its staff, introduced a superannuation scheme in place of what was a provident fund, but that superannuation scheme does not apply to the whole staff of the Railway Administration. Consideration has been given as to whether it should not apply to the whole of the staff of the Administration, from the

[Mr. Robins] highest to the lowest, and the reason why that has not been introduced is because of the very difficulties I have mentioned. It is a question of scheduling and interchange between other railways and other territories, and I am quite sure that those who are advocating an improvement in the conditions of the Kenya Local Civil Service have no intention of restricting the Kenya lad from taking up appointments in other countries where he would widen his experience and no doubt return to Kenya as a more experienced officer, and therefore before you can do that you have got to overcome these difficulties between other territories, and that is a matter which cannot be overcome in a very short time.

MR. RENNE: Your Excellency, I do not propose to refer, unless in passing, to the question of the contributory pensions proposal, since I have dealt with that in my earlier speech. I will take up now the question of the recommendations in the report of the hon. member the first half of the motion in that way. As has already been indicated, the Government has accepted a number of the recommendations in the report, those recommendations which it felt could be implemented straightaway, and I refer in particular to Recommendations VII to IX dealing with housing, which should go a long way, I think, to remove any sense of grievance that may exist as regards housing conditions. A number of other recommendations have been notified to the Service as accepted, namely Recommendations V, XVI, XVII, XIX, XX, XXI, XXII, XXV, XXVIII, and XXXVI. Hon. members will observe that Recommendations XVI and XVII are among those recommendations I have mentioned, and it is to those two that the hon. member referred in considerable detail in his speech. The position so far as these recommendations are concerned is this, that the European Civil Servants Association appealed to the Secretary of State some considerable time ago in respect of the categories of officers who are called X and Y in the Surridge Report, and when the Surridge Report had been issued the Association asked for an early decision on the matter. The Secretary of State gave his decision on the advice of the Governor in Council—

when the matter was considered in Executive Council, Council felt that Recommendations XVI and XVII in the Surridge Report were fair and reasonable, and its advice has been accepted by the Secretary of State. The Colonial Office is well aware of the past history of this question—I need not go into that unnecessarily at this stage—the Secretary of State and his advisers are well aware of the past history, and one can only suppose that in approving Recommendations XVI and XVII, the Secretary of State considered, as this Government should consider, that those two recommendations are fair and reasonable. My own opinion is, and I have been into this matter at considerable length and in some detail, that so far as the Y officers are concerned the recommendations are not only fair and reasonable but they are distinctly generous and, as regards the X officers, they meet the complaints completely on the grounds of legality, and go a long way to meeting the representations on the ground of equity.

The point I am coming to is this, that although the first part of the motion speaks or suggests that this Council should approve the report in principle, in effect the suggestion that has been made in respect of Recommendations XVI and XVII is other than the acceptance of those recommendations; it is to reopen the whole question once more and throw the whole thing into the melting pot. I think the hon. Member for Rift Valley, if I may say so, returned the ball rather neatly into the court of the Surridge Committee by suggesting that the Surridge Committee should be reconstituted and get down to this work of examination! With all due respect to that committee, I feel that it had an opportunity of going into these cases individually, and it is going to be a little hard on the Civil Service Advisory Board when it is constituted to be given such a very difficult task in its early stages. Quite frankly, I felt that when the Government accepted Recommendations XVI and XVII, put forward as they have been as part of a unanimous report, we should have an end to the matter, and to suggest now that those recommendations should be varied to the extent of having a further examination made of the 161 cases seems, if I may say so, a little hard on the board which is to be constituted to deal with the

(Mr. Rennie) matters referred to in Recommendation XXII. I have attempted at various times to go into these cases individually, and I found, as the Surridge Committee apparently found, that to deal with those cases individually and try to make adjustments in such a way as to make the position of the officers concerned approximately equal to what it would have been if they had not joined the Local Civil Service is going to be a very difficult, and indeed, an almost impossible task. One point that is often forgotten in that connexion is this. There was not only at that time a desire to work from a free pension basis to a provident fund basis so far as the Local Civil Service was concerned, there was also a very genuine desire on the part of the unofficial members and of the Government to ensure that the personal emolument bill and the pensions bill of this Colony were not going to reach such a high percentage of the revenue as to make the running of the Colony quite impossible. As a result of the various committees that went into this matter from, roughly, 1929 to 1934, there was a very definite regrading of posts, and if the committees at that time had worked on the basis of continuing free pensions but economizing by adjustments of salary, I think it reasonable to say the regrading of the salary scale of a good many posts in a downward direction, as has happened, would have gone still further down, so that in fact although continuing the free pension basis they would have given a man less salary to make up for it. I emphasize that point strongly, because it is a point that is forgotten not only by members of the European Civil Servants Association themselves but by other people who have been into this matter.

Since the hon. mover referred to a statement that had been drawn up indicating in exact detail what might be done to restore to these X and Y officers their old position, I may say that I have examined that statement in some detail. I have it here. It is based on the assumption first of all that I have just mentioned, that there would be no question of regrading—which would be a reversal of the policy then adopted—but it is also based on a good many assumptions which are not fair assumptions, and when it is stated, as they have

stated in this document, that 80 per cent of the officers have lost through their conversion to Local Civil Service terms, they have based their calculation on the assumption that those officers would not in any case have had any adjustment made in their salary scales. I suggest that that is not a reasonable assumption, not only in view of the circumstances that then prevailed and the need for economy, but also in view of the fact that the recommendations made by the Surridge Committee in the appendix to their report in respect of Recommendation XXVII indicate that the Committee have come to somewhat similar conclusions in the majority of cases concerning salaries that were then fixed after regrading down in a great many cases. I think it is important to stress this point, and if I may again refer to the question of the difficulty that any Civil Service Advisory Board or committee is going to have in trying to adjust the cases of these different officers, I would merely mention a few points without going into too much detail.

First of all, before the Local Civil Service was established in 1935, promotion in the clerical grades was on a departmental basis. There were three grades, A, B and C, and officers worked within each department for promotion purposes. It might happen that a new post was put in the estimates to allow for promotion if there was a good case for a new post. It might be that someone retired, but promotion within the department was limited to the promotion posts in that department. In the new Service there was a general roster for promotion, and the result was that a good many people who had had no prospect, or little, of promotion in their own department immediately came on to a much better wicket as regards promotion on a general roster, and as a result gained considerably. I do not know how any committee is going back into past history to the extent of arriving at what would have happened if the old departmental rosters had been continued. That is one difficulty. I also think it would be very difficult indeed for any committee in respect of those posts which had the salaries graded down to go back now and say "All right, we are going to put you on a free pension basis as the Civil Servants Association has suggested, but in view of that and in view of the grading

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that occurred in 1935 we shall have to grade you down still further because you are no longer on a provident fund basis but are going on to a free pension basis". That is another difficulty for the board. The question of housing allowance is not going to be easy. As hon. members are aware, conditions in respect of housing have changed, and in some cases it would be necessary to go into the history of each individual to find out whether he was in occupation of Government quarters during the 10 years that elapsed since 1924 and what he paid when in occupation and what his circumstances were at other times. We have found other difficulties. I think the hon. mover referred to one of them, which is in a sense typical. We have an officer who came out and was serving on agreement terms in a pensionable post. We have another officer who came out two years earlier and was serving on agreement terms in a non-pensionable post. The first officer, after a few weeks in the pensionable post, was moved into a non-pensionable post, but he is put among the X officers who should get, according to the Association's earlier representations, better treatment than the Y officers. In some cases officers on promotion have been moved from a pensionable to a non-pensionable post, and in other cases an officer has been promoted from a non-pensionable post to a pensionable post, and some of those promotions have occurred as a result of trying to give better promotion posts to the Local Civil Service. Would those promotion posts have been created if there had been no Local Civil Service? We have people on old terms of a fixed salary of say £300, who when they were moved into the Local Civil Service were put on an incremental basis. Those officers have been drawing higher pensionable emoluments than would have resulted on the old terms. How are we going to deal with cases of that sort? I mention a few of the difficulties in respect of this question of going into 161 cases, and trying to put back the hon. mover "in the words of the hon. mover" to adjust salaries in such a way as to make their financial position at least approximately equivalent as far as possible to what it would have been if the Local Civil Service had not been created—

is not the least of them. The hon. member goes on to the question of the 1/600th constant, and where warranted by circumstances, the equivalent of a free pension on a 1/600th constant be granted on a contributory basis by the adjustment of the officer's salary. His suggestion is that we should work in respect of the X and Y officers on a 1/600th constant, go back and try to adjust their circumstances as far as possible. What the Association is asking for is not a 1/600th constant but 1/480th, and if the hon. member is anxious to remove discontent, I submit that he is not likely to be very successful if he restores a 1/600th constant. Instead of 1/480th constant for which the Association has asked, I think that will be a cause of further discontent, and we must go into things with our eyes open. As I emphasized earlier, such an adjustment is not part of Recommendations XVI and XVII at the present time—these are recommendations put up by the Surridge Committee, of which the hon. mover was a member—and I maintain that if we are going to go into these cases individually it is going to be a task of the greatest difficulty, and I myself feel it is a task that should have been carried out by the Surridge Committee instead of leaving it to any other body. But the position is that this suggestion has been put forward, and I think that, in view of the fact that it is the Advisory Board shortly to be formed that will be given the task of looking into any grievances or adjustments of salary that may be necessary, it will be reasonable to consult that board as soon as it is instituted and submit to the members the suggestion that they should go into these 161 cases. Opportunity would be taken, of course, by those members of the board representing the Government to explain some of the difficulties, and I have mentioned only a few of the difficulties, and if the board thought that would serve a useful purpose to undertake that task, then I think it could go ahead with it. But I emphasize that the difficulties are very great indeed, and although the hon. Member for the Coast tells us that difficulties are there to be overcome, I think his experiences of the last 18 months have shown him that certain difficulties take a bit of overcoming! (Mr. COOKE: Hear, hear.)

[Mr. Rennie]

If I may deal with a few points in greater detail in the hon. mover's remarks. He referred to the unhappy condition of the Civil Service at the present time, and I think it only right to say that, so far as I am concerned, I came to this Colony in 1939 and worked on the assumption that, in view of the fact that those conditions had been hammered out over a period of years, had been argued from beginning to end by committee after committee, had come before this Council in 1934 and had been accepted by this Council, and that we were then at the beginning of what might be a very long and expensive war in which it was quite impossible to see how the finances of the Colony were going to run, it was reasonable to suppose that the conditions now existing were fair and reasonable. I worked on that assumption for 18 months and heard hardly a murmur as regards conditions of service for the first 18 months I was here. Only from the middle of 1941 onwards had we suggestions that conditions of service were not fair and reasonable. In the meantime, between 1939 and 1941, the Harragin Committee had reviewed the terms of service of the Local Civil Service, and they had made certain recommendations which were accepted by the Government almost in their entirety, and it is important to note that, so far as the X and Y officers are concerned, they made their recommendations to the Harragin Committee, and the Harragin Committee did not find them sufficiently convincing. That is the position of Government, and if it is held that the Government has not been sufficiently sympathetic I do not think that the Government is altogether to blame, in view of the fact that it was proceeding on what it considered to be the considered opinion of this Council right from 1935 to 1940. It is perfectly true that there is discontent in certain branches of the Service at the present time, and for that reason I hope it will be possible to find a solution that will remove the discontent, but I frankly feel that the solution proposed by the hon. member, namely pensions on a 1/600th constant and retirement at 55, will not remove it; but that is a matter the Civil Service Advisory Board can go into if it takes upon itself this task.

Without going too far back into history, I would deal with the argument in paragraph 42 to which the hon. mover referred, the fact that the European Civil Service Association have never accepted the argument that wholesale dismissal was really the alternative. The point was made by the then Colonial Secretary in reply to a deputation that there had been insistent demands for cancellation of the 30 months' agreement, on the ground that this was a common practice among commercial firms. It might have been the case that if there had been retrenchment on a very wide scale in 1932, 1933 or 1934, the junior ranks of the Service would not have suffered out of proportion, but the fact remains that if there had been retrenchment—and the alternative to retrenchment apparently—as considered by the committee which went into the matter, was an adjustment of the salary scale—if there had been retrenchment I can only think that the result would have been most unfortunate and indeed disastrous—

MR. VINCENT: On a point of order, I should like to explain to the speaker that paragraph 42 was a finding of the committee; it was not my argument.

MR. RENNIE: I am under no misapprehension about that. In a colony in which I have served, wholesale retrenchment was indulged in, and the hardships that were inflicted on the officers in question were, I consider, out of all proportion to the adjustments that were made in the terms of service in Kenya in respect of the X and Y officers, and I think that that point should be borne in mind when dealing with those officers. The hon. mover referred to Recommendation XIV dealing with free passages, and I would like to explain, in case there is any misapprehension on the matter, that the Government has accepted that recommendation, not only in respect of the Kenya European Civil Service officers but in respect of overseas officers as well. It is quite impossible to apply it to one branch of the Service and not give it to the other. The hon. member also referred, as did the hon. Member for Mombasa, to paragraph 102. The hon. Member for Mombasa gave me the impression that he considered that by amending the motion as has been done, the Government was departing from the

[Mr. Rennie]

expression of opinion in paragraph 102, but I would like to point out in that connexion that the Government has accepted the report in principle. There are a number of adjustments that may be required here and there, but they are all within the spirit of the recommendations made and, in some cases indeed, they go rather further than the recommendations in important matters. So far as Recommendation I is concerned, hon. members should realize that there is no question of the Government not giving effect to one of the major recommendations; so far as the first recommendation is concerned, it merely recommends the Government to "consider the desirability of making them of general application". I wish to make it clear that in suggesting the amendment this morning the Government has in no way departed from Recommendation I, it is in fact going considerably further than Recommendation I suggest.

I would make a further point which should be kept in mind in dealing with Recommendations XVI and XVII and the X and Y officers, and it is this, that the representations made to the Harragin Committee in 1939 fell far short of what has been put up to the Secretary of State recently, and the recommendations contained in Recommendations XVI and XVII, when implemented, would cover, and more than cover, the representations put up by the Association to the Harragin Committee. So that, if what the Association asked for had been agreed to, presumably what they are asking for now would not have been submitted, I wish to make it clear that the requests of the Association seem to have grown with the years, and whether it is because of the fact that our reserves have also grown during the war or not I do not know, but I should like to offer this word of warning, and I am sure the hon. Member for Ulamba will join with me in this, because it is a matter we have discussed on more than one occasion. Although at the present time the Colony's finances are flourishing and we are in possession of greater reserves than we have ever had before, if, as is not improbable, we have a bad year so far as guarantees under the Increased Production of Crops Ordinance is concerned, that will take away, at one stroke,

quite a considerable percentage of our reserves, and if, as again is not improbable, we have to continue to give famias relief to the extent that is necessary at the present time, that again will make a large hole in our reserves. We have also to look a little further forward. We are now faced as a Council with the fact that in the opinion of several members here the steps which were taken by the then Council went too far and were too drastic. Let us watch our own step; let us remember that in a few years' time we may be "scratching around" for money; our reserves may have disappeared, as can happen so easily. Do not let us make the mistake now of being unduly generous. By all means give Government servants a fair deal. (Mr. COOKE: We take the risk of being told afterwards that we are too generous.) The point I was leading up to before the interruption, sir (laughter)—and I would ask the hon. member not to interrupt me in the full flood of my eloquence—the point I was leading up to was that, as far as finances are concerned, and while taking every precaution to ensure that the Government servant gets a fair deal—and anyone who knows the work of the Standing Finance Committee, of which I am Chairman, will know that we attempt at all times to give the Government servant a fair deal—we should not go too far the other way. We would look a little ahead and ensure that the terms that are now settled—and in my opinion the terms put forward by the Surridge Committee Report—are of the type of terms that can be considered fair and reasonable—ensure that the terms now settled are of the type that will stand criticism in 10 years from now.

There is only one further point I would make. I am not sure whether the remarks of the hon. Member for the Coast were directed against me or against one of my officers, but he gave the impression that the representations of junior officers are not received sympathetically and do not get all the attention they deserve. Well, sir, I wish he would work in the Establishment Section of the Secretariat for a month or so. I had an officer from another department working in the Establishment Section for a short time, and before leaving I had a word with him. He said "my eyes have been opened"—these may not be his exact

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words (I am not one of those people who can remember exact words), but I can give you substantially what he said—"my eyes have been opened." The impression is abroad that things are dealt with in such and such a way in the Secretariat, and that you do such and such a thing, and that so-and-so acts in such and such a way. I am now in a position to tell people that a good many of their apprehensions are misapprehensions. I am quite sure that if my hon. friend the Member for the Coast could attend some of the many interviews that the senior officers in the Secretariat give to junior officers who come along with grievances, he would realize that a considerable amount—putting it as little as that—a considerable amount of sympathy is shown in that connexion, and they are not merely brushed out of the door after uttering a word or two. I should hate him to think that we in the Secretariat deal with representations in a cavalier fashion. If he were to spend as much time as the Secretariat officers spend on some of the establishment matters that come before us I think he would realize the tremendous amount of time given to them and—to anticipate his point—the large amount of sympathy—

Mr. COOKE: On a point of explanation, I should like to make it clear that I was not referring specifically to my hon. friend the Chief Secretary. The complaint very often is not that they are rushed out of the door but that they are not allowed to get inside the door. (Laughter.)

Mr. RENNIE: Well, sir, I have made it clear to heads of departments and to the Association that if officers have any particular grievance at any time about which they think a discussion with me personally would be helpful, they have only to try to fix a time. Hon. members will realize only too clearly that my time is not my own, that it is difficult to fit in all the people who wish to see me. To give one example, I finished a discussion with a deputation from the Civil Servants Association a 6 o'clock a few weeks ago, and I make it a point whenever I think an interview would achieve any useful purpose to give that interview, however junior the officer may be. (Applause.)

Mr. MORTIMER: Your Excellency, I trust I may be pardoned for intervening in the debate in order to make one point of explanation which, if not placed on record, may lead to misunderstanding. The hon. Chief Secretary has just referred to the fact that before the Harrigan Committee the Civil Servants Association made representations and requests which differed from the representations which they subsequently made. The reason for that has never hitherto been publicly stated, and I feel that it ought to be explained now. The Civil Servants Association has consistently maintained the views which they have recently expressed, but His Excellency the Governor, Sir Robert Brooke-Popham, when he agreed to the appointment of the Harrigan Committee, made it clear to me in an interview—I was then President of the Civil Servants Association—that he would not agree to the appointment of that committee of inquiry unless an assurance was given in advance that the Association would not raise before the committee the question of free pensions for any section of the then Local Civil Service, and that is why the representations made to the Harrigan Committee were considerably modified from what had been said before and what has subsequently been said. (Applause.)

Mr. NICOL: Your Excellency, first of all I would refer to Your Excellency's remarks just a few minutes ago at the time when we had just passed the amendment, and to say that I know full well, and I think we all do, and we appreciate it, that you are sympathetically minded towards the Civil Service and the Civil Servants, and I should like that to be on the record because I think it is only fair, I should like to deal with the suggestions put forward that the Surridge Committee should be re-appointed to go into the question of the X and Y officers. I think the Surridge Committee would be an entirely wrong body.

LORD FRANCIS SCOTT: If the hon. member is referring to me, that was not my proposal.

Mr. NICOL: No, I was referring to the hon. Chief Secretary, who suggested that the Surridge Committee should examine the cases of the X and Y officers. My reason for that is that the Surridge Committee is a Government

(Mr. Nicol)

appointed committee, and the whole object of the composition of this board, as set out on page 25 of the report, is to enable the Civil Servants Association to have their own representatives on any such board which is examining their cases. Again, with regard to Recommendations XVI and XVII, at the time the Surridge Committee sat we were informed in no uncertain terms that it would be impossible to get out any figures which would cover the X and Y cases, but since the committee sat figures have been produced to us. Admittedly they will have to be checked and possibly re-checked, but somebody has got down to it and got out some figures, and if they had been available to us they would have been very useful, and it is in view of the fact that these figures have come to light since then that we do recommend for Government's earnest consideration that it should be one of the first things that this new board should do to examine each case individually. With regard to my hon. friend's remarks on the question of cost, I entirely agree; we must do all we can to keep costs down, but I do suggest it is very false economy to pay people or to put people on such terms of service that they get discontented, and I do hope that when any consideration at all is being given to this matter, that inefficiency by engendering discontent will not be encouraged. Admittedly the hon. Chief Secretary produced a lot of headings—I prefer to call them headings—for anybody who is going to investigate all these various cases and the question of terms of service. At the same time I think they should be examined and the whole question should be gone into. I should like to say that I entirely agree with every word my hon. friend the Member for Nairobi South said in his opening address to Council.

Mr. VINCENT: Your Excellency, perhaps I was a little quick in saying that the words "if after examination the scheme is practicable and desirable" mean nothing, but they make the motion mean nothing. It means that you have a means of getting out of doing the very thing which we are requesting you to do. We have asked Government to express to the Secretary of State in fact that the Local Civil Service should be abolished. That

is what it really means when one comes down to tin-tacks. The reason why I continue to oppose the amendment is that it is a loophole to say "Well, we have examined it and nothing doing," whereas we as elected members are determined it shall be done. That is the difference. But, sir, I should be ungrateful indeed if I did not thank you most sincerely for your remarks covering the amendment and the reason for it. I firmly believe what you say, sir, I firmly believe what the hon. Chief Secretary says, but I cannot undertake to believe your successors, and that is why one has to be so specific in order to try and get things done. If I were the Secretary of State—and I often wonder if he does ever read any of our debates—I should rather feel that the extra words which have been added to the original motion were rather an indictment of my sincerity, because if I am asked this question and could not agree to it in the form presented, I should not merely negative it but be constructive. I should certainly say "Well, yes, I think it should be done, but it cannot be done that way; it should be done in this way, and if you will form your plans on this understanding I can accept it." I think there is far less danger of delay in doing it that way, than in the way in which Government have suggested. I know it is late, but I do not want to rush the few words I have to say, and I hope hon. members will bear with me as patiently as usual. I was really disturbed when the hon. Financial Secretary made the amazing statement that because the unofficial members asked that no more pensionable posts should be created, therefore upon their heads lay the blood of these people who have been crucified on the altar of sacrifice. I do not think that is sincere. I believe he said that with both tongues in both cheeks. The thing is ludicrous; I do not think any sane elected member—and I take it most of them are sane—would ever have considered such a thing. I listened with rapt attention to the eloquence of the hon. Chief Secretary—and there is no greater admirer than I am of his wonderful sense of detail and his grasp of detail—but I do feel that with Government training one is apt to pick out extreme examples which only affect one or two cases and destroy "equity" to the majority. I am not suggesting he has done that in this case, but I will suggest

[Mr. Vincent] that it might be found possible if one examined the individual cases. I understood from him that the newly constituted board are going to be asked if they would examine these cases. If that is the case I am very very glad indeed because, despite the difficulties, I believe the board can do it and it can be done and that the men will be satisfied.

There is one other point I entirely disagree with in the Chief Secretary's speech. I do not think Government should turn up back reports and regard them as the background of logic, reason or equity in the light of changed circumstances. If the hon. Attorney General had risen and referred me to the law, as they sometimes do, of 800 years ago, then I might have accepted it, but the trouble with the Government mentality in these things is that they get hold of old reports and stick to them and look upon them as their bible, but there is no warrant for it, no warrant in equity or truth, and I notice that in his reply to me, in regard to the X and Y people, he forgot to mention that it was not only my opinion but the opinion of three other members of the Committee, and they felt with me, after further evidence had been produced, that the report was not a closed book; they were not in a position to perpetuate an injustice, and they decided to take the opportunity of putting it right.

The hon. Chief Secretary also referred to an injustice, with which I hope he was not associated, in another colony where salaries were reduced and a great deal of distress was caused: Two wrongs do not make a right.

MR. RENNIE: On a point of explanation, I did not argue that they did.

MR. VINCENT: I am trying to emphasize that they do not. The hon. Commissioner of Lands and Settlement has made clear the point very effectively regarding the past requests of the Civil Servants Association. In his closing words he warned us of the coming depression. That is a shadow which hangs over conference, I assure you, as well as over governmental circles, but because of it I cannot assume that we should continue any injustice to any man or men in the employ of Government if we can possibly put it right, and that is the keynote

of the attempt to get this put right. I am glad to interpret the amendment of Government to this motion as meaning that you want to do it if you can and want to do it as soon as you can. The hon. Chief Secretary twitted me because I did not offer a solution. I can assure him that I believe I could even convince him in half an hour that the solution is there, but I know that would take many hours of Council. I thank you for your indulgence, sir, in the debate on the original motion, and although I am sorry Government lacked the tact or probably the courage to accept the original motion, I am very grateful for what they have been willing to accept.

The question was put and carried.

ADJOURNMENT

Council adjourned till 10 a.m. on Tuesday, 6th June, 1944.

Tuesday, 6th June, 1944

Council assembled in the Memorial Hall, Nairobi, at 10 a.m. on Tuesday, 6th June, 1944. His Excellency, the Governor (Sir Henry Moore, G.C.M.G.) presiding.

His Excellency opened the Council with prayer.

MINUTES

The minutes of the meeting of 2nd June, 1944, were confirmed.

PAPERS LAID

MR. FOSTER SUTTON laid on the table:—

Select Committee Report on the Crown Lands (Amendment) Bill.

ORAL ANSWERS TO QUESTIONS

NO. 41—CROWN RIGHT OF APPEAL

MR. VINCENT:

In view of the setting aside by the Supreme Court of Kenya of convictions by the subordinate courts in relation to criminal offences committed against the Defence (Control of Prices) Regulations and the recent decision of the Court of Appeal for Eastern Africa by a majority that the Crown had no right of appeal against a decision of the Supreme Court of Kenya in its appellate jurisdiction, will the Government give this Council an assurance that measures will be taken immediately to pass such legislation as may be necessary or expedient in order to confer on the Crown such right of appeal in criminal cases?

MR. FOSTER SUTTON: This Government proposes to consult the Governments of the other East African territories over which the East African Court of Appeal has jurisdiction with a view to the enactment of legislation to confer on the Crown a right of appeal to that Court in such cases.

NO. 43—INDIAN EDUCATION AT ELDORET

MR. PATEL:

Is the Government aware that about 15 Indian students at Eldoret awaited the commencement of a class higher than the present standard available in the Eldoret Government Indian School, and after waiting for the first

four months of the current year they dispersed, disappointed at the failure of the Government to take the necessary steps to open that class? Will the Government please state why the proposed class was not commenced.

THE ACTING DIRECTOR OF EDUCATION (MR. DONOVAN): The proposed new class at the Government Indian School, Eldoret, could not be opened until certain additional accommodation had been erected. This accommodation was not completed until towards the end of the first term this year. The Department selected and offered an appointment to a suitable teacher who was expected to take up duty at the school at the beginning of May. Unfortunately at the last moment this teacher accepted an appointment in another territory. Every endeavour has been made to find a suitable teacher, and it is now hoped to post one to the school in the near future.

NO. 44—ADMISSION OF MALE PERSONS REGULATIONS, 1944

MR. PATEL:

Will the Government please state in clear terms if the food and housing shortage was the only reason for the promulgation of the Defence (Admission of Male Persons) Regulations, 1944? If the reply is in the affirmative, will the Government please state in unambiguous terms that these Regulations will be repealed as soon as the food and housing position improves?

MR. RENNIE: The attention of the hon. member is invited to the terms of the communiqué on the subject which was published in February last and also to the statement made by the hon. the Attorney General in the debate on this subject in this Council on the 18th of April. The reply is quite unambiguous both as to the temporary nature of these Regulations and the reasons for their enactment and the Government has nothing to add to them.

NO. 45—NATIVE CIVIL HOSPITAL, MOMBASA

MR. PATEL:

(a) Did the Director of Medical Services receive a complaint in writing dated 13th May, 1944, from the Sri Guru Singh Sabha, Mombasa, about the negligence of the staff of the

[Mr. Cooke] ture and that penny wise and pound foolish has hitherto been one of the most crippling and sinister influences at work in this Colony. Such a man would deserve, and no doubt expect, high pay."

I am sorry my friend—whom I am criticizing by implication—I see him in the body of the hall—is not opposite me to-day, because it might lead to a certain amount of liveliness (laughter), but no doubt he will have his opportunity later on. My friend may—and it is not for me to say—possess all the attributes required by the committee, but it would be to me no less than a miracle that anyone, as it were, born and bred in the soul-destroying atmosphere of the Secretariat, should emerge from those gloomy portals with head "bloody but unbowed." I personally have the highest opinion of the hon. gentleman's mathematical abilities; I do not think I know anyone I would prefer to go to if I wanted to make certain that 2 and 2 make 4 and that 3 times 3 are 3 (laughter)—I mean 9—that shows how necessary it is to have people with mathematical abilities for people like myself! But in these times we are not ruled by the Higher Mathematicians, and what we require is somebody—and I do not say the hon. gentleman does not possess many qualities—who has studied those big social questions which will confront us when the war ends. And I would say, in parenthesis, something about what a lot of people in this country feel, and that is when the Government wants an officer for an important post they invariably go to the Secretariat; and it does appear to some people as though Your Excellency regards the Secretariat as the sole repository of all the brains and all the ability in this country! That, for instance, my hon. friend the Manager of the Railway has a lot of nitwits under him and that departments are composed of a number of village idiots. That may be the opinion of the Secretariat, but it is not the opinion of the more competent people in the general public. (Laughter.)

I am going to ask the hon. Chief Secretary two plain questions, and I think they are susceptible of plain answers. I want my hon. friend to tell me whether the Economic Secretary is really the Director of Post-war Rehabili-

tation as visualized by us and, if the answer is in the negative, I want the hon. member to tell me when that post is filled, because it is a post the filling of which should be speedily implemented. I have already drawn attention to that fact—and if I may return again to South Africa, I would say that they have appointed not only a Director of Demobilization but they have given him direct access to the Cabinet, in India, they have gone outside the Secretariat, they have gone outside the Government and have appointed a very prominent businessman, and he is to have access to the Viceroy's executive council; so that we may say that this committee which sat under the able chairmanship, the painstaking chairmanship of the hon. Commissioner of Lands, really anticipated similar action because we recommended that there should be an early choice, that it should be a choice which should come from outside the usual channels and that whoever was chosen should have direct access to the head of the Government. So it looks as if great minds think alike on these subjects!

Second only in importance is the Director of Training recommended in section 52 of the main report. We asked that this gentleman should be appointed without any delay. In the communiqué issued by Your Excellency's Government, called the Progress Report on Demobilization, issued last March, it was announced that the appointment would in all likelihood be made before the end of March. Two months have gone by, and this very important matter is still under consideration by Government. I should like my hon. friend to tell me when this appointment is likely to be made, and if and when it is made whether Government will go outside the usual channels for the appointment.

The third of the more important personnel was that of executive officer. I should like to make this explanation, that when I mentioned a few months ago the appointment of a Government officer for demobilization planning, the hon. Member for Rift Valley, probably having indulged in deep slumber while I was speaking (for which he may no doubt be excused), later on rushed to repel an attack which I had neither made nor even contemplated making. I should like to say here and now that I think it was a very suitable appoint-

[Mr. Cooke] ment that was made, that of Mr. Hyde-Clarke, and I have already told Mr. Hyde-Clarke so myself. We strongly recommended that whoever was appointed should have no other work to perform, but Mr. Hyde-Clarke was given various multifarious duties, and to add insult to injury, he was actually taken away from that work a few days ago. I must say I was a little bit surprised—he is not here to-day—that the hon. Member for Nairobi North should have acquiesced and should continue to acquiesce in such a state of affairs, because we regard the appointment of that officer, especially in view of the pamphlet that was issued, as a promise, direct, explicit and implied, on Government's part that he would be kept for that work and that work exclusively. It is no argument to me to say that his place has been taken by somebody equally competent—that might be true; there might be somebody even more competent for all I know. But the fact of the matter is that unless we insist here and now, that someone may also be put to some other work in two or three weeks' time, I hope the hon. Chief Native Commissioner will, as the representative of the Africans, put his foot down and say, "Look here, I am representing those Africans who have played such a part in this war, and I am going to insist that they have somebody at the head of affairs who will look after their interests", and not be constantly chopping and changing as we have been doing.

If I may return to the report, I will deal now with the more material recommendations made. The most important of these, in my view, is that recommended on page 17 of the African section and elsewhere, concerning the establishment of a Civil Labour Corps. I have wider views than my other colleagues about the extent and size of this corps. The hon. Director of Agriculture, if I may say so, put up a very fine scheme about the employment of these men under the supervision of Europeans, but as I have said in my Minority Note before, I do not consider he has gone nearly far enough. In a country like this we can only restore and retain the value of our land by the expenditure of large sums of money. A year or more ago, two years ago, my hon. friend caused

some hilarity in this Council—my hon. friend the Member for Mombasa—when he mentioned that it would be a good thing if we had one hundred million pounds (Mr. Nicol: "Ten million pounds")—I thought "he aimed a little higher than that. I think we will want a great deal more than ten million pounds for these great post-war reconstruction-plans, and my hon. friend, if I may say so, was a bit in advance of most of us at that particular time. I hope that much money will be spent on hydro-electric schemes. We have got to the stage now when our forests are a wasting asset, with all due deference to the Conservator of Forests, and we must look around for some other kind of motive power for the secondary industries which we hope will spring up. Not the least valuable part I think of the Committee's work was the questionnaire which was circulated. I am not going into the answers given to that questionnaire, because it would take much too long, but I will just mention two facts, and that is that the Kenya Europeans sent in some very interesting returns (and it was disclosed that something like 220 wanted to go back to the land or to go to the land—this is out of the thousand who sent in returns—and something like 220 wished to have vocational training. I will not deal with the question of land now, because that is the job of the hon. Member for Nairobi North, who has just come in, and it is rather at the moment under discussion, but I should like to know what is being done about vocational training in modern schools, technical colleges and such like, because I am one of those who feel strongly that if white civilization is to remain in this country it is absolutely essential that we should provide the best possible education for the white children of Kenya, and especially European youths, and we must do this if we are to avoid the danger of a "poor-white" community. I think it would not be unfair to say that, for every European who is educated, we educate several dozen natives. What I mean is that the European's influence, if he is properly educated, will have an effect on many Africans around him. I am not saying far enough, but I think it must be plain to us that the white settlers have laid claim to land in the Highlands, rightly

[Mr. Cooke] or wrongly, and when asked in the questionnaire whether they wished to indulge in farming after the war a negligible number said they did, so that it looks as if there is no great desire, in Kenya at least, by Indians to indulge in agriculture. On the other hand, I hope something will be done about an Indian agricultural training college in this country or Tanganyika to avoid the very real problem of the over-population of towns by Indians in this country.

If I may turn to the African. We felt so strongly about this that, perhaps a little bit outside our terms of reference, we dealt with representation in this Council, because we rightly felt that any post-war programme in which the African did not think he was getting an opportunity of getting his views across would not be the success it should be. I personally feel that the African should be permitted to elect or elect his representatives by means of Provincial Councils—I put up that proposal, as no doubt did many others, to Lord Hailey three or four years ago—and unless the African has a say in the selection of his own members you can take it from me that he will not have the same confidence in them. It is proposed by some people, and Africans themselves, that the number should be five, three Africans and two Europeans, and it will be remembered that the Hilton Young Committee recommended five representatives. That would give a majority on the unofficial side, which would be balanced by the extreme unlikelihood of all parties agreeing on a question. One matter, if I may say so, on which Government has taken action quickly is that of co-operation with the African, and it is a very great advance that Mr. Campbell has come to this country to give effect to that matter. There is also the question of trade unions, to which I think most people, including some prominent business people in this country, are now reconciled, and I hope that an assurance may be given that trade unionism is going to be put on the correct lines before it goes wrong. There are many other points that I might have brought up, but I am not going to extend the patience of my colleagues. There are tremendous tasks which lie ahead, and in the solution of those tasks

we shall require the help of all races. Happily it is not a racial nor a party one. We owe it to the thousands of Kenya people who have volunteered for the war—we cannot estimate what they have done in terms of money—and we owe it also, if I may say so, to the dead, and we must avoid what happened after the last war when we put up stone and bronze memorials to the dead while thousands of living were begging in the streets. If I may quote from General Smuts, it is a very short quotation. He said the other day: "After this war, the monument to the dead must take the form of a better social order and society, with higher standards of living, with more social justice and security, and with better opportunities of life", and "Nothing in these years", he went on to say, "has been more remarkable than the growing resolve among the peoples that this should be the first right of every citizen". With that quotation from this great soldier and citizen, I will conclude. So let us to this great task which will require all our energies and all our enthusiasms. (Applause.)

MRS. WATKINS: Your Excellency, I beg formally to second and reserve the right to speak later on.

MR. VINCENT: Your Excellency, the first point that I want to deal with is that I consider it was a great pity that copies of this Secretariat Circular Letter No. 44 were not issued for information to the public before now. I attach, and I am certain the country attaches, a great deal of importance to correct newspaper articles and leaders on the affairs of this country which are vital to us all, and I was astounded the other day to read the leading article in one of the best journals to the effect, or it was insinuated, that the Chief Secretary had done nothing in the matter of post-war development. I am certain that the door over which the red light burns, which is alleged to be barred and bolted against allcomers on occasion, is not bolted and barred when the Press representatives call, and I also understood that papers which had been laid in this Council were common property and that the Press could take advantage of them. I think we must have better co-operation with the Press. I believe we must let them have the truth as soon as we can possibly do so, but, of course, if they

[Mr. Vincent] will not use it, then we shall have to advance in spite of them instead of because of them. I cannot believe that unwise statements or mistakes are made in leading articles, for instance, just to find out if anybody ever reads them, so I therefore hope that Government will give us an assurance that our Northcliffes and Bottomleys (if any) will be acquainted with facts which should be known to the public as soon as possible. Personally, I was exceedingly pleased to see paragraph 12 in this circular letter, because in that is embodied the spirit of the whole of the post-war development and demobilization plans. It states there that Government are wishful that the public should be taken into their confidence, although in this case it only refers to the initial stages, and I do hope that the hon. Chief Secretary will be able to assure us, when replying to some of these questions, that it is the considered policy of Government themselves to continue this policy while these plans are being carried into effect, because it is of paramount importance that not only district councils should be consulted but also the sub-committees of the Production Board who are already doing a very fine job of work, and which I am certain would not begrudge a portion of their time which means so much to the country ultimately.

There is another important point regarding the schemes which have been put forward, and I must pay a sincere tribute to the work of the hon. Chief Secretary in this regard. Schemes that are being put forward and have been put forward on principle, to justify the loans under the various headings affected, I want to feel that they are not hide-bound, I want to feel that these schemes are elastic, because the country generally has not been consulted as to detail, and it may be found that when these schemes are being put into practice or when they are known generally and have been studied—and I submit that very naturally to-day the average farmer and settler has not much time to study these matters—until his opinion is directly asked—I believe we shall find in certain respects that these plans will have to be remodelled, but the principle will not be destroyed. I want to know whether Government is of opinion that

it is in keeping with the spirit of the loans under the Colonial Development and Welfare Fund. The organization which is to come is of very great importance. I think the circular has brought out how important this phase of the development of the country is. I share the view of the hon. member that we have got to make a move away from the normal course of procedure. I believe that if we hog-tie the new Economic Secretary either by making the position impossible for him to do his job intelligently by too much interference or by tying him with fatuous committees all over the country, we shall fail to allow him to do his job in the right spirit. There is a fine dividing line in this matter. I believe that the man who has to do the job, and Government have signified that they believe the present holder of the office is well qualified to do that job, should have as free a hand as possible, but I do feel that he should rightly call upon the residents of the various areas, especially of the country areas, for suggestions, not only at the start but while these plans are being carried out. Otherwise, if things do not go right, you will have inevitable waste and very justifiable criticism. I know it is hard for Government to depart from this pyramiding of power as it were, and I realize that various appointments under various schemes will probably go before Executive Council, or the Standing Finance Committee, and it is no wish of the elected members, I am certain, to encourage the employment of a great many unnecessary people, but it is absolutely essential that enough men be employed, because we want this development carried out efficiently and speedily. I have a certain amount of sympathy with anybody who is asked to undertake such a job as this. I believe that this man will be more "on the spot" than practically any other man has ever been, but I feel that the whole community is willing and most anxious to help him and Government, to get every pennyworth of value out of these more or less trust funds with which this country has been entrusted.

I do hope that if the hon. Chief Secretary is unable to reply specifically to any questions I have put because they come to him from the blue, he will

[Mr. Vincent] to, and that later on when the opportunity is there, and after he has consulted with those whom he wishes to consult, he will be able to issue a straight statement so that the whole country knows exactly what the position is.

Mr. BISHOP: Your Excellency, I rise to support this motion. I realize fully that the motion concerns itself with the post-war employment reports, but it is inevitable that in a discussion of these reports our minds should be directed towards that most excellent paper which was recently laid on the table—Secretariat Circular Letter No. 44 of 29th April on the preparation of development plans. I should like to join with the previous speaker, the hon. Member for Nairobi South, in paying very high praise to the work of the hon. Chief Secretary, which is manifest in every page of that circular. It is one of the finest papers that which Government has treated the Council and the Colony for some long time past. I would crave the indulgence of the Council in making two very brief quotations from it. The first is from page 2 of the circular itself, where the whole paper is linked with the post-war employment committee's reports. "The time has come", it says, "when urgent attention must be given to post-war development planning and, as indicated above, as part of that planning, to the reabsorption of demobilized Service personnel". The second quotation from page 3 envisages the method for carrying out that project: "What is now required is a comprehensive post-war plan for each province covering, wherever necessary, the following subjects: Land (agriculture and soil conservation), land tenure, water, forests, roads, education, medical facilities, public works extraordinary (including housing), veterinary services, posts and telegraphs services, prisons, police, mining, marketing, local industries (secondary and rural), the administration of justice, local government, native settlement, social welfare, tourist traffic, etc.". The circular then goes on to refer to the importance of district teams. That is something which, to an outside observer of the work of the Administration, has so long been lacking in the administration of this country, and I do trust that Your Excellency's Government will see

to it that the formation of these district teams is encouraged in order to avoid independent pursuit of an unco-ordinated policy, particularly in relation to post-war settlement and employment.

Before leaving this excellent document, I beg to make a small criticism of it. The first paragraph on page 1 of the circular refers to the fact that His Majesty's Government intend to devote some "£5,000,000 per annum to colonial development during the ten years' period of the Act", and then it is recorded that it is their intention to devote half a million pounds a year to research. I may have been mistaken in my reading of the rest of this document, but whereas we are stated to be in a position to accept the sum of quarter of a million a year under the first head for development and welfare, there would not appear to be contained in this document any reference to any suggestions on our part of a scheme under the second head, namely research. I will later point out that essential to adequate research is the problems of post-war employment and many other adjustments of post-war concerns. In Northern Rhodesia as far back as 1938 (it will be noted that was before this present world conflict started) there was founded the Rhodes-Livingstone Institute, which is a model of the type of research needed as far as Africa as a whole is concerned, and an institute which is essential if adequate attention is to be given to many problems that will concern us in implementing the post-war employment committee's reports. It has conducted research into African life at Broken Hill, into marriage and family organization of native people, produced two classic papers which should be in the hands of all administrative officers of this country on economics and decentralization in Northern Rhodesia, and something of that kind is necessary here if we are adequately to put into effect the many proposals of the committee whose report we are this morning debating. I am aware of the fact that Mr. Lambert, of the Administration, is conducting a research at the present time into the land tenure of the Central Province, and that Mr. Phillips, of the Legal Department, is conducting a most painstaking piece of research into native tribunals systems throughout the country.

[Mr. Beecher] I trust that their reports will be published and made widely available. But, like Oliver Twist, we ask for more, and I trust the matter will receive the attention of Government, because such things as the "Mass Education" report, which has recently become available in this country, cannot be applied *in vacuo* any more than can the post-war employment committee's report. These can only be carried into operation on a basis of sound knowledge which can only come our way as a result of painstaking research, and only with painstaking research shall we be in a position to know whether these things, arising out of this report, are practicable and possible.

I come back to the point that the real purpose of this motion is to get something into operation now. Those of us who have watched expectantly since the publication of the post-war employment committee's report have become increasingly aware of the reprehensibility of which it is easy to give a large number of illustrations, but two will suffice, one a particular instance and another a more general one. The hon. mover has already made some reference to the fact that a paper, I gather the only one by way of a progress report to be published, by that section of the Secretariat charged with the task of keeping a watching eye on demobilization—that report did contain a reference to the appointment of a Director of Training. The post was widely advertised in the Press, in the Official Gazette, and elsewhere, and I gather that a very large number of applications for that post were made. The progress report on demobilization makes reference to a selection panel which was to be charged with the nomination of a suggested person or persons for appointment to that post of Director of Training. It would interest us to know whether that selection panel has met, whether it has interviewed any candidates, and whether it is likely that the appointment will be made in the immediate future. It is most important, as the hon. mover has already indicated, that such a person should be appointed immediately, that the subordinate staff should be assembled around him, and should address themselves to the problem in order that something may be done

when the spate of demobilization is upon us. The trickle has already started, as we have been reminded so many times in this Council, and we do not know when the spate will be upon us; we hope very soon.

In more general terms, there has been tardiness to make known to the general public, both civil and military, what is the nature of Government's intentions with regard to the men and women when they leave the Forces. On the opening page of this circular letter reference is made to the fact that these people want to know what is happening. The circular says: "Many of them will, therefore, want to know what the Government is proposing to do in order to bring about an improvement in the standard of living in their own homes", and so on. My contacts with military personnel as a civilian are necessarily limited, but from that contact both with African and European personnel I gather that there is almost complete ignorance on the part of the men and women serving us in the Forces of what Government's intentions are in respect of them when they leave the services. Week after week, in the excellent newsletters which come to us from Pretoria, we read, as the hon. mover has already mentioned, of the very careful demobilization plans which the Government of the Union of South Africa are making for their men and women. I submit that the Government should place itself in a position where it can give both the civilian and more particularly military members of this population a clear and exact knowledge of what their demobilization plans are. I submit we owe it to the men and women of all races serving us and that this is the time to do so, and I trust that, arising out of this motion, such action will be taken.

His Excellency: Hon. members, before we resume the debate I should like to announce that I have received official information of news which perhaps some of you may have heard already, that, under the supreme command of General Eisenhower, Allied naval forces, supported by a strong air force, began the landing of the Allied armies in Northern France this morning. (Applause.)

Mr. PATEL: Your Excellency, I rise to support the motion before the

[Mr. Patel]
Council. I personally feel that, with the exception of one recommendation in regard to immigration, that this is one of the very few documents one comes across in which questions affecting all races are dealt with at one time and fairly. I personally support the hon. Member for the Coast in pressing that these recommendations should be put into effect as early as possible, and that all possible steps should be taken to see that these recommendations are implemented.

Speaking from the point of view of the Indian community, I should like to offer a few remarks. The hon. Member for the Coast pointed out the lack of interest shown by Indians for agricultural training. It is true that the answers to the questionnaire indicated that there were only 10 persons who were prepared to take up agricultural training, but at the same time it should be realized that the past policy of Government is largely responsible for this lack of interest on the part of Indian youths. I have been a member of the Indian Land Settlement Board for some time, and I must frankly say that I am greatly disappointed and disillusioned as far as the seriousness of Government is concerned in putting Indians on the land. It appears to me that that board has been appointed only as eyewash, just to satisfy Indian sentiment; that the board has been appointed to satisfy their desires, but nothing practical has been done, and from my experience so far it appears to me that nothing practical will be done to help Indian youths to go on to the land. Excuses have been put forward that there is no suitable land, that where there is land there is no water, and that Indians have not shown any inclination for agriculture. If Government is serious in solving the problem of Indian youths after the war, they will have to take the question seriously so that the young men after the war do not crowd into the towns. If Government is serious I am quite certain that I could find a few hundreds of Indian men who will come forward for agricultural training and in order to take up farming seriously. May I give one instance only of what happened at Mombasa. The principal of the AllIndia Vixram High School asked the senior boys whether

any of them were prepared to go to Tanganyika for agricultural training, and no boy raised his hand, but when he informed them that after the training they would be given land by Government all the boys raised their hands in favour of taking the training. The general impression in the minds of Indians is that even after taking agricultural training they will not be given any land, they will not be given any encouragement, they will not be given the help which other communities receive in this country, and that is why they have hesitated so far in plunging into that type of occupation. I submit that instead of giving excuses every time of lack of interest on the part of Indians, of lack of suitable land and lack of water, etc., something must be done, otherwise after the war the problem of finding employment for the young men from Indian schools will be very serious.

While on that question I should like to refer to page 14 of the report, where the committee recommends that "the Government of Kenya should approach the Government of Tanganyika to arrange for the establishment of an agricultural training school for Indians in Tanganyika and, if need be, should contribute towards the cost of such school". I should like to ask Government if any steps have been taken to approach the Government of Tanganyika and other East African Governments with a view to establishing such a school and if an approach has been made I should like to know the result thereof. The other thing I should like to mention is the recommendation on page 18, where it states that "arrangements should be made with the Government of the Union of South Africa in the case of Europeans, and the Government of India in the case of Indians, for the use of such facilities as may be provided... etc. I should like to know if this Government has approached the Government of India or, if Government has not approached it so far, whether they propose to do so. There is another recommendation on page 19, under paragraph J, which says: "As regards Asia, the Director of Man Power has made arrangements with the Indian Man Power Committee for the latter to receive and advise Asian personnel dis-

[Mr. Patel]
charged from His Majesty's Forces and requiring employment". I think there should be some definite organization created whereby officers-in-charge should at least have the full co-operation of the Indian Man Power Committee for the purpose of carrying out its work in regard to Asian personnel discharged from His Majesty's Forces. With these few remarks I support the motion before Council and I hope that the recommendations of this committee will be carried out in regard to all races. There is one point I should like to make before I sit down, and that is that I strongly support the hon. Member for the Coast in regard to direct African representation on this Council.

MRS. WATKINS: Your Excellency, there are just two points I want to make, for I am in full agreement with the hon. Member for the Coast, whose motion I seconded. One of those points is that in regard to the development of agriculture—that the very excellent report by one of our experts, Mr. Colin Maher, should be taken into consideration, more particularly for native agriculture. I do not mean "active consideration," I mean something rather more vital for a very vital report. I think the report should not be overlooked. We employ an expert, we have an expert, very often we are apt to sidetrack him and think we know more about the matter ourselves.

The second point is one on which I must speak with deep feeling, and I hope that the Council and Your Excellency will bear with me, and the operation of the Press and the co-operation of the Press in any development scheme, which has already been mentioned in this Council to-day. I speak with great feeling of that magnificent tool that was forged when *Baraza* was started four years ago. It seems that the late Editor is at present irreplaceable. We are fortunate indeed in having a highly educated and highly trained African, but it is not enough. You have got a very powerful weapon. It is like a guillotine, and it is in the hands of a native now with only a sort of veto ever him on certain aspects. You have to have a supervising editor who is *au fait* with the trend at home, who is *au fait*

with the trend in the United States of America, and who has a wide knowledge of affairs in other countries, and who has a very wide reading of modern literature and all the modern papers, and that no African can at present attain. So you are placing the handle of that guillotine—and it may well be a guillotine—in the hands of a man who has not sufficient of those qualities, and cannot have at present, though I am quite sure as the years go by he will prove himself more and more capable, as he is very painstaking. I know there are difficulties in finding bodies these days, but I do suggest to Government that a body should be made available, even if necessary with Government help, for so important a function. I suggest we want more attention given to *Baraza* and not less. Wherever you go in the reserves you will find copies tucked away, may be out of date, but read and report. If you want to go into the development of this country that is an important factor to-day, at present more important than the wireless and other leaflets. It is extremely important also to-day to know the tendency of native public opinion; you can only get that if you have a flow of information such as a supervising editor who is prepared to wade through about 800 letters, and probably more in future, written in Swahili and other languages, every month, otherwise you do not know the trend of native opinion. Rather than less attention for *Baraza* we need more; we need a Reader's Digest of modern articles from other papers and other countries, which should also be run by the same editor and be organized by Your Excellency and by the Council as an important part of native development, and I regret more deeply than I can say that nothing has been done yet to fill the vacancy that was created last December.

DR. JOHNSTONE: Your Excellency, I think hon. members might be interested to hear of some of the things that the Medical Department is doing in connection with certain of the recommendations of the Post-war Employment Committee. One of the things which the Department is more directly concerned in the treatment and rehabilitation, where possible, of disabled soldiers. As members are aware, a civil rehabilitation

[Dr. Johnstone] centre was opened at the Native Hospital, Nairobi, some 18 months ago, and since it was opened nearly 300 cases have passed through it. The centre is now reasonably well equipped with electrical and other apparatus, and provides accommodation for 40 cases. It has a fairly well equipped gymnasium, treatment rooms, and workshops, and we have got the nucleus of a factory for making artificial limbs. It is still in the experimental stage, but we are endeavouring to design a useful limb of a simple nature for the African, and up to date we have got quite a long way towards a solution of that problem. We do not propose to go in for vocational training in this centre, because I think vocational training must definitely be divorced from treatment; you must get away from the hospital atmosphere.

We do, however, mean to go in for occupational therapy; in other words to keep people occupied while under treatment. For this purpose we have got a number of workshops. We have not yet got anything like the equipment, tools, materials, etc., that we need, but we hope to overcome these difficulties. Ultimately, we hope to increase the accommodation at this centre to 120 beds. The centre at the moment caters not only for Kenya Africans, but Africans from neighbouring territories as well. Approximately 300 Africans have passed through the centre, and they have all been asked whether after treatment they would like to undergo some vocational training. It is an interesting point to mention that out of I think the first 269 who were asked this question only five showed any desire to go in for vocational training afterwards. The point I wish to make is that we must remember that the provision of vocational training in a country such as Kenya is somewhat different from a European country; in other words, it appears that the present desire of the African is to get back on to the land, and vocational training will not necessarily be required on anything like the scale that it may be required elsewhere.

We are also planning additional accommodation at most of the hospitals in the native reserves, because we appreciate that quite a number of disabled Africans will require further treatment

after demobilization, and we think it would be desirable to provide accommodation near their homes where they will be in touch with their relatives and friends. We have in mind a building programme in all probability of something like 600 beds at different hospitals. This additional accommodation is primarily for the disabled African and will be given immediate priority. Of course all the hospitals are at present overcrowded and we shall have to extend them very considerably in connexion with post-war development, quite apart from the disabled soldier problem. In addition, we are providing extra accommodation, which is nearing completion, at Mithari Mental Hospital for those mentally disabled in the war. We have not forgotten the tuberculous patient and lepers and others for whom we shall make provision as well. Dealing with post-war planning, we are giving the matter very careful consideration at the moment, and we are endeavouring to plan hospital and medical facilities for all races throughout the Colony. It is, of course, a fairly big task, and we have got to give it careful thought, but I can assure hon. members that all local authorities and interested individuals will be consulted in regard to the matter. As regards the demobilized Africans who may be looking for employment, we shall be able to find employment for large numbers who have previously been employed in the army medical services in our expanded medical services after the war, and in addition we shall probably be able to find employment for Europeans and other races as well, though not to the same extent. Those are some of the plans we are formulating at the moment.

MR. DONOVAN: Your Excellency, I rise in intervene in the debate merely to refer to one point raised by the hon. Member for the Coast. He emphasizes the need for development of the modern secondary school for European boys and girls. If the hon. member will refer to the pamphlet on the "Education of women and girls" which was tabled last session, he will find details there of proposals that are in process of preparation at the moment. Detailed plans for the provision of modern secondary schools both for boys and girls are in preparation, but have not yet reached the stage

[Mr. Donovan] where information concerning them could be included in the circular regarding development. The hon. member also referred to the necessity of vocational training and technical schools. The provision of technical schools for European boys is a much more debatable point than the provision of modern secondary schools, and I think it can readily be appreciated that their provision depends very largely on the development of industries in the Colony. At the same time, I can assure the hon. member that that question will be discussed with the Director of Training as soon as the latter is appointed.

MR. AMIN: Your Excellency, there are one or two points of general application in the motion before Council that I would like to touch on. I wish to express a very great feeling of relief that in the British Empire this new milestone described in the Secretariat Circular Letter No. 44, on page 1, paragraph 1, has been laid. It states: "The enactment of the Colonial Development and Welfare Act in 1940 was a noteworthy milestone in colonial history, displaying as it did His Majesty's Government's intention of devoting £5,000,000 per annum to development during the ten years' period of the Act." I feel that in voting for that Act the British democracy approved of the idea that the trusteeship of Britain for the backward peoples within the Empire must be carried out in practice as well as in theory, and that therefore it was quite right that whatever finances were available at the disposal of Britain should be made available to a certain extent for the development of and assistance to the backward peoples of the Empire. In regard to the various schemes which are discussed in this circular, I have this point to make, and I am quite sure all hon. members in the Council will agree with me when I say that, in making proposals for that sort of assistance, the Council desires that the assistance should be made available to the people who need the assistance most, and which is probably this £250,000 per year, which is probably the maximum amount Kenya can get from the amount; a major portion should be diverted to the uses of such people. I do not suggest that the schemes which are at the moment under

consideration do not intend that that should be so, but I express a fear, and my fear is based on past experience in this Colony, that the money might be frittered away in schemes which, though on the face of them good, will be for the undue and unhealthy development of certain limbs of the community and will not be for the general good of the whole body social. My feeling in this regard is a general apprehension, I have made no accusation; I merely express a fear which I am quite sure people who read these funds available would express if they had a chance to do so. It is therefore as trustees of the fund, as one hon. member pointed out, that we should consider these schemes, and in carrying out the schemes the central idea of assistance to people who need assistance should never be lost sight of.

There is one other point, and that is also of general application. For the first time I think in this Council we are debating the point that the State has a duty to provide employment to the people over which the State exercises jurisdiction. This theory is now accepted throughout the civilized countries of the world at least. When this duty to provide employment is admitted, it is then that one has to consider what sort of employment will be made available by the schemes that are mentioned in the circular. In my submission, the schemes should include an all-round scope of employment for all sections of the community and not one-sided employment of one particular section of the community in particular fields only. In this the order of assistance should be the African, the Indian and the European. The European I put last, because I feel he has grown to a very high state of improvement indeed, and therefore requires less help than the other two races, but the growth of the whole community should be kept in mind in carrying out the schemes. There should be in the educational schemes prepared for the Africans the prospect and the aim that African education will be of such a nature that, if not in a decade in at least two or three decades, Africans will be able to fill posts of importance in the Colony without feeling they are not able to do full justice to them. The schemes must be based on the necessity of an

[Mr. Amin] all-round growth of the African, so that at a given stage the so-called superior races cease to have the opportunity of seeing that Africans are always kept in the background, and prevented from going forward to full development. There is the question of Indian employment after the war, and the hon. member Mr. Patel has indirectly touched on it. I will only add one point, and it is based on a recent report in the Press of what the Rt. Hon. the Secretary of State for the Colonies mentioned in reply to a question in the House of Commons. I gathered from the reply that the Secretary of State was under the impression that the Indians living in this Colony are not of a type suitable for agricultural undertakings, even that they were not useful in any schemes for the production of even additional food supplies during the war period. My reply is this, and I hope that hon. members on the Government benches will take this into view seriously. The Indian people in this Colony who are at present engaged in trade or commerce or similar occupations mostly come from the non-commercial class. Many of them have for generations been employed and wholly dependent on agriculture in India. I refer to the Sikhs, the Muslims from Punjab, the Patels, and even shopkeepers in River Road and the Bazaar of Nairobi: they are agriculturists in their own country, and immediately after the war the youths of those communities will have to depend more on agriculture. As the hon. member Mr. Patel pointed out, if land is made available and the ordinary assistance given others made available, the present impression that there are no Indians in Kenya capable of taking to agriculture will be removed and a great enthusiasm by the youths of the Indian community will be shown for agriculture.

In this connexion there is one difficulty that I want to point out. A few months back statements were made that there was no readiness on the part of the Indian community to make use of opportunities that Government was willing to give in land matters. I got in touch with people who are leaders of these Indian agricultural communities in the Colony, and immediately several scores of people approached me and asked me what land was available for

the settlement of Indian agriculturists. I approached informally, and then formally, the hon. Commissioner for Lands and Settlement, and asked him for preliminary information as to the nature of the land available, the acreage, the suitability of the land for crops, and I was asked to wait for the recommendations of the Indian section for land settlement. Months have passed, and I have not yet got the information which I want to give to Indians who want to buy agricultural land and settle on it. Therefore the best way of disproving that Indians are not suitable for agriculture is to make information available to them as to the nature of the land, extent of the land, its suitability for particular crops or otherwise, rainfall, etc. If they then do not avail themselves of the opportunity it will be right and proper to say that they do not want to go in for agriculture. At the moment, however, there is no proof that there is no desire on the part of the Indian community to encourage their youths to go in for land settlement. Apart from this, I want to add one more point only to the debate. I associate myself with the remarks of the hon. member Mr. Patel on the question of immigration. The restriction of immigration was a majority recommendation of the post-war employment report, but it is a matter of importance, and I submit that there is no cause at the moment for the implementation of that particular part of the report which recommends this restriction. The country is big enough for many more millions of people. There are now 15 people per square mile living in the country, and that is not a very big population. If restriction is placed which directly or indirectly affects the Indian section of the community, what is likely to happen is you will not have British subjects to colonize this Colony but you will have non-British subjects flocking into the country and making it politically inconvenient for everybody concerned.

MR. MARCHANT: Your Excellency, the inferences to be gained from this motion as it stands is that Government has done nothing for post-war planning, and I was particularly pleased to hear in that respect the hon. Member for Nairobi South point out that something had been done. Apart from that, there is the progress report which was tabled at a

[Mr. Marchant] the recent session of the Council, which indicates very clearly that Government has been far from idle. The hon. member exhorted me to put my foot down, but I think he should remember, and members will appreciate, that Government must work as a team, and that it is impracticable for one particular branch to have all the plums and the other branches be denied? I may add that I can assure the hon. member that the closest possible touch is kept with the officers dealing with demobilization, and I think he can be reassured on that point. The hon. Member for Kiambu referred to a very valuable report recently produced by Mr. Colin Maher. For the information of the hon. member and members opposite, I should like to point out that there is a Land and Water Conservation Committee which considers such matters and, in addition, local native councils on their own behalf and at the instigation of their members pass resolutions requiring members of native communities to comply with certain instructions of soil conservation. I may say so, if hon. members opposite were to make an opportunity of looking at something of what has been done in the reserves they would find it extraordinarily profitable. A further point made by the hon. Member for Kiambu was that there was need for co-operation with the Press. *Baraza* is, as she described it, an extraordinarily valuable—and possibly dangerous—weapon. There are great difficulties, as she has said, in finding the man power to undertake but the duties of editor of the paper, but the main point, I think, is this, that the value of *Baraza* lies in the fact that it is not a Government paper but is independent, and from that point of view is of greater value than if it were a Government organ. We had some years ago *Habari*, a Government organ which after a few years died, and the reason was that it was regarded by its readers as merely another means of Government propaganda.

Mrs. WATKINS: On a point of explanation, I think *Habari* died because Col. Watkins left the country on leave.

MR. BLUNT: Your Excellency, I had not intended to intervene in the debate but, as far as the Agricultural Depart-

ment is concerned, a good deal of the present existing post-war planning is contained in the applications to the Colonial Development Fund, in which reference has been made by two or three speakers already and which will be found in the circular laid on the table the other day. The hon. member, however, suggested, as I might have suggested before, and varied in scope. That may be so, but he will appreciate that, from the financial point of view, this is the largest slice out of the applications to the Colonial Development Fund that has been made by this country, and it does represent a multiplication by 5 or 6 times of the present activities that the department is able to carry out, more particularly in the native reserves. That is not all, because although nothing appears in that publication about it hon. members are aware that I have submitted proposals for the extension of research services in connexion with agriculture in the country, for which I hope a further application will be made, and agreed to by the Colonial Development Fund. That aspect of the question was raised by the hon. member Mr. Beecher, and I can assure him that as far as the agricultural side is concerned I have put forward a comprehensive plan for investigation and research work, not only in European but also in native areas. That plan being supplementary to the one already published, will represent a very real advance on anything. This country has been able to do in the way of agricultural services in the past. There is one further aspect of the question, to my mind, and that is that I think we all visualize that, after the war, there will be a period of a certain amount of unrest and disquiet, and I believe that with the foundation work that has already been laid in stressing the importance of better agricultural and soil conservation practices people's minds—and I am referring not only to Europeans but natives as well—are very much turned in that direction, and they are considering whether or not their present use of their land and whether better use could be made, and I believe that with the unrest and disquiet that there is likely to be immediately after the war the stage will be set for a very rapid advance when we have the staff in sufficient quantities competent to lead it.

[Mr. Blunt]

The hon. Member for Nairobi South referred to the need for elasticity in these plans, and there I strongly support him. We have had cases in the past where applications have been made to the Colonial Development Fund and a complete scheme has been prepared and submitted and approved. We have then found in the light of experience later that it has been desirable to vary that scheme in some respects, and a difficulty has always arisen there because the committee responsible for the fund are not prepared to allow variations on any large scale without a complete review of the whole scheme. I sincerely hope that these schemes in future, and particularly the big scheme such as I have submitted, will not be regarded too much as in a cast-iron frame, because it is manifestly impossible to prepare a large scheme of that kind some years in advance and attempt to put it into practice and have every detail complete and unalterable. There is only one more point I should like to refer to, and that arises out of the speech of the hon. Member for Kiambu, in which she made reference to Mr. Maher's report. I am not quite clear what report in particular she was referring to, but I can assure her that Mr. Maher has written several reports, as have other officers in different areas of the Colony, and largely on the information in those reports we hope to be able to make our detailed plan for the particular treatment of the areas to which those reports refer, and all the information in such reports will be made full use of.

MR. MORTIMER: Your Excellency, as Chairman of the Post-war Employment Committee, I share the opinion of the hon. mover that the fullest and earliest steps should be taken to carry out the practicable recommendations made by the Committee. From what has been published in the progress report of February last, from what has already been said by hon. members on this side of Council and from what will be said, I trust, by the hon. Chief Secretary in a few minutes, hon. members will become aware that the Government has been by no means idle on this matter since the report was published. Very considerable steps have been taken in carrying out the major recommendations of the report.

The hon. member complained that the steps proposed by the hon. Director of Agriculture for the rehabilitation of the land of the Colony were inadequate. In a minority note in the report he made his position clear on that point. I should like to say here that the remainder of the Committee did not feel able to go all the way with the hon. mover, because we were advised by Government's technical adviser on this subject that the scheme that he put forward was adequate, at any rate as an initial stage, and we did not feel that we had sufficient knowledge or experience to criticize Government's technical adviser in this matter. We did, however, say, in the course of our report, in paragraph 33: "We consider that this service will be an extremely important contribution to post-war reconstruction apart from the primary object of rehabilitation of the land, not only from the aspect of employment but also from the aspect of agricultural training, and we offer our strongest support; we suggest that continuing consideration be given to the question of extending the scheme, either in time or size, should such a course appear, in the light of experience, desirable and practicable."

The only other matters to which I wish to refer are the points raised by the hon. Indian members regarding Indian agriculture in the post-war period. The hon. member Mr. Patel asks what steps have been taken to ensure that we are co-operating with the Government of Tanganyika in regard to agricultural training for Indian youths. This Government has been in communication with the Tanganyika Government, and has secured an assurance that if the Tanganyika Government does institute a scheme for agricultural training as recommended in the report of the Tanganyika Development Committee, the Tanganyika Government will welcome pupils from Kenya to enter the school and take their part with youths from their own territory.

Reference has been made to the very poor response made by Indians serving in the forces to the suggestion of agricultural training made in the post-war questionnaire. I have been made aware that recently there has been evidence of fairly considerable response from the Indian schools on the part of

[Mr. Mortimer]

Indian youths who to-day say they would like to go in for agricultural training. Reference has been made to the paucity of results of the Indian Land Settlement Board—I am—as disappointed as the hon. members—that we have not on that Board been able to produce more satisfactory results. Hon. members are fully aware of the reasons just as well as I am. I can assure the hon. member that the appointment of that Board was not, as he suggests, mere eye-wash, but was part of a real endeavour to find how the Indian community in this Colony can fit in to the agricultural programme of development and take their proper part in the progress of this Colony on its agricultural side. It has been very disappointing to find that a great deal of the land that would be available for Indian occupation is at present waterless or fly infested, and will require the expenditure of very large sums of money to make it suitable for agricultural development. At this point I should like to say that, in my opinion, the Indian community is not free from blame for the fact that there is so little suitable land at present available for Indian occupation. During Sir Edward Northey's governorship a very large area of land in the Taveta area was offered to the Indian community. They failed to take advantage of that offer, and a good deal of that land has now been taken up and is occupied by European firms engaged in large plantation development; naturally the water supply which was to serve that land has gone for the development that was immediate and practicable, and the Indians, largely as a result of their own dilatoriness in taking advantage of the offer when it was made, have lost that opportunity. I feel it only right, sir, that I should say that at this stage because the question very frequently arises.

On the general question it is recognized on all sides that very great tasks await the Colony in all its sections, official and unofficial, and among all three races, when demobilization on a large scale takes place. I am confident that with imagination, courage, faith and hope we shall be able to meet those tasks with confidence. I would urge, sir, as we urged in our Employment Committee Report, that we get out of the

habit, which we all have, both official and unofficial, of speaking of the "problem" of the returning African; let us rather think and speak of the "opportunity" of the returning African. If we think of it in that way we shall not be adopting a defeatist attitude, but shall use our imagination and our courage to seize that opportunity and develop this country on lines that will make it a very much brighter and happier spot than it is to-day. (Applause.)

MR. DAURNEY: Your Excellency, there are, I think, just two points in the debate to which I should like to refer. The first is the nature of Government's plans for the reabsorption of Africans returning from the war, and there I support the closing remarks of the last speaker that we should regard the return of the African as an opportunity rather than simply a problem. I believe that in the plans that Government is shaping for dealing with this problem it has been treated as an opportunity to improve the conditions of African life generally in the reserves. Some hon. members have referred to this issue as though they were thinking that the problem was one of absorbing, in paid employment, these very large numbers of Africans who have been taken away and put to war service. That is not the main problem or not all of it. It is my personal opinion that only a very small fraction of these Africans will be able to return to paid employment after the war and that the bulk of them will become peasant proprietors on the land, and Government plans rightly, as they emerge from a reading of the circular to which reference has been made in the course of the debate, are directed mainly to improving the conditions of the peasant proprietor on his land. We must not forget that whatever the standard of living is to be in respect of Africans, Indians or Europeans in this Colony, it must derive initially from what can be wrested from the land, and it is our task so to improve the land and so to improve the skill of the African that he can earn a better living from the land.

The second point is on the question of research. The hon. and reverend member representing native interests rightly remarks that in the circular no reference

(Mr. Daubney) was made to any large-scale plans for obtaining assistance for the financing of research from the Colonial Development and Welfare Fund. The position is very briefly as follows. During the last 10 years there has been established in East Africa a measure, first of all, of consultation on an East African basis with regard to programmes, results and general practice on scientific research. Gradually standing research committees covering different fields in scientific research have been appointed, and to a certain degree East African research has been brought into being. Special institutes, such as the Central Veterinary Research Institute, to give an example, and the tsetse research department of Tanganyika, have been devoting themselves more and more to East African research which has been controlled by the Standing Research Committees. A number of people interested in research in this country recently made a proposal that further co-ordination of research should be effected by the establishment of a Council for scientific research for East Africa; and was agreed by these people, informally in the first instance, that the expansion of research, which the expansion of research, which is undertaken with our own resources as well as research undertaken with the assistance of grants from the Colonial Development and Welfare Fund, should be on an East African basis rather than on a territorial basis and that it should be co-ordinated regionally by this Council. The function of this proposed Council was not the direct control of functional research in all its detailed features, so much as the co-ordination of the different research activities and the planning of research effort to the developmental needs of the areas which it was to serve, the East African colonies. Representation on that Council would be derived in the first place from membership of the Standing Research Committees, but it would be in part composed of people concerned with development, such as the directors of the technical departments—agriculture, veterinary and so on—and in part by representatives of the actual research side—the directors of the East African research institutes which we hope eventually will be established. Those proposals were put to the Governors Conference and with the agreement of

the Governors Conference, I recently visited London to discuss them with the Colonial Research Committee which has been set up in London largely to administer funds to be made available for colonial research under the Colonial Development and Welfare Fund. That committee had already published an interim report, and had given an indication of the way in which it proposed to handle this business. The Colonial Research Committee consists of a number of eminent authorities in particular scientific fields, who act as a co-ordinating body much in the same way as would the proposed research council in East Africa. They propose to set up a number of functional research committees in London. These research committees would cover the various fields of scientific research, including of course social anthropology, and the functional research committees would deal directly on scientific matters with the appropriate bodies in the colonies. In the case of East African research they rather contemplated dealing with the standing research committees, and that would be the most convenient arrangement. We in East Africa feel, on our side, that there is very great need for regional co-ordination of the kind that could be effected by the East African Research Council, and we hope that some plan involving the establishment of such a council or some similar body for the co-ordination of scientific investigation will be accepted.

For those reasons we have not put forward from this country applications for assistance for *ad hoc* schemes of scientific research or for development, large scale development, at this stage of territorial research organizations, but when I was in London I was able to discuss one project for East African research—or rather two projects—which are as it happens at a rather more advanced stage than most of the others. The first was the expansion of the Central Veterinary Research Institute at Kabete to an institute of the size that would be considered commensurate with the needs of the East African territories. That expansion was coupled with the provision also at Kabete of better facilities for training Makerere undergraduates during the last two years of their veterinary course, and of a third

(Mr. Daubney) to establish a post-graduate school at the Central Veterinary Research Institute for the training of all recruits to Colonial Veterinary Service. These schemes were examined by the Colonial Advisory Council on Agriculture, Animal Health and Forestry, and were unanimously accepted, and will in due course be passed as a recommendation to the Secretary of State, when we hope that action will be taken. The second scheme that I was able to discuss was a scheme, which is not yet completed, for the expansion of research work on tsetse fly and human and animal trypanosomiasis, and there again the plans which we have been developing at meetings of the Standing Research Committee on Tsetse and Trypanosomiasis met with general approval, and we hope that in the very near future we shall be able to put forward complete plans for research services in this field, which is of such great importance to East Africa. Reference was also made in general terms to plans for East African agricultural research, so that that particular approach to our development problems has by no means been neglected, and I believe that by viewing the problem as an East African one we are pursuing it on the right lines.

I have one point more to make about the planning of research. Many of us have felt in the past that when funds have been made available for research and for development projects there has been a tendency to nibble at them on the part of individual departments and Governments, and to make applications on an *ad hoc* basis. In fact, most applications for assistance were made in that way in the past. We hope that both in regard to development funds and to sums allocated for research, we are going to have a series of connected, co-ordinated and balanced applications which are designed to forward the interests of the colonies as a whole, and not a discontinuous series of *ad hoc* applications.

Mr. WAKOIRI: Your Excellency, it had been no part of my intention to participate this morning in the debate on this motion, for I am strongly in support of it, but the speech just made by the hon. Director of Veterinary Services brings

me to my feet to utter a word of caution. I listened with great interest to the proposals to reorganize and centralize and co-ordinate scientific research, but I am a bit apprehensive when I hear that in the council for scientific research there shall be a place for directors, directors who will function such as Directors of Agriculture in the three territories, and so on. I have got a very simple view about scientific research, and it is this: that only scientists can direct research, which is essentially a long-range job, and directors, while very worthy and who are specialists in their jobs, are apt to and do consider their work, whether veterinary, agriculture or other works, as a bit of window dressing requiring quick results in *ad hoc* purposes. I suggest that Darwin's discoveries, when he made them, were of no use to his generation, and Faraday's is another case, so that these discoveries, which were found of great practical use at later dates, were not appreciated at the time. In my own experience I have seen illustrations of what I fear. Probably I had one of the first private wheat breeding cages in this Colony which I was glad to hand over to the Agricultural Department for experimental plant breeding work. I recall a Director of Agriculture preceding some considerable time the present Director whose interests were vastly greater in live stock, notably pigs, than in wheat growing. He took some distinguished visitors out to the experimental farm not far from Nairobi and, looking at the wheat said, "What's all this rubbish doing here? Take it out and throw it to the pigs". A similar thing happened twice in my experience. Experts come and go, and you have no continuity of policy. Some of you may have read a striking article in the last issue of the *Agricultural Journal* by Dr. Martin, of Uganda, on "Soil Structure". It is a very thought-provoking and first class article, and appeals to every farmer or anybody interested in the land, but I reflect that in the Agricultural Department not so many years ago had already begun to conduct similar experiments, and the late Mr. Robert Bala, whose death is a very great loss to the department—actually started soil sectional experiments on land at Nyoro, which had borne 16 consecutive crops of maize, and he got striking results from his researches connected

(Mr. Wright) with grass types and grazing in the creation of a better soil structure. Regrettably enough, Mr. Ball was allowed to go on to war and lost his life, but from the scientific research point of view it was tragic, for the plots he built up over some years and carefully fenced have been trampled down and all his work has been lost to this Colony. It is for that reason, with all respect to the Governors Conference and directors in other parts of Africa, that I would urge that only scientists of some distinction should lay down a programme of *ad hoc* or long range, or whatever it is, for scientific research.

MR. RENNIE: Your Excellency, I think the fact that this motion has been brought before Council is evidence of the great interest that is taken in this subject, not only in this Council but throughout the Colony, and the speeches that have been made here to-day show that a good deal of thought has been given to the subject, not only on the official side but on the unofficial side as well. It is in this spirit of co-operation, co-operation of all sections of the communities in this country, that we must go forward to deal with this very large and important problem of demobilization and reabsorption of demobilized men. I could say a great deal on this subject but perhaps the quickest way to tackle it will be to deal with the various points of the hon. mover in his opening speech. The chief substance of his speech was concerned with the three main appointments recommended in the Mortimer report: that of Director of Post-war Reconstruction, Director of Training, and the Executive Officer. As regards the appointment of the Director of Post-war Reconstruction, the hon. mover asked two plain questions and expected two plain answers. As usual, I will give him plain answers to his questions when they themselves are plain. (Laughter.) The first question was whether the Economic Secretary is the director visualized by the Mortimer Committee. The answer is in the negative—in other words, no. (Laughter.) The answer to his second question—which asked if and when the post is to be filled—the answer is: “I do not know”. In explanation of those two answers I might make a few comments on an aspect of the matter that was not

touched upon by the hon. mover. The Mortimer Committee suggested that this Director of Reconstruction should be on an inter-territorial basis, and I have no doubt that hon. members will realize that when the inter-territorial basis is brought into a question a number of difficulties arise, constitutional and other, that require a good deal of attention. So far I am not aware that any of the other East African Governments have shown much enthusiasm for the proposal of a Director of Post-war Reconstruction on an inter-territorial basis. So far as the Government of Kenya is concerned, it has not waited to see whether eventually such a director will be appointed, it has gone on with the job of preparing plans and not indulged in any procrastination such as I am sure the hon. mover would be the first to condemn. A number of hon. members on this side of Council have explained that at the present time we have through the machinery of the Governors Conference a means of ensuring co-ordination and planning in East Africa when the inter-territorial aspects of various questions come forward. As regards this most important question of demobilization, I would stress the fact that the Standing Demobilization Committee, which is referred to in the report published last February, is doing very valuable work in this respect. A reference is made to it on one page of the progress report, in the form of a recommendation: “That a Standing Demobilization Committee be set up, under the chairmanship of a senior military officer, composed of a representative of each of the eight Governments (i.e. including Seychelles and Mauritius), with one military, secretary, and one civil secretary from the Governors Conference Secretariat, the committee to have no executive authority, but to be advisory to the General Officer Commanding-in-Chief on all matters affecting dispersal arrangements of demobilization.” That recommendation has been implemented, and in addition the civil members of the committee hold meetings either before or after the meetings of the main committee with a view to ensuring that the various territories are moving in step as regards demobilization procedure in East Africa.

The hon. mover in the course of his remarks referred to this post of Economic Secretary, and perhaps I

(Mr. Rennie) should take this opportunity of explaining a little more fully than was possible in the communiqué to which the hon. member referred what the duties of this office are in present circumstances and what duties will fall to the holder of that post. In the first place, I think I should make it clear that the post of Economic Secretary is on a long range basis. It is not intended necessarily only for demobilization purposes, it is not intended necessarily only for post-war development planning, it is on a longer term basis even than that, although it was made clear in the communiqué that the question of post-war planning and reabsorption of demobilized personnel will be among the most important duties falling to the holder of the post. The short fact is that this is an effort to decentralize. I admit that the decentralization is well within the Secretariat, but I think that is something with which hon. members will agree and, so far as this measure of decentralization is concerned, it will mean that I myself will be relieved of a considerable amount of detailed work which has hitherto fallen to my lot and that, so far as demobilization and reabsorption are concerned, the public will know that there is one officer in the Secretariat whose special duty it is to deal with these problems. They will also know, looking at the longer range aspect of the appointment, that when it is a matter of economic questions generally, trade, commerce, statistics, economic matters of various types and conditions, there is one man in the Secretariat whose duty it is to study these questions and deal with them. Under the present procedure, as hon. members are aware, sometimes the Finance Secretary will deal with economic problems when they have a bias towards finance; at other times they will come to me when they are of a more administrative and general type. Under the new arrangement all these economic problems will go to the Economic Secretary and, so far as the commercial community is concerned, members should in future know the officer in the Secretariat with whom they should discuss all matters of commerce and statistics generally. On the shorter term basis of demobilization and reabsorption we have one man who will devote as much time as he can to all that side of the question, and also to

development planning. It is hoped that he will have time to go around the country and help the various departmental and provincial officers with the preparation of their schemes. It is hoped, too, when the various bodies such as district councils come into the picture, that he will have the opportunity of discussing their proposals and trying to co-ordinate them and fitting them in within this very large picture.

I might now take up at this point a question raised by the hon. Member for Nairobi South. He referred to paragraph 12. I think, in the Secretariat Circular Letter, and said he hoped that consultations would not stop, or words to that effect, at the lower stage. Well, he has raised a question which is very important, and one to which we should all give a very considerable amount of attention, because one point to which I personally have devoted much thought and about which I could come to no final conclusion is: What is to be the body at the centre which is going to correlate and co-ordinate all the plans when they come in from the provinces? We know that in other colonies there are various forms of central and co-ordinating bodies. So far in this Colony we have been working very largely through the Standing Finance Committee, and I think hon. members will realize from the appendix to the circular that the Standing Finance Committee has done a very useful job of work in vetting all the schemes submitted to the Colonial Development and Welfare Vote. So when the hon. Member for Nairobi South asks the question whether there is going to be consultation at the higher levels, I answer in a very decided affirmative. There must be consultation in the higher ranges, but the exact form which the co-ordinating body should take is a very difficult question. I would ask hon. members on both sides of Council to give some thought to it, and perhaps later on give me the benefit of their considerations.

Now I come to the second post mentioned by the hon. mover, the Director of Training. He has pointed out, at least I think it was he, that the post was advertised in March and that so far no appointment had been made. Well, there was a long period given for the receipt of applications in order that the troops overseas might have an opportunity of putting in their applications if they so

[Mr. Rennie] wished; the closing date, if I remember rightly, was the 30th of March for that reason. When the applications were received they were very carefully scrutinized, and although the panel—and I think the hon. member Mr. Beecher referred to this point—did not operate in the exact form that is suggested in the progress report—in other words, the person who vetted the applications were different people from those suggested in the report—the procedure was somewhat similar. A recommendation was made to you, sir, and as a result a recommendation was made to the Secretary of State. There the matter stands at the present time. There are difficulties about our obtaining the man who has been recommended for this post. These difficulties, we hope, are not insuperable, and I hope that in the very near future we shall hear from the Secretary of State of the decision at which he has arrived in this connexion. I would say that, so far as this Government is concerned, it has dealt with the matter fairly expeditiously. The third appointment to which the hon. mover referred was that of the Executive Officer. He deplored the fact that the officer who was doing that work had been removed from the post and was doing work elsewhere. No one is sorer than I am that force of circumstances necessitated the removal of Mr. Hyde-Clarke temporarily from this post. I stress the word temporarily, because I hope that within the space of four or five months it will be possible for Mr. Hyde-Clarke to revert to his duties as Executive Officer. But I would make this point in this connexion; that a good deal of the preliminary planning work had already been carried out by the denobilization section of the Secretariat before Mr. Hyde-Clarke went across to the Agricultural Production and Settlement Board and, secondly, at the present time we have a full-time officer dealing with denobilization matters. Mr. Davernport has the title of Principal Civil Dispersals Officer, but at the present time he is doing more—he is dealing with denobilization matters generally, and if it is found that he has more work than he can carry I hope to be able to make arrangements which will ensure that he will be given assistance at any time when he needs it the most.

I think it is hardly necessary for me to go over in great detail the various points raised by the hon. mover. Some of them have been dealt with by hon. members on this side of Council. He referred to one most important matter, however, on which I will now comment, namely African representation in this Council. That, sir, is a matter which has been receiving the closest attention of the Government and of you, sir, for a good many months past, and you have authorized me to say that you hope to be in a position to make an announcement on this subject in the very near future. The hon. member referred to trade unions, and asked what was being done there. He expressed the hope that something would be done to get a man out equipped to put trade unions on the right lines. That is a matter about which we have been in correspondence with the Secretary of State for some considerable time, and we hope it will be possible, as a result of the careful attention given to the matter by the Colonial Office, to get the right type of man without too much delay.

Turning to the speech of the hon. Member for Nairobi South, he referred to the fact that the Government should see that the Press is kept fully informed of major developments. With that sentiment I agree entirely, but in this particular case I think the Government did its share of the work inasmuch as it laid out on the table on the 10th of November, 1943, your despatch, sir, of the 6th of August, 1943, stating exactly what was intended as regards development planning and giving as an appendix to that despatch various schemes that were under consideration. These should, I think, have given an indication to anyone who was interested in the matter that the Government had not gone to sleep, and further, when on the 4th of February this year a statement was laid in this Council giving full details of the applications that had been made to the Colonial Development and Welfare Vote and the result of those applications, that I think again should have been sufficient indication that a good deal was being done in the way of development planning. I am sure, however, that we all agree with the hon. member that it is desirable to keep the Press as fully informed as possible, and I will take up the question with the Information Officer

[Mr. Rennie] in the hope that he will be able to ensure that when a paper is laid on this table the Press realizes that that has been done. The hon. Member—for Nairobi South also referred to the necessity for elasticity in the various schemes put forward, and asked whether re-modelling would be in keeping with the principles of the Colonial Development and Welfare Vote. The hon. Director of Agriculture has dealt with that point already, and I can add little to his remarks. As he pointed out, some of our schemes—instance as one example, water supplies—are in only bare outline, and it should not be difficult to do any re-modelling within that outline. But I am sure of this, that we have had such a very sympathetic response to our various applications for assistance from the Colonial Development and Welfare Vote that if we show at any time good reason for revising any scheme, we shall have most sympathetic consideration at the other end.

The hon. and reverend member representing Native Interests paid a tribute to the circular letter, as indeed the hon. Member for Nairobi South has done, and suggested that it did the Government credit. I think hon. members realize that this circular letter is the result of a great deal of detailed work on the part of heads of departments, and it is to the heads of departments that the chief credit is due. If one looks through these various applications, some most detailed and lengthy, one realizes the tremendous amount of work which has been given to the matter by heads of departments. I should like to take this opportunity of expressing my own gratitude to them for the work they have put in and at the same time to make it clear to Council that the Standing Finance Committee has done its share of the work by vetting each one of these applications and making valuable suggestions on them. The hon. member representing Native Interests pointed out one defect as regards paragraph 1. I appreciate the point. I think it is entirely sound, if I may say so, and if I had noticed the omission earlier I should have remedied it at the time. I think the remarks made by the hon. Director of Agriculture and the hon. Director of Veterinary Services indicate what has been done as regards research.

The hon. member Mr. Patel referred to the question of the demobilization of Indians and the necessity of keeping the Indian Man Power Committee in the picture. That is certain to be done, and I will refer later to the question of the Civil Reabsorption Board which it is proposed to establish for Europeans, and a somewhat similar procedure will be adopted in the case of Asians. There is only one point to which I would refer in the speech of the hon. member Mr. Amin, and that was his fear that funds that might be made available might go to certain sections of the community and not for the benefit of the community as a whole. I think it is hardly necessary to assure hon. members that the most careful consideration is given to the various applications to ensure that they cover all races of the community, and, if hon. members will look at the statement that forms part of the circular letter, they will realize that the schemes are spread over all communities, and I think the hon. member can be assured that his fear is groundless.

Those, I think, are the main points I would make in connexion with the speeches of hon. members. I do not propose to go into any detail as regards the points on research made by the last speaker. I am quite sure the hon. Director of Veterinary Services and the hon. Director of Agriculture will be in a position to answer some of his points on another occasion. I should like, however, to refer to one or two main points connected with demobilization and re-absorption which I think should be stressed at the present time. I assume that all hon. members have read the Progress Report and digested it, but I would merely refresh their memories by referring to Section VI on page 9, where the present procedure is laid down. The chief progress that has been made since that Progress Report was prepared in February last is perhaps the appointment of the Civil Reabsorption Board fairly recently. Hon. members will appreciate that demobilization and re-absorption can be divided into three main stages—the dispersals stage, the re-absorption stage, and the broader stage of development planning. As regards the dispersals stage, the main details are given in this Progress Report. The position is that before any man or woman

from the forces he or she is discharged by the Principal Civil Dispersals Officer to ensure that all outposts that may be due to be returned are paid or about, to be sure to ensure that there are no arguments with the Army person is allowed to proceed, and that when discharges take place at present time is at Langata, Mr. Davenport's main duties there and ensure that before discharged from there every-where. I would mention one thing that is that the man who does not go away from that large amount of money in his pocket. He is paid, when he goes into his own district any money, the object being to ensure that he does not spend his money on the way home.

The dispersals stage is continuing going on reasonably at the present time, and a set of records is being kept which ensure that we have a record of every man discharged from the forces. In addition to that, there is a list of personnel to which each man should belong, so that when he goes to his district to say how many are there, or how many black men. It will be most useful after the war. That is the object. Then we come to the dispersal stage, and the arrangements are to ensure that financial assistance is given to him to obtain records. If anyone needs it he is going to do after the war, and we hope to have a complete set of records with not only records, but also with hospital records, to which the hon. Member of Medical Services regulation arrangements, to be referred, and vocational training as soon as the training is appointed and referred; and also as regards the recommendation in the report, and in the form of

bursaries for young men and women who will need further education such as bursaries could help them to obtain.

I do not want to take up too much time. I could talk on this subject probably for another hour, and if I have not covered all the points the hon. member or hon. members of Council would like me to cover, I apologize and I am quite prepared to go over any points with them at any time. I would merely refer, however, to the Civil Reabsorption Board which is going to be a most important factor in regard to reabsorption. The personnel of the Board will be: Chairman, the Director of Man Power; members, the Director of Man Power; members, the Principal Civil Dispersals Officer, the President of the Association of Chambers of Commerce, the Chairman of the Agricultural Production and Settlement Board, the Chairman of the British Legion, and the Director of Training. It will work within three groups: one, administrative and welfare group; second, vocational training group, and third, employment group. The first group comes under the Principal Civil Dispersals Officer. The vocational training group comes under the Director of Training, the employment group again under the Principal Civil Dispersals Officer, and the employment group divides up into State employment and private employment. State employment covers Government departments, local Government departments, Railway Administration; and private employment covers Land and Settlement, commerce, trade and industry and professions. The commerce, trade and industry section is broken up into 18 sub-sections covering almost every conceivable type of trade. The idea is that in respect of each type of employment or land settlement there will be an executive officer who can deal with any applicants who come along for advice or help in finding employment. This Board has been framed on its present lines after very careful consultation with all the people concerned, but I have no doubt that when it first meets one of its first duties will be to go over the set-up that has been planned to see whether that set-up falls in with its own ideas. I would, however, stress the importance of that Board, because it will be one of the chief factors in ensuring that the demobilized personnel are properly

[Mr. Rennie]

looked after. The Board is chiefly for Europeans—the Board I have mentioned. A similar board will deal with Asians, and in both cases the board will co-opt the Deputy Director of Man Power (Asians) when dealing with Asians, and the Deputy Director of Woman Power when dealing with women. As regards Africans, a similar arrangement has been considered necessary, there, namely the Principal Civil Dispersals Officer will deal with the Chief Native Commissioner and the Labour Commissioner and appropriate officers, and will work on somewhat simpler lines.

I think, much as I should like to cover various other aspects, that I have probably replied to the main points in the debate, and I would merely finish by stating that so far as the Government is concerned it accepts the motion (applause), and so far as the necessity for carrying on in an energetic fashion with demobilization and reabsorption measures is concerned, the Government is fully alive to the necessity. It realizes also that this matter is one for all sections of the community, as I have mentioned earlier, and if I may be allowed to quote paragraph 20 of the Secretariat Circular Letter, "all officers"—and for "all officers" I would substitute "all of us"—"will no doubt realize that the opportunity now presents itself of planning wisely with foresight and imagination on lines that will mould the future of Kenya for many years to come". I take it that we all agree that this is a great opportunity and that we all agree that each one of us is going to do his share. (Applause.)

The debate was adjourned.

ADJOURNMENT

Council adjourned till 10 a.m. on Thursday, 8th June, 1944.

Thursday, 8th June, 1944

Council assembled in the Memorial Hall, Nairobi, at 10 a.m. on Thursday, 8th June, 1944.—His Excellency the Governor (Sir Henry Moore, G.C.M.G.) presiding.

His Excellency opened the Council with prayer.

MINUTES

The minutes of the meeting of 6th June, 1944, were confirmed.

PAPERS LAID

The following papers were laid on the table:—

By MR. RENNIE:

Judicial Department Annual Report, 1943.

By MR. MARCHANT:

Information in reply to Question No. 46 on the subject of African sugar rations.

By MR. BROWN:

Select Committee Report on the Coffee Industry (Amendment) Bill.

ORAL ANSWERS TO QUESTIONS

No. 42—AFRICAN MEMBER OF MAKERERE COLLEGE ASSEMBLY

MR. PAHEL (Eastern Area):

(1) Is the Government aware that while Africans from Tanganyika and Uganda are at present members of the Makerere College Assembly, there is no such African member from Kenya?

(2) If the reply is in the affirmative will the Government please take steps to appoint one or two Africans from Kenya as members of the Makerere College Assembly?

MR. MARCHANT: (1) Yes, sir.

(2) The Government will pursue the hon. member's suggestion when the term of office of existing members of the Assembly expires early next year.

No. 46—AFRICAN SUGAR RATIONS

MR. BEECHER:

Will Government please explain why the European and Asian sugar ration should have been increased, while the African (who has considerably less opportunity of supplementing his

{Mr. Beecher} sugar ration by purchasing other food articles containing sugar, and whose sugar ration has in most instances to suffice for himself and his family either has a smaller weekly ration of sugar in places where rationing is effective or, in the reserve, receives little or none through the normal trade channels?

MR. MARCHANT: As the answer is somewhat long a written reply has been laid on the table* for the information of the Council.

*The policy of the Central Commodity Distribution Board is that Africans resident in townships, together with their adult dependants, should receive the same rations of sugar as Europeans and Asians, and the increased ration of 1 lb. per head per week granted to Europeans and Asians with effect from the 29th of May has been granted to Africans with effect from the 1st of June.

Children of Africans resident in townships are allowed ½ lb. per head per week, experience having shown that any additional quantity is not utilized.

2. In rural areas, other than native areas, employers of native labour are allowed an allocation of sugar for their labour and dependants based on a figure of ½ lb. per head per week of employed labour. The amount thus distributed in rural areas is probably not less than the amount contained previous to any shortage of sugar.

3. As regards native areas, approximately 50 per cent. of all sugar available for civilian consumption is allocated by the Central Commodity Distribution Board, after consultation with the Chief Native Commissioner, to the District Commissioners concerned who are responsible for its internal distribution and in the main utilize normal trade channels for this purpose.

For the month of June the amount allotted by the Central Commodity Distribution Board to native reserves was 10,000 bags.

4. Finally the supply of jaggery is now uncontrolled and it is expected that most of the available production will find its way to the African consumer through the ordinary channels.

MR. BEECHER: Your Excellency, on a point of order, may I inquire whether, in view of the procedure adopted in answering this question, a question arising therefrom is allowed to be asked, or must a supplementary question be given to the Clerk of Council?

HIS EXCELLENCY: You can ask a supplementary question arising out of the reply which is before you.

MR. BEECHER: Arising out of the reply, I beg to ask if Government is aware that a Government publication dated 31st May, 1944, contained the following statement:—

"I heard one of you people (that is an African), asking why Europeans get more sugar than Africans. Any person who asks such a question as that can only be a fool, moreover he has made a mistake because Europeans do not get more sugar than do Africans; they all get the same on exactly the same basis."

—and will Government ensure that adequate publicity is given to the true state of affairs, and an apology made for having called reasonable Africans fools?

MR. MARCHANT: Details of the rationing for Africans are to be found in the reply which was tabled.

NO. 54—KENYA ASIAN LOCAL CIVIL SERVICE

MR. PATEL:

Will Government please agree to appoint an *ad hoc* committee to examine the present terms and conditions governing the Kenya Asian Local Civil Service including pensionable, non-pensionable, and temporary personnel thereof, and to make recommendations with a view to removing the existing dissatisfaction among the members of the Service and suggesting modifications considered necessary for the improvement of the said terms and conditions?

MR. RENNE: Yes, sir, I have already explained to the hon. member that the Government will proceed to appoint this committee as soon as possible.

POST-WAR EMPLOYMENT REPORTS

The debate was resumed.

MR. NICOL: Your Excellency, there is only one point I want to touch on—very briefly—and that is the question of finance. These schemes which have been produced and sent home to the Secretary of State making application for grants from the Colonial Development Fund, are certainly going to provide employment in the post-war years, but in order to give full amplification to the recommendations of the Post-war Employment Committee's Report much more finance will be needed. It is a very curious thing that in war there is always unlimited finance for destruction, but in peace we do not get finance for construction, and that we have got to see is changed. In other words we must not allow money to be our master; we have got to be masters of money.

MR. COOKE: Your Excellency, I will try to be as quick as possible, but I must detain the Council for about ten minutes to quarter of an hour. The hon. Member for Nairobi South and the Reverend Member Representing Native Interests referred to this Secretariat. Circular Letter, and I am very glad they referred to it, because I had intended myself to say what an admirable summary it was of Government's intentions. But, sir, Government's intentions are not always the same as Government's implementations. What they have under consideration they do not always have under action, and therefore I would issue a caveat against putting too much confidence in this particular preparation of Government plans.

The hon. Member for Nairobi South referred to the necessity for elasticity and, I think he said, re-modelling. It is just because many of us recognize that necessity that we are asking for this Director of Reconstruction, because, of course, it would be his duty to co-ordinate and, if necessary, to sift the evidence in front of him and to make alterations where necessary. The hon. members Mr. Patel and Mr. Amin, I was glad to hear, repudiated the feeling on this side of Council that the Indians are not in favour of agricultural settlement; and I should like very strongly to support

the establishment of an agricultural college for Indians in Tanganyika. But I was not very much impressed because, as the hon. Commissioner of Lands said, they had every opportunity when Taveta—that very fertile area—was thrown open and recently I observed in the area of the Kiboko River, that is near Makindu, where an Indian has held land freehold for something like 40 years, land which is well watered, he has made practically no attempt to cultivate it, but unfortunately has started to exploit the forest trees which are on that land.

MR. AMIN: On a point of explanation, if the hon. member would not mind, our point has been that the sins of our fathers should not be inflicted on the children of other generations.

MR. COOKE: I am very glad to hear that, sir.

The hon. Member for Kiambu referred to Mr. Colin Maher and, I am very glad she did, because there is a feeling in this country that Mr. Colin Maher's services are not being fully employed. He is one of those very enthusiastic people, and there is rather a tendency in Government to regard enthusiastic people as vexatious. I was regarded as very vexatious myself at one time (laughter), and I hope I am still regarded as vexatious, because I should hate to feel I was losing my touch. But it does seem a pity not to make use of the enthusiasms of a man in a country where enthusiasm is often very conspicuously absent. I should like to support the hon. lady in what she said about *Barotsa*. Colonel Watkins, of course, did an outstanding piece of work, and probably work which is second to none in post-war importance in this country, and it would be a great pity if the editorship of that very virile paper were left in the hands of an African. I think the African has done remarkably well, but naturally he cannot be expected to have the wide outlook and the balance of a European. I was sorry my hon. friend the Chief Native Commissioner was not a little bit more definite when I thought I was giving him the lead. I hope the hon. member will not allow himself to be overcome by little petty deficiencies, for in that case he will be as big a failure as a great many of his predecessors as a great many of his predecessors were. Of course, I agree with the hon. member that he must be loyal to his col-

[Mr. Cooke] leagues, but he has a bigger loyalty than that: he has a loyalty to three million Africans of this country, and I hope their safety and outlook will be preserved. I was a little disappointed with the hon. Director of Education's reply. Of course, I recognize that he is only at the moment in an acting job and it is difficult for him to lay down policy, but in view of what the Secretary of State said about mass education we would have liked to hear a bit about what has been done in that important matter. If I may digress just for a moment, there are some people who think mass education means mass schooling, but of course it is no such thing. Mass education means education in the way properly to live; it includes agriculture, medical, hygiene and a host of other things, and I would have liked to have heard a little bit more about the bursaries for European children, because I am one of those who consider it essential that European children should go home for part of their education.

The hon. Director of Agriculture referred to Africans returning to the land. Of course, that is the ideal of probably everybody here, but the African will no more return to the land than the Scotsman and Irishman will return to the land unless village life is made more attractive, unless agricultural prices are high, and unless the amenities of life are provided. That seems to me the *sine qua non* for any return of Africans to the land, and we have I think tried to press that in the report. He supports the hon. Member for Nairobi South in his request for classiness, and if I may say so I entirely agree. I was very glad to hear from the hon. Director of Medical Services that so much has been done. As usual—certainly in recent years—the Medical Department is well ahead of many other departments in its work for the natives of this country, and from all one can hear what has been done for wounded soldiers is everything that can be desired. It is also very gratifying to hear that he intends to make use of army personnel for training as dressers and so on. We had gone so far in the report as to recommend that it should be compulsory for big estates to keep native dressers and sanitary service boys after the war. The Commissioner of Lands was almost too humble by half, for me; he said we

had not enough knowledge and experience to make recommendations about the labour corps. His idea of a committee obviously differs from mine. I regard a committee as a body of moderately intelligent, fair-minded people, who sift the evidence before them and give their findings on that evidence.

MR. MORTIMER: Your Excellency, I do not wish to disturb the hon. member's eloquence, but he is incorrectly reporting me. What I did say—and the remaining members of the Committee agreed with me—was that I did not feel competent to criticize the adequacy or otherwise of the scheme for agricultural development put forward by the Director.

MR. COOKE: I must, of course, accept what the hon. member has said, but the words I wrote down at the time were that "the committee had neither the knowledge nor the experience to make recommendations on that matter," and that I tried to combat. The hon. member went on to say that there were no problems. I cannot agree with him; there is a very great problem and we cannot get away from it. If there is any opportunity at all it is the opportunity to solve that problem but the opportunity does not take the place of the problem by any means. I hope I am not attacking the hon. member, but I am one of those rather militant people who think that unless we come right out in the open in this matter of post-war reconstruction with definite demands we shall not get very much further. I do not agree with the hon. Director of Veterinary Services. He says that in his opinion only a small fraction of Africans will wish to get paid work—I think those were the words he used—but what about the 15,000 African motor drivers, who have got first-class driving certificates, to say nothing about the second- and third-class ones; what about the thousands of mechanics and machine operators who will perhaps go back to their reserves for a few months after the war, but as soon as they have finished with wine and women I think most of them will want to return to city life? I hope that will not be so—

MR. DAUBNEY: On a point of explanation, I think what I said was that only a few of them would have the opportunity to go into paid employment in civil life; I made no submission about their desires.

MR. COOKE: Well, if the hon. member said that I hope we will make every endeavour to give those Africans the opportunity to go into civil life, such as in secondary industries and so on. I must say, I agree, if I may say so, with the hon. Member for Aberdeen when he said it would be a mistake for the Director or for any directors to be members of any kind of scientific research council. Experience certainly in the last war in the War Council showed that it was a great mistake for executive officers to be in any way concerned with the big planning operations. The hon. Chief Secretary seemed to me to give the keynote to the whole Government policy when he started with two negatives (laughter). I was of course immeasurably relieved to hear that the new appointee was not going to be the Director of Reconstruction, but my relief was plunged into gloom when I heard in the second negative that there was going to be no Director of Reconstruction appointed at the moment. Some of us on this side of Council feel that possibly this Economic Secretary, having got in by the back door, in his robust manner may fight his way upstairs, and I should like to have an assurance from the hon. Chief Secretary that this is not Government's intention, that in fact he will raise every barricade and machine-gun against such an attempt! The other point the hon. member said that Government was not appointing a Director of Reconstruction at the moment he defended this—in fact he seemed to condone it—by saying that the other territories had not yet decided to come into line. Of course, it was only a suggestion on our part that the other territories should come into line. Mr. Churchill said the other day that "everything was going according to plan—and what a plan!" I feel inclined to say that with Government "everything is going according to excuse—and what an excuse!" This excuse is that the Tanganyika and Uganda people, the Governors, in the last twelve months have not yet come to a decision. If the hon. member had said last December that they had not come to a decision, there might have been certain reasons, but to say after twelve months that they have not come to a decision seems to me an appalling state of affairs. If the Gov-

ernors Conference has any useful purpose whatsoever, surely its purpose is to get the Governors to come to an immediate agreement or disagreement. If I were chairman of the Conference, I would be inclined to say "to these daily-lying Governors." Gentlemen, six months have passed and you have come to no decision. I will allow you five minutes in which to come to a decision one way or the other", for I do not see why we should be handicapped because these gentlemen progress at such a sluggish pace. The whole key to our arch is this Director of Reconstruction, and without him the whole arch collapses, and I at any rate ask—and I even demand—that that gentleman should be appointed at once, that he should be a man of outstanding ability, that he should not in any way be subordinate to the Secretariat, that he should be paid a salary commensurate with his duties, and have direct access to the Governor; he should be housed in a separate building, the whole establishment should be separate, and we should not make the mistake which I cannot not make the mistake which I cannot not make the mistake which I cannot not make the mistake of having officers scattered all over the town. If anything goes wrong, we must have the right man to hang. There can be no devolution of responsibility about this important job, and that is, I think, the conclusion that all the other component parts of the Empire have come to.

I will not keep the Council any longer. I am very grateful to you, sir, for having accepted this motion and thank members for having listened so patiently to the debate, but I am not satisfied that we have accomplished very much. In a few days' time this Council will be dissolved, members will have returned to their several pursuits, and the talking shop, as it is sometimes called, will be closed for renovation and repair. And, if Government merely pigeon-holes these recommendations and forgets to carry out its promises, nothing will be accomplished. In Europe to-day tremendous events are happening, and it looks as though we have gone beyond the stage of the end of the beginning and the end of the end of the beginning of the end, and it is absolutely essential that long before the war is over we should have machinery established so that there can be no hiatus or pause in doing what we can for the thousands of

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Kenya men and women who have done what they could in order that you and I might be safe.

The question was put and carried.

PENSIONS

MR. TENNER: Your Excellency, I beg to move that this Council approves the payment to the officers enumerated in the schedule below of pensions at the rates and with effect from the dates set out against their respective names, in lieu of the amounts of the provisional interim pensions already approved by this Council as set out in the last two columns of the schedule:

Name	Designation	Department	Amount of pension.	Date of commencement of pension	Amount of interim pension	Resolution dated
L. O. P. Benschark	Alcoholic	Veterinary	£ 6. 0. 0	22-5-42	£ 6. 0. 0	12-8-42
F. H. Potter	Deputy	P.W.D.	198 14 11	17-3-43	132 1 8	18-3-43
Mrs. M. K. Dhwail	Postal Clerk		144 13 3	23-5-42	99 1 2	18-3-43
S. H. Fadhil	Asst. Tel. Clerk	P. & T. Inland Rev.	114 10 11	16-4-43	75 3 2	16-9-43
H. R. Chinnandoo	Foreman	P.W.D.	128 8 0	27-7-42	99 4 6	28-9-43
W. M. Allen	Amt. Aretist.	P.W.D.	101 8 0	28-6-44	101 6 6	12-4-44
			342 31 8	8-6-44	169 2 6	2-6-44

This is the first financial motion put before this Council arising directly from the Kenya European Civil Service Committee Report, otherwise known as the Surridge Report, and the various pensions which it proposed to increase are those interim pensions already granted to those X and Y officers who have retired, who are frequently mentioned in the report, and the increases are in accordance with the recommendation made therein. The committee recommended "that the rate of the interim pensions should be increased to a 1/600th constant, and that for the purpose of calculation, the whole of the officer's service should be taken into account other than service under the age of 18 years, provided that the rate of interim pension does not exceed two-thirds of the officer's highest pensionable emoluments". That is Recommendation III. Recommendation XVI is that "for the purpose of calculating the final pension payable to them, the £50 consolidation allowance, where payable, is added to their final pensionable emoluments". These two recommendations are the basis of the pensions now proposed in the middle column of the schedule to the motion, and I ask Council to accept it.

MR. FOSTER SUTTON seconded.

The question was put and carried.

LAND CONTROL BILL

SELECT COMMITTEE REPORT

MR. FOSTER SUTTON: Your Excellency, I beg to move that the select committee report, on the Land Control Bill be adopted.

In moving this motion, I think it might be of some assistance to hon. members if I very briefly refreshed their memories as to the original policy incorporated in the bill which the select committee was appointed to report upon. First of all, the bill that was tabled had as its object the

control of speculation in dealings in land, and it further provided for the compulsory acquisition of land by the Crown for land settlement purposes. In order to give effect to this purpose it sought to appoint a board which was to be called the Land Control Board, whose duty it was to vet all transactions in land that took place in the Highlands. They were given power to refuse their consent to such transactions if they considered the price that was to be paid was excessive or that the person who was seeking to acquire the land already had ample and sufficient land for his own use. The board was also to be empowered to recommend land for compulsory acquisition by the Crown, and they were to be the body, the same board which was to recommend the land for acquisition, to assess the compensation that was to be paid for the land so acquired. The method of acquisition and the basis upon which compensation was to be paid was to be settled by rules made by the Governor in Council: in other words, all that was to be done after the bill became law and it was not subject to the control of this Council. The bill also provided that appeals from any decision of the Land Control Board

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should go, on questions of fact, to a tribunal that was to be called the Land Control Appeal Tribunal, and on all questions of law or mixed law and fact to the Supreme Court.

The unofficial members of the select committee and the hon. Commissioner of Lands and Settlement did a tremendous amount of work in going around, attending meetings and holding meetings, in an honest effort to obtain the views of the people of this country on what is generally considered here a revolutionary measure, and I do think that a tremendous amount of credit is due to them for the interest and hard work that was put in, particularly in the case of the hon. Commissioner of Lands and Settlement. They did it because they realized that there were many fears being expressed as to what would happen if the bill became law, and they did their best to explain the object behind it, also they were seeking to do, again, what was to be great pains in explaining and trying to meet the various objections and points that were made and raised against the measure. The select committee sat at Nakuru on the 15th May, where they heard evidence and considered the memoranda submitted by members in that district, and they sat in Nairobi on the 18th and 19th May where they heard a number of witnesses and again considered a mass of memoranda that had been submitted, and after those meetings where the evidence of witnesses was heard, they met on a number of occasions and went into all the representations that had been made, in a considerable amount of detail. It became clear in the light of the meetings we had attended and the evidence we had heard that the country as a whole was behind the enactment of this measure. I think there can be no doubt about that whatever. They want it because they think it is in the best interests of the country that we should have legislation of this kind, but they did express a number of doubts and a great deal of apprehension because they felt that the bill as presented to this Council did not set out clearly what was going to happen. They felt that they were being asked, if I may be pardoned for using the expression, to buy a pig in a poke, that there was too much to be done by rules after the measure became law, and they felt

that this Council had little or no control over the procedure or the basis upon which land should be acquired and compensation paid upon the acquisition. Then a number of people urged that there was absolutely no point in acquiring land compulsorily as distinct from amicable agreement, and that there was no point in acquiring land compulsorily if the person who held the land was properly using it and using it to the fullest extent. The unofficial members and my hon. friend the Commissioner pointed out that that was not the intention of the measure, that it was not intended compulsorily to acquire land from people who were properly using it; that it was only the intention to compulsorily acquire it in cases where it was considered that the land was not being properly utilized, and the answer to that was, if that is the intention they be shy about putting it in the bill, why not say so? and the committee felt that it was a fair comment, and for that reason we have made a recommendation which I think completely meets that portion of the opposition that has been made up the bill.

Then there appeared a general, not a very strong one, but a general antipathy to the provisions relating to appeals. The general idea seemed to be that a purely judicial body would not be so competent to decide upon any question of mixed law and fact as persons nominated with considerable experience of land in Kenya and settlement who would be guided on questions of law by a Judicial chairman. Your committee have met that position by putting up suggestions for a completely new procedure regarding appeals from the boards. Then another very strong objection, and I think it is based if I may say so with respect on a misapprehension, was made, and it was to this effect. They said that once the measure is enacted there is no longer any security of tenure; some people went so far as to say that this land was granted by the King and in effect the measure is wiping out his signature. With those statements I profoundly disagree. I am quite sure they were made in an honest belief that that was the position, but that is not what this measure is doing or that it does not affect security of tenure, and I think that those persons, when they fully appreciate the position, will be prepared to withdraw that opposi-

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tion. All that the measure seeks to do is to ensure that land in the Highlands is properly developed and settled. There is no intention of interfering with people who are properly settled there and properly utilizing their land—so that therefore there is security of tenure for all honest and decent people. The only insecurity that can arise will be in cases where people are doing nothing with their land. I think everyone in this country is prepared to accept the proposition that if you have land it is your duty and in the interests of the country to properly use it and utilize it. (Hear, hear.) One gentleman came before the committee and gave an instance of an absentee proprietor who had thousands of acres of grassland, and all that he had done with it was to put what was called a shooting-box on it. That cannot be very good for the country, and there are the type of people, and the only one—that is to say, persons who are not properly using their land to the best advantage—who are likely to be affected by the compulsory acquisition clauses in the bill, before the Council. I think that strong objection, honestly made, I am quite certain is based on a misconception, and I hope that in the light of the debate that will take place on this report their fears will be allayed. After we had heard all this evidence and considered the memoranda, we met on several occasions and fully considered all of the reasonable comments and objections that had been made. I think it right to say that our recommendations meet almost entirely the real objections that could be made to the Bill, and we believe that if the select committee's report is adopted the country is being given a measure which is workable and is fair, which will effect its purpose, and at the same time do justice to anyone who is likely to be affected by any of its provisions.

I do not want to take up too much of the time of Council, because the hon. Commissioner of Lands and Settlement will have a good deal to say on the report, but I do feel that to say on the assistance to Council if I went through the draft attached to the select committee's report and explained the major alterations suggested and the reasons why they were made. That being so, I would refer hon. members to the

draft. We did it in this way because we are all familiar with the ordinary select committee report. I must confess that I find it extremely difficult to draft, and on some occasions if you have a number of amendments it is very difficult to follow, and we thought that by having the amended bill printed as a draft with all the proposed amendments underlined it would be of assistance to Council and would help members to fully understand what we are suggesting should be done. The first amendment, which may appear a minor one but is one of some substance, is in clause 2 of the draft. There we seek to alter the definition of land. The original definition included easements and, strictly interpreted, would include a wireless mast fixed to a house on the land. The new definition suggested will exclude easements. It was felt that the board should not be troubled with matters of that kind, it would be too cumbersome, and would increase the number of applications by many hundreds. It does, however, include any right over or in respect of immovable property and standing trees and timber. The reason why we thought it advisable to include those is obvious. The second amendment of some substance is in clause 3 (2) (d). Hon. members will remember that the original bill provided for four members to be elected to the Land Control Board by the European members of this Council. There was a considerable amount of debate about this clause, and in the end, for a variety of reasons which I do not think it will serve any useful purpose by going into the details of them now, we thought it was better, more workable, if we put in this provision increasing the number from four to six. As a consequential amendment we reduce the term of office—it is not really consequential, but a question of complete redrafting which we were not prepared to embark on in the time available—and suggest it should be reduced from four to three years. The other alterations are merely verbal alterations.

Then we come to clause 4 (2), and there provision is made for the appointment of the members elected to be cancelled by the persons who elect them. We provide that a meeting for any such purpose shall be convened by the Clerk to this Council at the request of any two European elected members. That will

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mean that if it is felt that the members of the board elected are not pulling their weight or functioning, or for any other good cause they should be deposed, the power rests entirely with the European elected members to take action to do so. Coming to clause 5 (3), we have increased the quorum from four to five. The reason for that suggested amendment is this. If you had a quorum of four, it was strongly urged that the position might well arise when you would have three official members at a meeting of the board and only one elected member, and there would be an official majority. It was felt that after all it was the land of the people of this country that was being dealt with, and the committee, after careful consideration, decided to recommend that the quorum be increased to five, and we have added a provision that the quorum should consist of at least three persons elected by the European elected members of this Council which ensures that in the deliberations of the board there will always be an unofficial majority. There is a proviso to clause 5 (4), which was introduced with the idea of not allowing the business of the board to be held up because the chairman or the acting chairman is sick or not available, which might hold up business indefinitely, so we provide that if the chairman or acting for any cause is unable to call a meeting one may be called by the Commissioner of Lands or, in his absence, the Financial Secretary, who is the second official member of the board. In clause 7 there is an important amendment. We recommend in the seventeenth line that the word "hold" should be amended to read "acquire". The word "hold" would have the effect of giving the measure retrospective effect for an indefinite period. It was never intended that it should affect transactions before 19th October, 1943. What it means is that from that date no person may acquire—if you had had no person may have affected everybody who holds land before that date. We have suggested an amendment to clause 7 (3). We found that only legal mortgages are effected with the Land and Agricultural Bank of Kenya so that we seek to exempt those transactions from the provisions of the Bill. Other banks taking a legal mortgage from a client will require the consent of the board.

There is nothing very much then until you come to clause 8 (2), where there is a slight change; not in policy, but we sought to clear up the position, because nobody knew what was to happen. Under the proposed amendment to the Crown Lands Ordinance—I refer to clause 70A—application has to be made to His Excellency the Governor for permission to deal in land in the Highlands; application must also be made to the board. It did not appear how the procedure would work, whether the Governor was to be applied to first or the board. The suggested amendment to 8 (2) is an endeavour to tie up the position. What will happen now is this. Under the Crown Lands Ordinance there is provision that applications to the Governor shall be made in the manner prescribed. I envisage a rule being made requiring applications to the Governor, under the proposed section 70A of the Crown Lands Ordinance, to be made through the chairman of the Land Control Board. The board will then be able to make their recommendations to the Governor, which they are empowered to do. If hon. members will turn to clause 8 (1) (a) they will see there that "in any transaction relating to land" the board shall have power "to tender advice to the Governor in exercise of his powers under sub-section (1) of section 70A of the Crown Lands Ordinance". If the applications to the Governor go to the board first, the board will be able to make recommendations to His Excellency, and the chairman will forward them to the Governor, who will then consider them in the light of his powers under the Crown Lands Ordinance. If the Governor declines to give his consent, we consider it was necessary and reasonable not to require the board to go through the gambit of considering the applications. It would be pointless and a waste of time, so we recommend that clause 8 (3) be inserted: "Where, acting under the provisions of section 70A of the Crown Lands Ordinance, the Governor declines to give his consent to any transaction, the board shall notify, in writing, the applicant to that effect, and shall then proceed to consideration of the application". I think if the whole of clause 8 is considered, it will be seen that it does enable one to tie up the procedure. In clause 8 (4) we considered it was only fair that if a person made

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application to the board in writing and the board were contemplating refusing their consent, it should be given an opportunity of appearing before the board and stating their reasons why the board should give its consent. So we suggest the insertion of this sub-clause, which requires the board to notify the parties to the transaction of their contemplated intention of refusing their permission to the transaction. It will give the parties an opportunity of appearing before the board and arguing their case. It may well be that in the light of further argument the board may change its mind and give consent.

Clause 9 is new. If you have a board with functions such as the measure seeks to confer upon this one, it seemed to us essential to give the board power to order persons to give evidence. It is in fact a quasi-judicial body, and it should be given reasonable powers. If they are unable to compel people to come before them, their inquiries might be rendered abortive. The clause also makes it an offence if a person, without reasonable excuse, refuses or neglects to attend before the board as a witness, or to produce any documents if ordered to do so. Then we considered it was important to give the board, or the duly authorized representative of the board, power to enter upon any land and inspect it. It would be very difficult for them to properly perform their function if they were not able to enter upon the land and see what the application was about, or if they had under consideration recommending it for acquisition by the Crown. In a later clause we make it an offence for any person to obstruct any person from entering if such person has the authority of the Board, that is to do. I might also mention the fact that the board is empowered to advise the Governor as to the suitability of land for settlement purposes and also to advise the Governor as to the price which in their opinion should be paid for the land. Clause 12 we considered necessary and desirable because it does afford some protection to the person whose land is going to be recommended for acquisition. Before making any recommendation, that clause requires the board to notify all the parties interested in the land and to give them opportunity to come before the

board and show cause why the land should not be recommended for acquisition by the Crown. We make the board's decision final by sub-clause (3) and we also require, the board by sub-clause (2) to notify any of the persons interested of their decision in the matter. Sub-clause (4) of clause 12 enables the board to refund, in its discretion, the expenses which are to be limited to the travelling and subsistence expenses, of any person who appears before them who is interested in the land. That provision was inserted because it was felt that it was through no fault of the person concerned that his land was going to be recommended for acquisition, and it is right that such person should not be put to expense, so far as personal expenses are concerned, in coming before the board and putting forward any opposition to a recommendation of the board. The next substantial amendment is to be found in clause 14 (2) and (3). The original provision amounted to this, that if a person failed to comply with any directions of the board regarding development, the Commissioner, with the consent of the board, commenced proceedings for forfeiture in the High Court and the court, under the original provisions, if the facts were proved, was compelled to forfeit the land to the Crown. We considered, after a considerable amount of debate, that that was harsh and might in certain cases work considerable hardship on the person whose land was to be forfeited. For instance, you might have the case of a person who genuinely intended to carry out the directions of the board but who suddenly, through misfortune in his family, such as sickness, might through no fault of his own be prevented from carrying out the directions of the board. This affords him protection because it provides that the court may forfeit the land to the Crown, and it also enables the court, subject to any terms which may appear just, to defer giving judgment for forfeiture, providing that the conditions of the board are fulfilled within a period fixed by the court. If you do not have that provision enabling the court to defer giving judgment, you would have to go through the whole gamut of bringing another action before obtaining forfeiture. This is an expensive procedure, and will save the

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people interested a considerable amount of expense.

In clause 15 there are one or two amendments which might be of interest, though they do not change policy. We say there "upon any written recommendation by the board that land is suitable and should be acquired for settlement the Governor, after consultation with the Highlands Board, may, subject to the provisions of this part of the Ordinance out of moneys appropriated by the Legislative Council of the Colony for the purpose, acquire land on behalf of His Majesty". The provision regarding consultation with the Highlands Board was inserted because of the provisions of the Highlands Order in Council which requires the Governor to consult the Highlands Board on all matters concerned with the disposition of land in the Highlands. I hope hon. members will not be disturbed by the proviso to the clause. Its object is to provide a certain amount of flexibility. You might acquire land for settlement and it might be found that a small portion of that land was unsuitable for use for farming purposes, but it might be suitable for use in connexion with settlement or for some other purpose. In such a case it would be a pity to have to allow such land like that to lie idle because it was useless for farming. The proviso also requires the Governor to consult the Highlands Board before he takes any action under it. Then we come to clause 18. There is a slight amendment here which I think is obvious and I need not go into the reasons for it.

Part VI of the draft is entirely new. It may be said that we are introducing a lot of new points into this measure, but I venture to disagree with any such assertion because in the original bill under clause 20 (b) there was provision enabling the Governor in Council to make rules "prescribing the procedure and forms to be used in making and disposing of claims for compensation in respect of the compulsory acquisition of land under this ordinance". Under that rule-making power the Governor in Council could have made rules providing for the procedure that we have inserted, or suggest should be inserted, in the measure itself. I feel strongly in the matter because I gave this Council an undertaking that when we were consider-

ing the Bill in select committee we would confine the rule-making powers, in so far as it was humanly possible, to matters of procedure only. You could hardly call the basis on which compensation is to be paid and the method of acquisition mere matters of procedure. It is something that vitally affects the person whose land you are dealing with, and for that reason we thought it was fair and proper that the procedure to be followed, and the basis upon which compensation is to be paid, should be set out clearly in the Bill so that everybody likely to be affected by its provisions would know exactly what they were to do and the basis upon which they were going to be compensated if their land was compulsorily acquired. The whole of Part VI lays down this procedure. I do not propose to go into any great detail in dealing with it. I would draw particular attention to the proviso to clause 19 which reads: "Provided that the Governor shall not, subject to the provisions of section 20 of this Ordinance, which I will explain in a minute, acquire any land compulsorily which in the opinion of the Board, whose decision in any such matter shall be final and conclusive, is being adequately developed and utilized by the person having control thereof". That is the provision which I venture to submit completely protects the position so far as persons who are properly utilizing their land are concerned. The Governor may not compulsorily acquire land under the ordinance unless the board is satisfied that the land is not being properly developed and utilized. As regards clause 20, which is referred to in the proviso, we had a considerable amount of evidence offered, and I think we all felt that there was a great deal of weight in it. Supposing the board recommended, in the case of a very large property, acquisition of a portion of that property, we felt that if the balance of the property was reasonably required for the full and unimpaired use of the remainder of the land, that is to say the amount left to the owner, the Governor should be required, at the option of the owner of the land, to acquire the whole of the property. It may never occur, but we thought it advisable to put in that provision because it does afford a measure of protection to the person whose land you are dealing with. Then

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we suggest that if there is any dispute as to whether the remainder of the land is reasonably required for the enjoyment of the whole property, any dispute as to that should be referred to the Board of Assessment appointed to award compensation in respect of the land to be compulsorily acquired. It is essential to have some decision on the matter, and hon. members will see later on that the Board of Assessment is an impartial body and that the owner himself is represented upon it. The same consideration lies behind our recommendation for the inclusion of clause 21, where we recommend that chattels which in the opinion of the board are "such as would normally be used in farming operations which are similar to those carried on by the owner of the land to be compulsorily acquired" should, at the option of the owner, be acquired by the Governor. You might have the case of property with cattle on it, the owner might have several hundreds of head of stock and no other property upon which he could place the cattle. Government more than probably would not want the cattle although they were taking the land. Whatever the conditions are now, after the war at some time or another values may become depressed, and if it became known that several thousand head of cattle were suddenly to be placed on the market it might well depress the value still further, and it might result in causing damage to the person concerned. We feel if that provision is inserted it will afford a measure of protection which is desirable. Clause 22 merely lays down procedure about giving notice of the acquisition. I will not bore Council by going into any detail. If the Crown is going compulsorily to acquire land there must be some method of letting the persons interested in the property know that the Crown intends to acquire it. For that purpose we suggest that there should be a notice of acquisition published, and we suggest it should be published in two consecutive issues of the Gazette. It will set out all particulars of the land. We also suggest that it should be published in two separate issues (with an interval of at least seven days between each issue) of a daily newspaper circulating in the Colony. Paragraph (c) of sub-clause (3) of clause 22 requires that notice of

acquisition shall also be served upon any persons known to be interested in the land. I think you will agree that it is right and proper that ample notice should be given to any person, such as a mortgagee or any other person, interested in the property that it is proposed to acquire. Clause 23 empowers the Commissioner to call for statements. The provision is intended to enable him to obtain the fullest possible information about the ownership of the land, the persons interested and any other matters connected with the land. That information later on has to be transmitted to the Tribunal who will consider what compensation shall be paid.

Part VII is also new. That seeks to set up machinery by which compensation shall be assessed. It provides for a board of assessment consisting, firstly, of a person nominated by the Chief Justice who holds or who has held judicial office, who is to be appointed by His Excellency the Governor, and, secondly, a person to be appointed by the Governor who will act on behalf of the Crown, and, thirdly, a member to be nominated by the owner, or his representative, of the land to be acquired. In other words, it seeks to set up a simple arbitration tribunal. You have an appointee of the Governor who is the person acquiring the land on behalf of the Crown; you have the appointee of the owner of the land, which is usual in an ordinary arbitration; and you have your umpire, who is the person nominated by the Chief Justice, who is out of the sphere of the transaction altogether and who is the person who is required to have judicial experience. He will in point of fact act as an umpire. The difference between that and ordinary arbitration is that ordinarily you have two arbitrators sitting, and in the case of disagreement, as a last resort, the matter is referred to an umpire and his decision is final. Here you have the umpire sitting with the arbitrators, which is an expeditious procedure and should have a considerable amount in costs. I think Council will agree that it does provide a fair and just method. Under the old provision you had a board which was going to recommend the compulsory acquisition of land by the Crown, and that same board was to be the body which assessed the compensation to be paid for the land that you were compulsorily acquiring. It

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seemed to us not to have a very good appearance, and I do not think in the main—and I say this quite honestly—I do not think it would have been satisfactory. I think the public did not feel very happy about it. I think the other members of the select committee had considerable doubts about it, their doubts never fully crystallized, but they did not like it and we felt that this board of assessment met any valid criticism that could be made. Clause 25 merely provides the procedure to be followed by the Commissioner once the land is ordered to be compulsorily acquired. Clause 26 provides the procedure to be followed by the Board of Assessment. 26 (4) enables the board to award costs in proper cases, and (5) enables such costs, with the consent of the parties concerned; to be added to or deducted from the amount of any compensation payable as the result of the inquiry. That will save the necessity for bringing an action for the recovery of costs after the Board of Assessment has made its award. The committee felt it could only be done if the parties consented. Clause 27 makes provision enabling the Board of Assessment, or any person authorized in that behalf, to enter upon any property and examine it, or the chattels which are the subject matter of the inquiry. Clause 28 is rather an important clause, because that sets out what we submit are matters that should be considered by the Board of Assessment in determining the compensation to be paid and the matters which, in our submission, should not be considered by the board in determining the compensation to be paid. I do not think I need weary the Council by going into it in detail, but I would draw attention to clause 28 (1) (a), which provides that one of the matters to be taken into consideration is the market value at the date of publication of the notice of acquisition under clause 22. This matter, as you can imagine, gave the committee a considerable amount to think about. It has been suggested that the date should be fixed as in England, where they have fixed a date in September, 1939. I think I am right in saying, and that date in the case of any compulsory acquisition is, the date upon which the value is based. A complete answer to that proposition is this: In England you have a highly

built up developed country, and land values are comparatively static, whereas this country is a new country, developing the whole time, and the genuine value of land, if it does not alter from hour to hour, certainly may from year to year. It seemed to us that if this measure was one of acquisition and not confiscation, it was fair and right to give the present market value at the time the decision was taken to compulsorily acquire it.

Then we come to matters not to be taken into consideration, I think everybody will agree with clause 28 (2), the fact that the acquisition is compulsory should not be allowed to affect the value of the land, nor the degree or urgency which has led to the acquisition, the disinclination of any person interested to part with the land to be acquired, any damage sustained by any person interested which, if caused by a private person, would not be a good cause of action, any increase in the value of land to be acquired which is likely to accrue from the use to which it will be put where acquired. That is put in because in a recent case the value of the land was based on that, and Government was compelled to pay—I think the hon. Commissioner of Lands and Settlement will correct me if I am wrong—something like six times as much as the land was really worth, merely because this was the consideration taken into account in assessing the compensation to be paid. Clause 28 (4) provides that in determining the amount of compensation to be paid for any chattels to be acquired, the basis shall be "the amount which such chattels might have been expected to realize if sold in the open market immediately prior to the publication of the notice of acquisition". Clause 29 deals with the award of shall in every case be final and conclusive. We felt that you must have some finality in these matters. There is in effect an arbitration tribunal. You have a nominee of the Governor, a person nominated by the owner of the land, and an absolutely impartial person nominated by the highest member of the judiciary. Every condition is made for a proper inquiry, and once their deliberations are ended we felt it right to call a halt and allow no appeal after that. That is the usual procedure in arbitration. If two disagree

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[Mr. Foster Sutton] it goes to the umpire, and unless the case is wrong on some question of law that is final and conclusive. Whatever case may be said about it, this is in effect the same procedure as arbitration. You have your two arbitrators, and your umpire, sitting together; the umpire sitting with the arbitrators is the only difference so far as the tribunal is concerned.

Clause 30 seeks to provide the procedure for giving effect to an award, and the hon. Commissioner of Lands and Settlement is going to move a slight amendment to insert a new paragraph (f). Copies of this amendment were circulated to hon. members this morning, and it reads as follows: "enter upon and take possession of the land described in the award in cases where he has not already so entered and taken possession of such land". The object of that amendment is this. It did not occur to us at the time, but something the hon. Chief Secretary said brought it forcibly to my mind. Under clause 19 the Governor can order the Commissioner to acquire and enter. If for some reason he does not order him to enter, it might be argued hereafter by a contumacious owner who objects to his land being compulsorily acquired that we must have recourse to our civil remedy by taking an action for ejectment. He might argue that if the Governor had not ordered the Commissioner to enter under clause 19, the latter could not enter, and that though the Crown had bought the land and was entitled to possession, that possession could only be obtained through the medium of the courts. I feel confident that this additional paragraph is included in this completely cut the ground from under the feet of any person who seeks to put forward that argument, because under this the Commissioner will enter under the ordinance. If hon. members turn to the last page of the Bill, clause 46, we seek to provide penalties in the case of any person opposing or impeding the lawful taking of possession of any land under the ordinance. Clause 31 may appear slightly novel, but we thought it fair to recommend it as well. It provides that the Commissioner shall add to any compensation awarded by the Board of Assessment interest at the rate of 5 per centum per annum calculated (a) in the case of land, from the date

upon which the Commissioner entered into possession, and (b) in the case of chattels, from the date upon which he took possession of such chattels, until the date of the payment of the amount of compensation awarded by the Board of Assessment. There might be a hiatus between these acts, and we felt that it was only right and proper that the former owner should be allowed interest on the amount to be paid by way of compensation until it was paid. Clause 32 provides the procedure for protecting the position of absentees. Clause 33 deals with the expenses and fees of the Board of Assessment. They have got to be paid, and this clause enables the Governor to authorize the payment of such expenses and fees. Clause 34 precludes any person from instituting any suit or proceeding to set aside an award or any portion of an award of a Board of Assessment.

Part VIII recommends a different procedure to that provided for in the original bill. We recommend in clause 35 that a Land Control Appeal Tribunal be set up, which shall consist of a chairman, again to be nominated by an absolutely impartial person, the Chief Justice, and two other members, all of whom will be appointed by the Governor by notice in the Gazette. Sub-clause (3) provides that the Tribunal "shall determine every appeal in respect of any of the matters entrusted to it" under the ordinance, it enables them to hear evidence, and also gives the board against whose decision the appeal is brought the right to appear before the tribunal. We felt that that is essential, otherwise there would be *ex parte* applications and only one side would be represented. Clause 36 provides a further procedure, that the chairman's opinion on any question of law shall prevail over that of the other members of the Appeal Tribunal and enables him to state a case on a matter of law to the Supreme Court for their opinion; it also provides protection for the appellants in that if he is required by them to do so he must state a case on a question of law for the Supreme Court. Clause 37 merely enables the expenses of the tribunal to be paid. Clause 38 enables the Governor to make rules which, as I have already said, are in the main purely matters of procedure. Clause 39 is recommended in an effort

[Mr. Foster Sutton] not to derogate from the powers conferred on the Highlands Board by the Highlands Order in Council. We felt that any rules prescribing the terms and conditions under which the land acquired may be disposed of was a matter which came within the orbit of the Order in Council, and we felt the same about regulating the sale of such land by auction. That is again a matter concerning the disposition of land, and we felt that if we were to keep within the four corners of the Order in Council then rules governing such matters should only be made after consultation with the Highlands Board. Clause 40 enables the Supreme Court to make rules regarding the forfeiture procedure and the procedure to be followed on cases stated under the ordinance. Clause 42 enables the Governor at any time before the Commissioner has actually entered and taken possession of the land, to withdraw from the transaction, but we recommend the inclusion of a provision which protects the interests of the person affected by such withdrawal. Sub-clause (2) of that clause provides that "Whenever the Governor withdraws from any such acquisition, the Commissioner shall pay to the persons interested all such costs as may have been reasonably incurred by them by reason, or in consequence, of any proceedings for the acquisition of the land". That we felt was only right and proper to provide for. Clause 43 merely provides for the vesting of the land in the Governor in trust for the King. Clause 44 is the same as the original clause 24 in the Bill. Clause 45 is merely a re-drafting, and puts into one clause the provisions originally contained in two clauses in the Bill. Clause 46 I have already dealt with. Clause 47, the last clause of the measure, enables the Governor, "after consultation with the Board and the Highlands Board, by notice in the Gazette, to exempt from all or any of the provisions of this ordinance such classes of land, and such dealings or transactions relating to land, as he may think fit". The hon. Commissioner of Lands and Settlement will deal in some detail with the reasons for that provision, but it does provide a degree of flexibility which we considered it was important to include.

Before concluding, I want to say this: that the select committee had a tremendous

advantage over the persons who originally prepared this measure for the consideration of the Council. We had the enormous advantage of hearing a considerable body of witnesses and considering a considerable mass of memoranda, which gave us new ideas and greatly helped us in our deliberations. In conclusion, I feel that it is right and I should like to say it, that I have never had the honour of working with a committee whose members were more anxious to do what they thought was right and honest, both for the country and the people who were going to be affected by the matters they had under consideration. They put a tremendous amount of thought and labour into their deliberations on this measure. It was very interesting to me personally, and I am most grateful that I had the opportunity of sitting as a member with them.

MR. BROWN seconded.

MR. AMIN: Your Excellency, in discussing the select committee's report on the Land Control Bill, there is one difficulty which I should like to express in the beginning so that the time that I may take will be justified. On the first page of the memorandum, the page which is signed by the members of the select committee, in the last paragraph but one, it is stated that the members "recommend that the Bill be enacted in the form of the attached draft in which all the amendments recommended are undertaken. This course has been adopted to facilitate consideration of the new proposals". From that one is bound to infer that all the amendments to the original bill suggested by the select committee are so undertaken and that the new draft which is before the Council does state all that has to be stated. I would draw Council's attention to the memorandum of the hon. Attorney General and the explanatory notes that he has appended. In these explanatory notes I admit that most of the important amendments have been touched on and partly explained. To start with, I will point out one or two defects which go to the root of the whole principle of discussion by the Council of the report of the select committee, and in support of what I say I will later on refer to the matter which the hon. Attorney General has himself added in dealing with the report. In the new draft, to which all the references

[Mr. Amin]

has been made in the memorandum of the hon. Attorney-General, there is no suggestion at any stage that any deletions have been made from the original bill which are either underlined or indicated in any way in the new draft. If it is suggested that these deletions are of no consequence, I beg to point out that the deletion from clause 1 of the original bill which has taken place is a matter of great consequence and of constitutional importance. The original bill had this as its first clause: "This ordinance may be cited as the Land Control Ordinance, 1944, and shall be deemed to have come into force on the 19th day of October, 1943, but shall not come into operation unless and until the Governor has declared by notice in the Gazette that it is His Majesty's pleasure not to disallow the same." The words starting from line 2 of that clause: "but shall not come into operation unless and until the Governor has declared by notice in the Gazette that it is His Majesty's pleasure not to disallow the same" have been omitted from clause 1 of the Bill altogether. It might be a mistake or an omission of some kind, or a clerical error even—

Mr. FOSTER SUTTON: May I interrupt on a point of explanation? That omission is merely a legal matter which does not affect the Bill one way or the other. All that happens is that, when the Bill is passed by this Council, it is the duty of the Attorney-General to advise His Excellency the Governor either that he may assent to the measure, or that he may not assent to the measure because it is one of the bills that is reserved for the signification of His Majesty's pleasure by reason of Royal Instruction. By deleting these words I consider we were pursuing the proper course. When this Bill passes its third reading in this Council, I shall advise His Excellency the Governor that he may not assent to this measure because it requires the signification of His Majesty's pleasure. When the signification of His Majesty's pleasure has been communicated to His Excellency the Governor, then, if he has indicated that it is His Majesty's pleasure that he should allow it, I will advise His Excellency the Governor that he may properly assent to it; it is merely doing it in the correct way.

Mr. AMIN: The reason given by the hon. Attorney-General from the purely legal point of view may be perfectly genuine and perfectly right. I do not suggest it is not, but what I am emphasizing is that the presentation of the report is irregular because this report should show where the original bill has been amended and where it has not, whereas from this report there is no means of judging whether clause 1 is amended in any shape or form. Therefore the hon. Attorney-General's explanation in the fourth paragraph of the first page of his memorandum that all amendments are underlined is an incorrect description. Therefore, Council must go into the consideration of the clauses in detail if this is going to be the final consideration of the report, or at some other stage if it may be necessary and proper that the Bill should be gone through clause by clause in committee of the whole Council. If this was the only deletion I might not have pursued that point any further, but I will have to deal with clause 2 and the amendments made therein. Clause 2 has been altered in two directions. One is indicated in the draft, the other is not indicated in the draft and therefore there is no method of finding out, except by reference back to the original bill, what the amendment is. The definition of land given in the new draft omits the proviso which was incorporated in the original bill. I will read the proviso: "Provided that this ordinance shall not apply to any transaction relating to any piece or portion of land not exceeding twenty acres in extent." This proviso has been deleted by the select committee, and in the draft report which Council is asked to consider you do not find any indication that that deletion has actually taken place nor will you find any reference to it in the hon. Attorney-General's memorandum. In the speech in which the hon. Attorney-General introduced this report he has also failed to give any reasons why the deletion has taken place. I would emphasize again that this is not the proper method of presentation of the report; it is irregular because it does not show where deletions have taken place. I will now explain the importance of this deletion. In explaining the reason for this proviso the Commissioner of Lands and Settlement at the second reading said in effect that lands under 20 acres

[Mr. Amin]

in extent were to be excluded, because properties for residential purposes or settlement were not to come within the purview of the Bill. Now by the deletion of this proviso all dealings in land will come within the purview of the Bill, and in my submission it was not within the competency of the select committee to alter the Bill in this way. It is quite competent for the select committee to come to Council and ask for permission to alter the principle of the Bill in that particular way and Council would probably have agreed. But, on the other hand, perhaps for the purpose of residential settlement we might have asked that the proviso should remain. This has not been done, and I think as the select committee did it without any instructions or authority from the Council that particular part of the draft report vitiates the whole work of the select committee, and we should be quite within our rights to suggest that the Bill as now amended by the select committee should go back and be read again at some later stage.

In Part 1, clause 3, sub-clause 2 (d), there is an amendment which substitutes the word six for the word four. In my submission it is a matter of great consequence. The select committee was not within its rights to make that amendment. The whole composition of the board has been altered, unless you can say that six does not mean six and that six is no more than four. Then, of course, I would have nothing further to say. There was a possibility, originally that if between the Government on the one side and the representatives of the European elected members on the other with an official chairman, there would have been on that board four votes on the official side and four on the unofficial side there was a chance of equality of voting. I think it was not within the competency of the select committee to change the number from four to six. It is a matter of such significance that, as I shall explain later, it goes to the root of the whole working and intention of the Bill which is the clause Council. I will now deal with the clause which empowers the Land Control Board to work in a certain way and provides for a quorum. This also is a matter of importance. If the six members elected by the European elected

members or any four of them intend to prevent the working of the board, they can do so, by absenting themselves. So that, if it is the intention of the Governor to acquire land after obtaining the advice of the Land Control Board, Government will be prevented from obtaining the advice of the board by the non-assembly of sufficient members who oppose the particular transaction, and if out of the six members elected by the European elected members organization only one or two attend the board cannot function. Therefore it goes against the very grain of the provisions of the original Bill. For the purpose of saving time and in order to obviate the necessity of referring to the original bill and the memorandum and the new draft, I will refer to my notes more extensively than has been my habit in the past. Clause 5 is thus so amended that it takes away the unhampered right of the Crown to acquire land if it is being acquired for settlement purposes. The right of the Crown to acquire land for settlement in the original bill was unhampered. If the Land Control Board wanted to advise on the acquisition of a particular portion of land, then of course the board was competent to give its opinion in the matter, but there was nothing in the original bill to suggest that without prior consultation with the board the Crown could not obtain the land. This new amendment lays down that in every case of the Crown wanting to acquire compulsorily land for settlement purposes, the Crown must first obtain the advice of the board. In view of the fact that the board will now be constituted and the number to constitute a quorum so amended that the unofficial members can hold the matter up if they desire, one must come to the conclusion that the power of the Crown to acquire land for settlement can now be defeated by the non-attendance of members.

Mr. FOSTER SUTTON: On a point of explanation—I must apologize for interrupting the hon. member again—but I think in making this submission to Council he must have omitted to remember that there is a reservation of rights under clause 45.

Mr. AMIN: Assuming that my point is right (laughter)—I may say that as I have not had an opportunity of referring back to the other clause I can-

[Mr. Amin]

not admit that the contention of the hon. Attorney General is or is not right, and I will not deal with the matter further because I have made my point, and it is a point that has got to be dealt with. The amendment of this particular clause, deleting certain portions of the Bill, go to the heart of the clause and the Government must first take the advice of the board before compulsory acquisition. The amendment of this clause should not have taken place without the approval of Council, and having said that I will not touch on the matter further. Taking paragraph (d) of sub-clause (1) of clause 7, and clause 17 of the original bill together, these deletions and additions completely change the whole character of the bill. In the original bill the power to determine the price that shall be paid by the Crown for any land which it is proposed to acquire compulsorily was given to the Land Control Board when no arrangement for sale or exchange could be reached. This power of the board has been taken away and by amendments to clauses made by the select committee report the board is made an advisory board in this respect, and by the insertion of new clauses B (2) and 24 a new machinery has been created in the form of an establishment of a Board of Assessment and the power which was—

His EXCELLENCY: I do not wish to interrupt the hon. member, but he must not read his speech.

MR. AMIN: I would readily obey the ruling of Your Excellency, but I would suggest that going through clause by clause—

His EXCELLENCY: Order! Order! Will the hon. member resume his seat? The hon. member has the fullest permission naturally to refresh his memory from his notes, but I called the hon. member to order because he was clearly reading his speech, which is contrary to the Standing Orders of this Council.

MR. AMIN: Part VI of the Bill as amended by the committee provides for the compulsory acquisition of land by the Crown, and is entirely new, and clauses 19, 20 and 21 involve new principles of acquisition. I will refer to clause 13 in the memorandum of the hon. Attorney General on this point: "Part VI of the Bill is new and provides

a comprehensive procedure to be followed when land is compulsorily acquired under the ordinance by the Crown. The proviso to clause 19 meets the considerable body of opinion, which maintained that land which is being adequately developed and utilized by the person having control of it should not be compulsorily acquired. This is a new principle which has been included in the Bill, and in any opinion it was not within the competency of the select committee to have done so. This new machinery which is created is, in my submission, also a matter of great hon. Attorney General is very fair in admitting that it is a new thing, altogether. It is not only a new machinery which is provided, but there are new matters of principle which are also included. In the original Bill there was no provision to compel the Crown to acquire adjoining land or land which might suffer by being divided up, or chattels on the land. Now, sir, I would refer to clauses 20 and 21 of the Bill as amended by the select committee. These are described in the marginal notes as "Where part only of land is being compulsorily acquired, Governor may be required to acquire the whole", and "Acquisition of chattels at option of owner". Those provisions, the clauses under that section, the hon. Attorney General has stated, are only a translation of the rule-making powers in the original Bill. Then we would ask whether the Governor's rule-making power as described in the original bill would cover this sort of new provision? In my submission, his rule-making powers could not have included such matters, and did not include them. Bringing in these clauses in this way is not right, because there was nothing in the original bill to suggest the Crown was to be compelled to buy land or chattels on the land which the owner was not asked to sell but which he accepted to sell. Now I will come to clause 22. I would suggest that there was anything in the point that rules which are not rules but are matters important enough to be included in the bill, they should be so included, then one could suggest that provisions under clause 22 which are more or less in the nature of details in the carrying out of any of these clauses have no place in the Bill

[Mr. Amin]

which this clause only provides powers to issue notices of acquisition and the publication of such intention to acquire land in the Official Gazette, the period of such notice, etc.

Part VII is headed "Inquiry and award by Board of Assessment". That is dealt with in the Attorney General's memorandum on page 3, under clause 18. He admits that Part VII is new and lays down the procedure to be followed in the award of compensation. I would comment on this by saying that such new parts of a bill providing additional machinery in place of other machinery which was provided by the original bill, were not in the competency of the select committee, and that my authority for saying so is May's Parliamentary Practice. There are provided in Appendix 2 the class of amendments which a select committee can or cannot make, and it divides the amendments into the categories: classes 1, 2 and 3. These are of some importance, and some of these amendments of this committee by Parts VI, VII and VIII come within the category of which May's Parliamentary Practice says that even by the instruction of the House such new machinery cannot be incorporated into a bill which the original bill had not contained. I will refer to the heading: Pages 899, Appendix II, Class 1, sub-clause (B). There is also a reference in another place dealing with this particular point: Appendix II, class 1 (6). In my submission, this machinery could not have been added even by reference to this Council, because when you provide a new method of approach to the whole subject matter of the Bill the principle is that the Council should have an opportunity of discussing the matter in the first instance. Instruction from the House fulfils the necessity of first discussion, and then only amendments in detail, and possibly amendments at a later stage by a select committee follow. I would now deal with clause 12 (4) of the new bill, which states: "The board may, in its discretion, award to any person or his representative who appears before them under the provisions of subsection (1) of this section, out of moneys appropriated by the Legislative Council of the Colony for the purpose, such sum by way of travelling expenses and subsistence allowance as to the board

may seem just". This provision on the public charge is a matter not within the competency of the select committee and should be so treated. After consideration of certain of this class 1 matter, one finds it is of great significance that the several amendments which are included in the new draft and indicated in the memorandum include several matters of importance, and when I say amendments I mean also deletions which are not obvious in the report of the committee and the provisions of new parts. So that this Bill has become a new bill and has been so extensively altered, so that the original bill, which occupied only a few pages, has been turned into a new bill twice or thrice the size of the original bill.

On that particular point, without going into the principle of the thing as to how the nature of the Bill is altered, I would only quote from May's Parliamentary Practice a case where, although amendments were perfectly right and legitimate within Standing Rule No. 44 of the House of Commons and the relevant rule here, this is evading the practice established in Parliament. It states this: "When objection was taken that it had become a new bill, the minister in charge of it, while denying the alleged extent of the amendments, consented to withdraw the bill. In 1889 appeal was made to the Speaker regarding the amendments made by the King extensive alterations made by the committee on the 7th that whilst he desired to safeguard the rights and jurisdiction of the chairman of ways and means in giving an opinion on a matter of committee procedure, and although he could not, as Speaker, stop the bill on the point of order that the bill was a new bill, he unhesitatingly affirmed that the practice of the house had been, in a case of this kind, to withdraw a bill which had been so dealt with, and to introduce another bill in the amended form, on which the decision of the house could be obtained on a second reading, could be obtained on withdrawal. On the 27th January, 1910, the Speaker was asked to express his opinion as to certain amendments to the Franchise and Registration Bill which was then being considered in committee of the whole House. The Speaker, while declaring that the proper time for raising such a question was after the bill had been

[Mr. Amin] reported to the house, said that the admission of any one of the amendments to which his attention had been directed would so alter the bill as to make it a new bill, and that he would advise the House under the circumstances that the bill should be withdrawn and leave be asked for the introduction of a new bill. This quotation is to be found on pages 412 and 413 of May's Parliamentary Practice. I beg to submit that, even although these amendments may be perfectly relevant, which I deny, they are so extensive that they are not in the form of the class I amendments but the provision of new parts, and that this Council has had no opportunity of considering them on a second reading, and that what is not considered on a second reading as a matter of principle is not really within the competency of the select committee to add to the bill. The practice has been that the Bill should be withdrawn and reintroduced in the new form which is satisfactory to the community in general is suggested by the hon. Attorney General in this instance.

There is another thing that I must emphasize, that the amendments taken together amount to something staggering. It was first suggested when we discussed the Bill on the second reading, that the objects and reasons given with the Bill were the real objects and reasons—that land transactions should be controlled for the purpose of ensuring the most beneficial use of the land, acquisition of land for settlement in a manner that would not be injurious to post-war settlement, and that speculation in land would be prevented. I will give one instance to prove that the intention of this new bill is not what it was intended to be, and the reason is this. The new Assessment Board provided now is compelled by new clause 28 (4) to take into consideration the market value of the land on the day of the publication in the Gazette of the intention to acquire land. It also provides that the Assessment Board shall take into consideration the market value of the chattels which are on the land which the Crown is compelled to acquire. Is it suggested with any sense of reality that the market value of the land and chattels at the time of the publication of the notice will be a value which will not be a speculative value? In my submission,

if there is to be any prevention of speculation or any prevention of speculative prices, some other way will have to be taken into consideration. We have provided machinery whereby the owner of the land will know in advance that his land is to be acquired, because first the board considers the matter, and the board consists of people who are mostly land owners or representatives of them, and then the board deals with the desirability of the land and the price, and by the time it takes the matter in hand the notice will have appeared. I submit that the notice should appear before the question is determined by the board, and not before consultation with the owner. The owner, having once got the idea that his land is to be acquired, has every opportunity to prove to the satisfaction of the Control Board, the Assessment Board and Appeal Tribunal that the market value of the land was something far beyond what the Crown intended to pay. The provision should have been that payment will be on the basis of the land value at, say, August, 1939, or at some date when speculation was not at all possible and there was no chance of increasing artificially the value of the land. That applies also to the value of chattels. You are now bound to acquire the chattels if the owner chooses. This provision has so altered the Bill that it plays directly into the hands of the landholders and increases their opportunities so much in regard to the value of the land on a particular date that that value will not be a fair one or a reasonable value for settlement, but a speculative value, and a speculative value only.

Now I will deal with the point of settlement. There was nothing in the original bill as to what particular kind of settlement it was. It is now suggested that the Crown's or His Majesty's right to acquire land for settlement meant for European or white settlement only. In my submission, if that is relevant it should be in the bill or ordinance. But there is nothing, and I am quite right in saying that His Majesty's Government will not be right nor willing to acquire land only for white settlement. If one assumes that it is right to say the settlement is to be white, even then the Land Control Bill as now proposed, the Assessment Board as now advocated, and the Appeal Tribunal now advocated, all

[Mr. Amin] also together will mean that the land-owners from whom you wish to acquire land will have every opportunity to obstruct, and in certain cases prevent the acquiring of land. What will happen is this, that with the use of all this machinery and money provided even for travelling expenses, and obstructionist tactics, land-owners will have sufficient opportunity and time in which to put an end to the acquisition of land. Therefore, unless Government agree to pay the owner what he wants, you will not be able to take the land in time for any useful purpose. In my submission, even although the amendments may be relevant, which I deny, they taken together they change the very basis of the Bill. Even if they are relevant, they should not be taken into consideration, because they change the nature of the Bill. In my submission, when the whole intention of the Bill is likely to be defeated by the amendments proposed by the select committee, it is for this Council to say it should not be taken up, or the Bill should be withdrawn or re-committed to this select committee to competently deal with it and make provision for what was originally intended. My appeal to you, sir, is this, that the parliamentary practice I have referred to is a matter of great importance. It prevents select committees meeting in secret conclave or composed of people of one particular group or interest, taking it as an opportunity to change the original intention of the Bill in such a manner that something different is imposed on the Council or the country. I submit that merely looking at the Bill as amended is enough to convince one that it is a new bill which should be reintroduced as a new bill and dealt with accordingly. That is all I have to say.

COL. GROOM (Ukamba): Sir, I have not spoken hitherto to any great extent on this particular issue, because I had hoped that the sponsor of these legislative fantasies, when they had had time to make contact with people conversant with land and the operation of the land, might possibly reduce the original efforts to some tolerably comprehensible form of legislation. It is impossible to dissociate these twin bills from one another, and therefore I am going to ask permission to deal with both together, because they are interlocked, and it will save the

time and patience of the Council on another occasion. These twin bills are really the offspring of two clearly defined public demands. The first one was, that the Imperial Government's policy on the white highlands reserve should be consolidated by a certain amount of legislation, so that the real purpose and intention of the Imperial Government to that connexion should be given effect. The second public demand was that land should be prevented in war time from getting into what they believe to be, from a social point of view and the point of view of the future, improper hands, and also that land, unoccupied and undeveloped land, should be made available for settlement after the war so as to increase the white element in the community. Without any sort of question there was general agreement on those two objectives, and all the European elected members agreed that they obviously had emanated from the public and agreed that those two objectives should be pursued and given effect to by legislation, and they left certain members of the community to get on with the job.

Normally, the easy and uncontroversial method of achieving those two objectives would have been, one, to make an amendment to the Crown Lands Ordinance, which is to all intents and purposes given complete effect to by the amending bill before us, whereby the Governor's veto should be restored. I remember very well when the Governor's veto was operative, and the result was that there was an enormous congestion of business. The Governor at that time was busy showing pictures to Kikuyu in the Meru district and was unavailable here. The result was a violent protest, and the veto sank into abeyance, and people were allowed to get on with their ordinary business. But this new issue has arisen, and undoubtedly there is a general demand that the Governor's veto should be restored, because that is the only constitutional method whereby we can in fact give effect to the policy which has been agreed to by the Imperial Government. The other objective could very easily be achieved by a very slight amendment to the Land Acquisition Act, by merely extending the definition of the term "public purpose". I do not think that would be even necessary, if previous Governors were honest people, because

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[Col. Grogan] I remember very well, an occasion when this benign State, this benevolent landlord, wished to acquire a certain property of mine, and having tried to blackmail me out of it on all sorts of pretences and by very objectionable methods, as my hon. friend the Commissioner of Lands probably remembers, then set in motion the Compulsory Land Acquisition Act. They took action for compulsory acquisition of the land under a certificate that it was required for a public purpose, which was signed by the Acting Governor of the day. That public purpose was to acquire it for subdivision and re-selling to somebody else. Whether that was a proper interpretation of public purpose I am not attempting to say, but that was the interpretation given to it by the Governor at that time. I think it right and proper that what was rather a questionable procedure by the Governor at that time should be legislatively assured by an extension of the definition of public purpose? If those two simple amendments had been brought in, the whole intention and real demands of the public would have been met. There was no disagreement that I met anyway to these two objectives, except a minor disagreement on the part of some of our Indian friends in respect of the consolidation of the white highlands policy.

If I may say so to my Indian friends, they are extremely foolish to harp on that particular issue. After all, it was the definite and considered decision of the Imperial Government. The whole of the rest of Africa is open to them, practically the whole of the rest of the Colonial Empire also, and they are foolish to go on harping on that particular issue. Of course, quite clearly their only reason for so doing is for purely political propaganda purposes, and that is proved quite clearly by the event already referred to by the hon. Commissioner of Lands, whereunder Taveta land was offered to the Indians and was never taken up. This would be a good opportunity to put on the permanent record of this Council what the history of that happening was. What happened was this. When the Dawring Committee was sitting it came to the conclusion that it was essential that they should increase white settlement very materially in order to enable the burden of government, then dis-

turbed by a series of financial factors, to be a tolerable burden. My colleague, the hon. member Mr. Shamsud-Deen, was also a member of that Dawring Committee, and he found himself in a very difficult position, because at the particular time all land transfers were held up in abeyance pending the decision of the Secretary of State on this question of the white highlands. Therefore it was impossible for us to implement our policy unless that embargo was temporarily removed. The hon. member Mr. Shamsud-Deen took a very generous view of the position. He agreed it was very desirable that white settlement should be increased so that the burden would be distributed, but he said "I find myself in an impossible position with my people if I agree to this policy without some compensating advantage". So it was proposed that a definite area of land should be set aside and reserved exclusively for Indian settlement. The area selected was the area referred to by the hon. Commissioner for Lands the other day, and I say—and I am in a position to know—that that area then reserved exclusively for Indian settlement is nearly, if not quite, the richest area of land existing in this Colony and the most suitable land for close settlement because of the admirable water supplies available. That land was surveyed into small farms—you can find a record of it in the Land Office—and offered for application by Indians. Of course, it had a serious disadvantage, of being at that time occupied by a considerable number of lions and rhinoceros and various other agricultural disabilities, and the net result was that not one single Indian ever applied for the land. They never wanted land. They simply wanted the political propaganda. That is the history of that matter, which should be put on permanent record of this Council and it can easily be confirmed by reference to the minutes of the Dawring Committee which, if they did not go down in the general fire, are presumably still available. Also I think great respect is due to my old friend Mr. Shamsud-Deen.

To continue, what I have suggested by way of amendment to the two ordinances would have been quite simple methods of meeting those two public demands which I have explained already. We are naturally faced with the question:

[Col. Grogan] Why on earth were they not followed?" in the preliminary periods of this discussion I did suggest to my hon. friend the Commissioner for Lands that that was a very easy solution, and I understood him to agree that that would have been an alternative method of doing it. Therefore I am entitled to ask, why this highly controversial how-d'ye-do has been grafted on to those clearly defined public demands with consequential confusion? The answer, of course, is that some of the parties to whom the executive work of giving effect to these wishes was entrusted by the elected members to whom the public entrusted it, included a certain number of gentlemen with strange views on land, and I think it a matter of common knowledge that the two parties mainly responsible were: No. 1, the Commissioner for Lands. Well, I have had a great many dealings with the hon. gentleman, and I have already made it clear in this Council that not only have I a great respect for his capacity but I also venture to say that I have a personal affection for him, but I have suspected for a long time that behind that seraphic smile and disguised by that—what shall we say—ecclesiastical timbre of his historical appeals which have so often moved us to tears, there lurks within the inhabitants of the East End of London, the Cockney, would describe as a pretty downy old bird! (Laughter.) charge him here, and now with definite inconsistency, because not so long ago I had the privilege of sitting under his chairmanship in studying the question of land tenure of this country, and I would take his mind back to a recollection of Part II, clause 8, of our report, to which there was no limitation whatsoever in his minority report. It reads as follows:—"We are, however, unanimous in holding the view that while it is essential to impose preliminary development conditions to secure that the land will be used in an approved manner, the functions of the State in protecting this land from misuse can best be fulfilled by means of *ad hoc* legislation, such as the Land and Water Preservation Ordinance, which will be applicable"—and this is an important point—"to all land, whether leasehold or freehold and whether occupied by Africans or immigrant races".

I suggest it is quite obvious that my hon. friend there could not resist the temptation. He saw in this particular legislation, which was left to them to prepare, an opportunity to sneak in—to sneak in a whole lot of these curious land nostrum—or nostrum, whatever you call it—which have always excited him so ardently have excited so many of us in our youth, and which indeed excite a few of us in our old age. Behind it all, of course, was another enormously attractive feature, and that is that the functions of the Land Office, which in the eyes of all men have virtually expired, would be easily resuscitated and doubled, with the consequential requirements of staff accommodation tennis courts (laughter) and what not, and the whole thing would float up again with renewed life and with all banners flying.

The inconsistency lies in this. Why, entrusted with the task of giving legislative effect to the above two proper purposes, did he, contrary to his belief quoted above, sneak in all this what I call blah-blah stuff about somebody else paying how much Mr. Jones ought to pay Mr. Smith for his land and whether Smith does or does not do what some body in authority tells him to do with Mr. Jones' land? All of which seems to me very remarkable to be included in *ad hoc* legislation. If it applies at all, it applies not only to the land of the Highlands but to all the land of the country. If this sort of stuff is essential in order to safeguard the land of the so-called Highlands, why is it not equally essential to say, the land that I operate down at Taveta, which happens to be outside the Highlands? Why does it not operate equally with all the enormous areas of land bought up by Indians at the coast and which have had nothing done to them? It was, in fact, an ingenious trick of my hon. friend which I think I am entitled to resent. The other party who is primarily responsible for this legislation is my hon. friend the Member for Nairobi North. I am not going to charge him with any inconsistency, for during the whole of my long and intimate experience of him he has been entirely consistent in this one respect: he believes in committees! He is just what you described as a committee catalyst. You have only got to drop him into the most limp

[Col. Grogan]

I remember very well an occasion when this benign State, this benevolent landlord, wished to acquire a certain property of mine, and having tried to blackmail me out of it on all sorts of pretences and by very objectionable methods, as my hon. friend the Commissioner of Lands probably remembers, then set in motion the Compulsory Land Acquisition Act. They took action for compulsory acquisition of the land under a certificate that it was required for a public purpose, which was signed by the Acting Governor of the day. That public purpose was to acquire it for subdivision and re-selling to somebody else. Whether that was a proper interpretation of public purpose I am not attempting to say, but that was the interpretation given to it by the Governor at that time. I think it right and proper that what was rather questionable procedure by the Governor at that time should be legislatively assured by an extension of the definition of public purpose. If those two simple amendments had been brought in, the whole intention and real demands of the public would have been met. There was no disagreement that I met against these two objectives, except a minor disagreement on the part of some of our Indian friends in respect of the consolidation of the white highlands policy.

If I may say so to my Indian friends, they are extremely foolish to harp on that particular issue. After all, it was the definite and considered decision of the Imperial Government. The whole of the rest of Africa is open to them, practically the whole of the rest of the Colonial Empire also, and they are foolish to go on harping on that particular issue. Of course, quite clearly their only reason for so doing is for purely political propaganda purposes, and that is proved quite clearly by the event already referred to by the hon. Commissioner of Lands whereunder Taveta land was offered to the Indians and was never taken up. This would be a good opportunity to put on the permanent record of this Council what the history of that happening was. What happened was this. When the Bowring Committee was sitting it came to the conclusion that it was essential that they should increase white settlement very materially in order to enable the burden of government, then dis-

turbed by a series of financial factors, to be a tolerable burden. My colleague, the hon. member Mr. Shamsud-Deen, was also a member of that Bowring Committee, and he found himself in a very difficult position, because at the particular time all land transfers were held up in abeyance pending the decision of the Secretary of State on this question of the white highlands. Therefore it was impossible for us to implement our policy unless that embargo was temporarily removed. The hon. member Mr. Shamsud-Deen, took a very generous view of the position. He agreed it was very desirable that white settlement should be increased so that the burden would be distributed, but he said "I find myself in an impossible position with my people if I agree to this policy without some compensating advantage". So it was proposed that a definite area of land should be set aside and reserved exclusively for Indian settlement. The area selected was the area referred to by the hon. Commissioner for Lands the other day, and I say—and I am in a position to know—that that area then reserved exclusively for Indian settlement is really, if not quite, the richest area of land existing in this Colony and the most suitable land for close settlement because of the admirable water supplies available. That land was surveyed into small farms—you can find a record of it in the Land Office—and offered for application by Indians. Of course, it had a serious disadvantage, of being at that time occupied by a considerable number of lions and rhinoceros and various other agricultural disabilities, and the net result was that not one single Indian ever applied for the land. They never wanted land. They simply wanted the political propaganda. That is the history of that matter, which should be put on permanent record of this Council and it can easily be confirmed by reference to the minutes of the Bowring Committee which, if they did not go down in the general fire, are presumably still available. Also I think great respect is due to my old friend Mr. Shamsud-Deen.

To continue, what I have suggested by way of amendment to the two ordinances would have been quite simple methods of meeting those two public demands which I have explained already. We are naturally faced with the question:

[Col. Grogan]

"Why on earth were they not followed?" In the preliminary periods of this discussion I did suggest to my hon. friend the Commissioner for Lands that that was a very easy solution, and I understood him to agree that that would have been an alternative method of doing it. Therefore I am entitled to ask: why this highly controversial how'd-yo-do has been grafted on to those clearly defined public demands with consequential confusion? The answer, of course, is that some of the parties to whom the executive work of giving effect to these wishes was entrusted by the elected members to whom the public entrusted it, included a certain number of gentlemen with strange views on land, and I think it a matter of common knowledge that the two parties mainly responsible were:

No. 1, the Commissioner for Lands. Well, I have had a great many dealings with the hon. gentleman, and I have already made it clear in this Council that not only have I a great respect for his capacity but I also venture to say that I have a personal affection for him; but I have suspected for a long time that behind that seraphic smile and disguised by that—what shall we say—ecclesiastical timbre of his rhetorical appeals which have so often moved us to tears, there lurks what the inhabitants of the East End of London, the Cockneys, would describe as a pretty downy old bird! (Laughter.) I charge him here and now with definite inconsistency, because not so long ago I had the privilege of sitting under his chairmanship in studying the question of land tenure of this country, and I would take his mind back to a recollection of Part II, clause 8, of our report, to which there was no limitation whatsoever in his minority report. It reads as follows:—"We are, however, unanimous in holding the view that while it is essential to impose preliminary development conditions to secure that the land will be used in an approved manner, the functions of the State in protecting the land from misuse can best be fulfilled by means of *ad hoc* legislation, such as the Land and Water Preservation Ordinance, which will be applicable"—and this is an important point—"to all land, whether leasehold or freehold, and whether occupied by Africans or immigrant races."

I suggest it is quite obvious that my hon. friend there could not resist the temptation. He saw in this particular legislation, which was left to them to prepare, an opportunity to sneak in—to sneak in a whole lot of these curious land nostrum—or nostra, whatever you call it!—which have always excited him, so and have excited so many of us in our youth, and which indeed excited a few of us in our old age. Behind it all, of course, was another enormously attractive feature, and that is that the functions of the Land Office, which in the eyes of all men have virtually expired, would be easily resuscitated and doubled, with the consequential requirements of staff accommodation tennis courts (laughter) and what not, and the whole thing would float up again with renewed life and with all banners flying.

The inconsistency lies in this. Why, entrusted with the task of giving legislative effect to the above two proper purposes, did he, contrary to his belief quoted above, sneak in all this what I call blab-blah stuff about somebody else deciding how much Mr. Jones ought to pay Mr. Smith for his land and whether Smith does or does not do what somebody in authority tells him to do with Mr. Jones' land? All of which seems to me very remarkable legislation. All that sort of stuff ought to be included in *ad hoc* legislation. If it applies at all, it applies not only to the land of the Highlands but to all the land of the country. If this sort of stuff is essential in order to safeguard the land of the so-called Highlands, why is it not equally essential to, say, the land that I operate down at Taveta, which happens to be outside the Highlands? Why does it not operate equally with all the enormous areas of land bought up by Indians at the coast and which have had nothing done to them? It was, in fact, an ingenious trick of my hon. friend which I think I am entitled to resent. The other party who is primarily responsible for this legislation is my hon. friend the Member for Nairobi North. I am not going to charge him with any inconsistency, for during the whole of my long and intimate acquaintance of him he has been entirely consistent in this one respect: he believes in committees! He is what may be described as a committee catalyst. You have credited as a drop him into the most limp

[Col. Grogan]
pool of water and instantly the whole thing crystallizes into an interlaced mass of committees. (Laughter.)

I do say this, that I have a real admiration and, indeed, a considerable amount of fellow-feeling for the enthusiasts of these heralds of the new dawn. I went through that process myself. I am old enough to have lived—not quite old enough to have lived through the third dawn—but to have lived through two dawns, because I was an active participant in these problems and a debater in those days (and a debater of no mean efficiency) in the great battle for these great principles at the time of Dick Seddon of New Zealand, about 50 years ago. The next time the thing bubbled up—all these things bubble up every 25 years when you get a new generation coming along—I was involved in the discussion of the battle for the land. I used to speak on the platform on all that sort of stuff, and it took me, incidentally, ten years to find out what a silly young ass I was, and having found that out and having recovered completely, I found myself 25 years later involved in another dawn, in a great battle for the same nostrum (in a nostrum?) by Lloyd George. I also participated in that campaign for a matter of five years, and in each case the people involved believed that they were the heralds of a new dawn. These two gentlemen earnestly and honestly believe this archaic stuff—I can see when they leap into these debates the fanatical glitter (I had almost said glare) in their eyes when they rush into the fray—but I think, sir, that it was really rather naughty procedure on their part to trick the rest of us, the perfectly innocent and well intentioned members of Council on this side who were expected by the public to give effect to the two proper objectives. I think it was rather naughty of them to superimpose all this controversial stuff on top of it.

I am not going to state in detail my objections to the Bill now, because I think it has been so completely emasculated almost to be described as a punch. There are, of course, residuary patches of it which are highly objectionable and utterly wrong; but I am not going to deal with them in detail. In my opinion the probable results of this Bill will be

very much as follows. We shall get two new committees. The members of those two committees when they have duly acquired the necessary accommodation and the pleasant little lady clerks and all the paraphernalia of committees will consolidate their fees and emoluments. We shall then get an appeal to us in the Standing Finance Committee, of which I hope I shall no longer be a member, from the hon. Commissioner of Lands for a vastly improved and new Land office—which I hope will not sprout at a slummy patch of bad buildings across the town planning development of Nairobi. The Commissioner will come before the Standing Finance Committee with an appeal for vast new buildings, with an enormously increased staff, to give effect to these suggestions. Apart from that is the fact that, at long last, he is going to get legislative authority for the blackmail methods which have been carried on, without intermission from the year one to the present day without legislation. (Laughter.) I say that without any hesitation, and I do not think my hon. friend opposite will dare to take up the challenge, because I have used that term quite deliberately. I say here and now, and I have said before, that the methods consistently adopted by the Land Office in respect of the Crown tenants of this country have been in many cases impertinent, insolent and, in fact, blackmail, and I am in a position to confirm all that by documentary evidence. I have tried again and again here to provoke somebody on the other side to change me so far that I can put it on record, but so far I have not succeeded. These will be some of the results of this Bill.

I think it is also going to lead to a large concentration of moneys on short deposit in the banks, because people trying to give effect to transactions and finding everything blocked in the way of business will have to deposit their money somewhere; they will be wondering when things are going to happen and the banks will reap the advantage in the way of interest. There will be another advantage, which is inevitable, and that is a vast influx of lawyers, because all the ordinary citizens wanting to carry out a normal business transaction will be compelled to go and get the advice of a member of that vulturine fraternity. I think there will also be a diminution

[Col. Grogan]
of positive settlers really able to develop the land—all the worthy people of my age who have, in fact, made this as a very comfortable world in which all my gentlemen live to-day! (Laughter.) I think that type of gentleman will be frightened away to some place where he can get a bit more freedom, and where he can handle his land properly and more beneficially than with any advice he can get from Government. You will get a certain number of spoon-fed settlers who will say, "Will you teach me to farm?" "Yes." "Will you find me a bit of land?" "Yes." "Will you advance me the money to buy the land?" "Will you give me a little bit more money to develop the land?" You will get that type of settler, but if you accept that as a principle, that is the bounden duty of the State, to find, train, finance and equip a new brood of capitalists out of people without experience or money; why should those merchants come along and say, "Will you kindly come and teach me how to run one of these big garage places?" "Will you sub-divide my land's accommodation over there; divide it into a lot of small uneconomic units so that you can turn the fellow out?" and so on and so forth. I cannot see any difference. What always happens in this country is that all this controversial and difficult legislation creates enormous excitement at the time, and then when everyone has forgotten, such a thing rusts it sinks into oblivion and joins the mausoleum of the laws which you can only find in the Law Library—a complicated series of laws that nobody knows anything about. For those reasons, and one other, I support the Bill. (Laughter.) My only other reason is this, that I hope that when you have got the Bill and when this country has got the result, when the next war comes along it will learn this lesson, that it is entirely wrong for Government to introduce controversial legislation in wartime, and that it is very very foolish of Government to be switched and swayed into this kind of stuff by the hysteria that is the invariable concomitant of war. (Applause.)

The debate was adjourned.

ADJOURNMENT

Council adjourned till 9 a.m. on Friday, 9th June, 1944.

Friday, 9th June, 1944

Council assembled in the Memorial Hall, Nairobi, at 9 a.m. on Friday, 9th June, 1944, His Excellency the Governor (Sir Henry Moore, G.C.M.G.) presiding.

His Excellency opened the Council with prayer.

MINUTES

The minutes of the meeting of Thursday, 8th June, 1944, were confirmed.

ORAL ANSWERS TO QUESTIONS

No. 51—MAIZE CONTROL AND CONTROLLER

MR. WRIGHT:

In view of the fact that a period of four months has elapsed since this Council resolved that Maize Control should be reorganized, will Government state when the new organization will become operative and when a new Maize Controller will be appointed?

MR. RENNIE: The Government hopes to introduce a modified system of Maize Control on the 1st of September, when the marketing of new crop maize begins and the Control accounts for the current period will have been closed.

A new Maize Controller will be appointed with effect from the 1st of August.

LAND CONTROL BILL

SELECT COMMITTEE REPORT

The debate was resumed.

MR. PATEL: Your Excellency, I rise to oppose the select committee report before Council. I rise with a complete sense of awareness that whatever I shall say will prove ineffective, because most of the members who desire to pass this Bill during this session will not be prepared to listen to the voice of reason in preference to the dominating and influential views of the European interests. I know that even the dictates of parliamentary practice will be over-ruled in their impatience to get this Bill through as early as possible. I strongly oppose this report for various reasons. In the first place I oppose it because, in spite of requests made, no Indian member was included on the select committee on very flimsy grounds. I also oppose it because by doing so this Council attempts to follow a practice which shows that only

[Mr. Patel] that section of the community which is affected by the measure has the right to sit on the select committee, which in my submission is against all principles of democracy. All elements in the Council should have the right to express an opinion on any measure which directly or indirectly affects the country. I am also opposed to this report because the original bill, as I stated at the second reading of the Bill, is in furtherance of the principle of laying down a policy which declares in so many words that our civilization in this country is to be based on racial grounds and that there will be no consideration whatsoever for ethics. I also oppose it because the formation of the board indicates that the Crown desires to abdicate in favour of the representatives of a very small group in this country who want to have control of the land in a very important area. Whatever one may say in justification of this Bill and the constitution of the board, it is very clear from the provisions, which allow six members of the board to be elected by a small section of the population of this country, and also provides that the quorum will be such that they can obstruct the work of the board at any time, that, in my submission, is nothing but a complete abrogation by the Crown and by the Government in favour of a very small influential section of the population of this country, and is a direct opposition, in my opinion, to the policy which was declared in 1923 of the paramountcy of native interests, because this Bill and this select committee report suggest very clearly that the interests of the European community remain paramount in this country.

LORD FRANCIS SCOTT: On a point of order, are we discussing the select committee report or are we once more discussing the main principles of the Bill which were dealt with during the second reading?

MR. PATEL: I refer to this matter because the constitution of the board has been changed by this select committee report, and the quorum of the board has been changed so as to give greater power to the section about whom I am talking. Therefore in my submission I have the right to make reference to that.

I do not propose to reply to any remarks made about Indians who desire to take land, etc., because it has been already commented on, but whatever may be said I can state with confidence that there is a strong desire among the Indian community to-day—whatever past history may be—to take to agriculture, and it is not only a strong desire which has to be taken into consideration, but it will be an absolute necessity after the war if we want to settle Indian youths now being educated in Indian schools, and the Government has shown its inability, its lack of interest, by not taking any serious steps in regard to Indian youths and their desire for land, while they have shown a keen desire, a keen interest, in regard to this Bill. Another reason why we wish to oppose this Bill is to show our strong resentment against the neglect of Indian interests as regards agriculture. I am not doing this with a view to political propaganda, but to draw the attention of Government to the serious necessity for proceeding with the work of the Indian Land Settlement Board. I strongly resent and protest against the misleading words used by the hon. Attorney General when moving the motion before Council. I did so at the time of the second reading, and I wish to repeat it, because it gives a very misleading impression to people outside. The hon. mover said that the report is the result of the views of people of this country. The correct thing to say would be that it is the result of the views of the small European section of this country. The hon. mover said that it is a revolutionary measure. It would have been correct to say that it is a measure which could have been introduced and passed some centuries back at the time of the landed aristocracy. The hon. mover said it was in the best interests of the country, but we Indian members say that it is only in the interests of a small section of the population of this country. It is very easy for the hon. mover to reply to me that indirectly it does good and benefits the country. Whenever in the past measures have been introduced to cater for the wishes of small cliques and small groups, it has always been claimed that it was indirectly in the interests of the whole society.

Lastly, I oppose this committee report because it contravenes parliamentary

[Mr. Patel] practice, as was pointed out by the hon. member Mr. Amin yesterday. The hon. member pointed out that two important decisions have been made from the Bill, and one of them was the proviso to clause 2 excludes residential land not exceeding 20 acres in extent. No mention has been made about that. The explanation has been given in the select committee report, and therefore I submit that it is absolutely irregular. He also pointed out how important chapters have been added and how very important clauses have been added, and that thereby this Bill has become an entirely new bill. The select committee report puts the original bill in a form which will make it a new bill and I submit, sir, that if parliamentary practice is consulted it will be clearly shown that the Speaker in the House of Commons would order the withdrawal of this Bill and would require that it should be re-introduced. The Bill has been amended in so many respects, introducing so many important clauses, that any reasonable person in my submission will consider that it is not the bill which was passed a second time, but a new bill altogether. If we consult Rule 71 of the Standing Orders of this country and Rule 34 of the Standing Orders at home governing the procedure of the House of Commons, it will be found that the words "relevant to the subject" matter have been copied from Rule 34 governing House of Commons procedure. I can give one instance at least where it was held that the amendments were not within the rights of the select committee. That was in regard to land purchased under a bill of 1888. It was an enabling bill, and the original bill provided that a tenant could purchase the land, which he held. The select committee, or the committee which was considering that bill, introduced a new provision giving the right to the tenant to acquire also the adjacent grassland and land not devoted to tillage. That was held as being not within the right of the committee which considered the bill, and it was held that the committee should have received instructions from the House. Whatever may be said, and whatever the necessity to see that this Bill is passed in this session, we must also give consideration to the privilege of this Council.

HIS EXCELLENCY: Order! Order! I think perhaps if the hon. member wishes to pursue further this point of order, it might be desirable if I dealt with it at once. If hon. members remember, Rule 1 of our Standing Rules and Orders lays down that "resort shall be had to the rules, forms, usages and practices of the Commons House of Parliament of Great Britain and Northern Ireland which shall be followed so far as they may be applicable to the Council and not inconsistent with the following Rules and Orders nor with the practice of the Council". So far as the practice of this Council is concerned, it will be found that in dealing with bills referred to select committee and afterwards debated in this Council, we do not follow closely House of Commons procedure, no doubt for good reasons of our own, as we have built up here a procedure which is suitable for our local conditions. We have local precedent for the action taken in this Council: by the hon. Attorney General who—and I think all hon. members of Council will agree—in presenting the select committee's report in the form he has done, attaching to it the full clauses of the Bill that it is now proposed should be made law, has done so not with any desire of subterfuge or of concealing any alterations which may have been made to the original bill, but because he thought for the convenience of members this was the most desirable form.

I therefore feel that, on the point of order raised by the two hon. members, we have the practice of this Council behind us at least on one, if not two occasions.

As regards the remedies that the hon. members may have, since as they are opposed to this Bill they are naturally entitled in all possible manner to oppose it within the four walls of our Standing Rules and Orders, I would refer the hon. members to the terms of Standing Rule and Order 80 (iii), which lays down that on a motion for the adoption of the report of a select committee, the report shall be debated in Council, but at the request of any ten members present the Bill may be referred to a Committee of the whole Council, and I think one of the hon. members yesterday suggested that that would be desirable in view of the alterations made. Well, it is open to

[Mr. Patel] section of the community which is affected by the measure has the right to sit on the select committee, which in my submission is against all principles of democracy. All elements in the Council should have the right to express an opinion on any measure which directly or indirectly affects the country. I am also opposed to this report because the original bill, as I stated at the second reading of the Bill, is in furtherance of the principle of laying down a policy which declares in so many words, that our civilization in this country is to be based on racial grounds and that there will be no consideration whatsoever for ethics. I also oppose it because the formation of the board indicates that the Crown desires to abdicate in favour of the representatives of a very small group in this country who want to have control of the land in a very important area. Whatever one may say in justification of this Bill and the constitution of the board, it is very clear from the provisions, which allow its members of the board to be elected by a small section of the population of this country, and also provides that the quorum will be such that they can obstruct the work of the board at any time, that, in my submission, is nothing but a complete abrogation by the Crown and by the Government in favour of a very small influential section of the population of this country, and is a direct opposition, in my opinion, to the policy which was declared in 1923 of the paramountcy of native interests, because this Bill and this select committee report suggest very clearly that the interests of the European community remain paramount in this country.

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Lastly, I oppose this committee report because it contravenes parliamentary

[Mr. Patel] as was pointed out by the hon. member Mr. Amin yesterday. The hon. member pointed out that two important deletions have been made from the Bill, and one of them was the proviso to clause 2 which excludes residential land not exceeding 20 acres in extent. No mention has been made about that. No explanation has been given in the select committee report, and therefore I submit that it is absolutely irregular. He also pointed out how important chapters have been added and how very important clauses have been added, and that thereby this Bill has become an entirely new bill. The select committee report puts the original bill in a form which will make it a new bill and I submit, sir, that if parliamentary practice is consulted it will be clearly shown that the Speaker in the House of Commons would order the withdrawal of this Bill and would require that it should be re-introduced. The Bill has been amended in so many respects, introducing so many important clauses, that any reasonable person in my submission will consider that it is not the bill which was passed a second time, but a new bill altogether. If we consult Rule 71 of the Standing Orders of this country and Rule 34 of the Standing Orders at home governing the procedure of the House of Commons, it will be found that the words "relevant to the subject" matter have been copied from Rule 34 governing House of Commons procedure. I can give one instance at least where it was held that the amendments were not within the rights of the select committee. That was in regard to land purchased under a bill of 1883. It was an enabling bill, and the original bill provided that a tenant could purchase the land which he held. The select committee, or the committee which was considering that bill, introduced a new provision giving the right to the tenant to acquire also the adjacent grass-land and land not devoted to tillage. That was held as being not within the right of the committee which considered the bill, and it was held that the committee should have received instructions from the House. Whatever may be said, and whatever the necessity to see that this Bill is passed in this session, we must also give consideration to the privilege of this Council.

HIS EXCELLENCY: Order! Order! I think perhaps if the hon. member wishes to pursue further this point of order, it might be desirable if I dealt with it at once. If hon. members remember, Rule 1 of our Standing Rules and Orders lays down that "resort shall be had to the rules, forms, usages and practices of the Commons House of Parliament of Great Britain and Northern Ireland which shall be followed so far as they may be applicable to the Council and not inconsistent with the following Rules and Orders nor with the practice of the Council". So far as the practice of this Council is concerned, it will be found that in dealing with bills referred to select committee and afterwards debated in this Council, we do not follow closely House of Commons' procedure, no doubt for good reasons of our own, as we have built up here a procedure which is suitable for our local conditions. We have local precedent for the action taken in this country by the hon. Attorney General—who and I think all hon. members of Council will agree—in presenting the select committee's report in the form he has done, attaching to it the full clauses of the Bill that it is now proposed should be made law, has done so not with any desire of subterfuge or of concealing any alterations which may have been made to the original bill, but because he thought for the convenience of members this was the most desirable form.

I therefore feel that, on the point of order raised by the two hon. members, we have the practice of this Council behind us at least on one, if not two occasions.

As regards the remedies that the hon. members may have, since as they are opposed to this Bill they are naturally entitled in all possible manner to oppose it within the four walls of our Standing Rules and Orders, I would refer the hon. members to the terms of Standing Rule and Order 80 (iii), which lays down that "on a motion for the adoption of the report of a select committee, the report shall be debated in Council, but at the request of any ten members present the Bill shall be referred to a Committee of the whole Council", and I think one of our hon. members yesterday suggested that that would be desirable in view of the alterations made. Well, it is open to

(His Excellency)

the hon. member to have recourse to that Standing Rule and Order. I do not know what the feeling of Council is, but if he can obtain the support of ten members he has the remedy that this Bill should be considered in committee of the whole Council.

I would further draw his attention to the terms of Standing Rule and Order 83, under which "on the third reading of a bill, any member who desires to amend or delete any provision contained in the bill or to introduce any fresh provision, may move that the bill be recommitted". If the hon. members can get support for such a motion, there again particular clauses can be re-committed. So that on the ruling given, I would say that the procedure which we are now adopting is not contrary to the practice of the Council, and I believe it to be in the best interests of Council who are in this manner obtaining the very fullest information as to the contents of the Bill which they are being asked to approve. (Applause.)

MR. PATEL: In view of Your Excellency's ruling I have nothing further to say on the matter of procedure, but for the various reasons I have mentioned I oppose this report very strongly.

LORD FRANCIS SCOTT: Sir, I rise to support the motion and to speak to that motion. First of all, I should like to congratulate the hon. member, and especially its chairman, on the tremendous amount of trouble that they have taken in producing this report. They must have had an extremely difficult job, and I do feel we owe all of them a great debt of gratitude, especially if I may say so the hon. mover of the motion who, so shortly after arriving in the country, found himself involved in such a difficult and controversial measure. I am only going to refer to a few points and will not waste too much of the time of Council. I am extremely glad to see that clause 19 has been amended by the proviso, making it quite clear that this measure only refers to land which is not being properly developed. There is no question about it that there was a very great feeling of insecurity in the country, because as the Bill was worded before there was nothing to say whether it applied to developed or undeveloped land, except for the part which deals

with that particular subject. I do hope that this proviso will remove the fears of many of my friends who were quite genuinely very apprehensive. I know many people thought that this was a measure for confiscation; in fact, only two days ago a certain resident of this Colony—now serving in the army spoke to me on that subject, and was very surprised when I told him that if his farm was taken he would get a fair market value, and I am very glad that that provision in clause 28 (1) (a) has been inserted. I do feel very strongly that, if the object of this Bill is to be achieved, which is the increase of settlement in the Highlands area of this Colony and increased development in that area, it is absolutely essential that owners of land should feel that they have a proper security in the tenure of their land. Like the hon. Member for Ukamba, I am not an apostle of these new bright ideas for the new wonderful world so far as land tenure is concerned, nor did I ever in my youth stray from the straight and narrow path as he says he did! No doubt that is because of my more phlegmatic Scottish nature as opposed to his more imaginative Irish one! But while I still hold to the same views I do feel that owners of land should have just as much right and freedom to deal with their property as owners of any other form of property.

I am supporting this motion before Council to-day, because I believe that it is the only way in which we can achieve our objects. My hon. friend thinks it could have been done in a much simpler form, and personally I always prefer simple measures if possible, but I rather doubt if in this particular case it could have been done, and if one is going to a rather complicated method of achieving an object I believe one should go into the full details such as we have before us in the select committee report, and I am more optimistic than my hon. friend, because I believe it can be made to work, although I realize there will be great difficulties. There is only one point I rather regret is not in the Bill, and that is that there is no time limit. I am harping back on this thesis about the security of the tenure of land. The object of this Bill is to obtain sufficient land to put new prospective settlers on, and to see that when they are on that land it shall be properly developed, but that should

(Lord Francis Scott)

not take such a great many years to achieve. I should have liked to have seen some time limit, so that by that time the whole of this Bill would have to be once more considered in this Council as to whether it had achieved what was intended or whether it had failed, whether it should be continued or whether it should be wiped out. It should not take a great many years to find out what land is available and should be acquired, and if our belief is right that there will be a large number of people who wish to come and take up land, it should not take so many years before they can be settled on the land. I do feel that unless they feel in their turn that they are going to have security of tenure, they will not find so many of them wish to come. I suggest that after a period of time, I do not say how long, the whole of this Bill could very reasonably be wiped out, with the exception of Part IV, non-compliance with development conditions. I think we all agree that if people have land they should develop it properly, and if you keep, maybe in some other ordinance, these conditions, or have them in an ordinance by themselves, so long as you keep these development conditions in existence, I hope that after a certain number of years it will not be necessary to keep this ordinance going and so have no undue interference with the owners of property. I feel strongly that once we have got the land settled and got the people on it doing their very best to develop it, the fringes powers they have over their land and dealings in their land, the better it will be for the country and the better it will be for white settlement in this country. With those few remarks I support the motion.

MR. COOKE: Your Excellency, to my way of thinking the strongest argument in favour of the Bill is that it has been opposed by the Indian members! There is an old saying that the onlooker sees most of the game, and the fact that the Indian members have always been opposed to European settlement of the country and are opposing the Bill shows, to my mind, that they realize that the Bill is going to help European settlement. And it may be some comfort to that clamorous minority outside the Council opposing the Bill that they are associated with the Indian members in that opposition. There are one or two clauses

that I do not like about this Bill, but I am supporting it nevertheless, because I think that perhaps later on these clauses may be amended if necessary. The first is clause 3 (2) (a), that the board shall consist of six other persons. Personally, I think if a mistake and shows suspicion on the part of those members on this side of Council that the Government members on the board will not use their voting powers fairly. I would certainly have preferred to see only four non-officials on the board. The second clause which I do not like is clause 4 (2), that appointments may be cancelled at a meeting convened by two elected members. I think it would have been much better to have kept the clause in the original bill, by which Your Excellency had power to cancel any appointment, because to my way of thinking this amending clause might lead to the lobbying of elected members, and that would be a most undesirable practice. If by any chance this Bill is not accepted—we know such things do happen—I hope Government, which has shown most tremendous patience in the matter and has gone out of its way to meet the wishes of the people on this side of Council, will go straight ahead in the next Council with a real honest-to-god expropriation bill and that they will push that, through with the unofficial majority, whom I will certainly support. For I think that if this Bill does not become law Government, in its obligations to the soldiers, sailors and army, must bring in some kind of bill to make certain they get the land they want after the war.

MR. FOSTER SUTTON: If I may interrupt the hon. member on a point of explanation, when he referred to the original bill concerning the cancellation of the appointment of members, I think he must have been thinking of the October bill, because the bill which was read a second time had the same provision except that we are adding to it.

MR. COOKE: Yes, I was referring to the October bill.

MAJOR CAVENDISH-BENTUCK: Your Excellency, as a member of the select committee I naturally rise to support the motion before the Council. There are one or two remarks that I should like to make in answer to some of the last day and a half. In the first in-

[Major Cavendish-Bentick] stance, I should like to deal with the "submissions" as I think they called them, of the hon. Indian members. Although you, sir, have dealt with the constitutional point which they have raised at great length, I would like to point-out that it was in any event fairly groundless. Their chief-objections-to the report, especially those of the hon. member Mr. Amin, were, firstly, that we took advantage of his obvious simplicity and innocence by placing before him a document without in some way drawing attention to omissions as between a re-drafted bill and the bill he had had before him a few weeks ago; secondly, that we have so changed the bill that it should be re-committed. As regards the first submission, I do not think anything has been done on this occasion which differs from procedure which has taken place in this Council in the past. Both those hon. gentlemen are legal gentlemen, and therefore, I presume, are capable of reading and writing, and therefore they surely can see quite clearly the differences between the bill now before them attached to our report and the bill which was the subject of the second reading. As regards the constitutional position, I believe it is generally laid down, and the hon. member Mr. Amin quoted some authority, that if an amended bill contained matters of principle not discussed during the second reading and came back in the form there might be some objection to it, I do not believe, and I am sure that my colleagues will support me, that there is any single matter of principle which we have included in our new draft bill which was not directly or indirectly discussed during the debate on the second reading. Certainly the 20 acre clause was; certainly doubts were expressed whether owners of land would get a fair deal, for which reason we put in this new form of assessment; and certainly the question of the number of members of the board, unofficials, was raised.

Therefore I contend that, granted that we have added to and considerably changed the form of the Bill, in principle all we did was to try and meet the expressed wishes of members of the Council in the course of our deliberations on the select committee. Of course, in point of fact the hon. Indian members are

neither innocent nor simple. In fact, I might say that their manoeuvrings on this occasion are fairly obvious. What they wanted to do, I submit, and I also make "submissions" now, was to score a few debating points and play for time, so that the opponents of this Bill outside this country might have a longer period in which to try to take action to oppose it. That is what I think was at the back of their minds. I feel—although it is departing a little from the clauses of the Bill and I do not want to start another second reading debate—I should draw the attention of the hon. Indian members to this fact, that this Bill is purely a domestic measure, a domestic measure in which they are in no way concerned. This Bill merely provides for the control of land transactions within the Highlands. In other words, all the Bill seeks to do is to lay down a procedure whereby within the area in which Europeans enjoy a privileged position, they can advise His Excellency the Governor on the disposal of land as provided by the Highlands Order in Council. This Bill in no way changes what has been the procedure in the past, it in no way changes what is the procedure to-day and in no way does it change what I can assure the hon. Indian members will remain the procedure in the future.

Yesterday we found, at least I did, the proceedings of this Council somewhat tedious, I am afraid, but at least they were much relieved by the spritely and invigorating performance of the hon. Member for Ukamba just before we rose. He gave us, as usual, a remarkably able and amusing speech. I do not think he referred to the report, except in very general terms. (Laughter.) I am afraid I cannot emulate him, because I personally feel very serious about this Bill. He stated that he had outlined three periods—(COL. GROGAN: Two!)—during which well intentioned and somewhat foolish people had tried to alter conditions as regards land tenure; in other words, there were people who had raised the theory—(COL. GROGAN: That is not quite correct as to what I did say on a point of explanation.) Well, as I understood the hon. member, I gathered that he contrasted sharply the opinion he held when he was, young, perhaps foolish but had dealt, with the opinions he holds now

[Major Cavendish-Bentick] that he is perhaps not quite so young and perhaps, has landed possessions! (Laughter.)

COL. GROGAN: On a point of explanation, what I did say was that I had lived through two periods and that we were now in a third—in a third—when people who did not own property would like to take other people's over for their occupation, and that on two previous occasions the policy was applied and finally failed, and that this resuscitated the same idea and would probably fail equally as dismally.

MAJOR CAVENDISH-BENTICK: That, of course, is exactly the point! (Laughter.) This Bill was opposed by the hon. member because he feels that it does to some extent, although he admits it has been emasculated a good deal, threaten complete and unrestricted ownership of land. (COL. GROGAN: No.) Well, no, (Laughter.) Anyway, the whole object of this Bill is, of course, to give the State some say in the one asset it has in order to ensure that that asset is made the best possible use of to the benefit of the greatest number of people, and that is the view I firmly hold whether I am a silly ass or not, and shall continue to hold until I am put away. The hon. member also rather poked fun at the type of settler that has to be taught to farm, that has to be provided with money to start with; in other words, the spoon-fed settler. I would draw Council's attention to the fact—and I must answer the hon. member's contention—that these young countries go through three stages. We first have the "explorer settler", quite a fine character, and very fine people some of them, who first made it possible slightly to develop this country. We have a specimen here whom we know very well and have great affection for, in the person of the hon. member Col. Grogan himself. The second stage is that of what I call the pioneer settler, and most settlers here to-day, I think, come under that category, and we have a great deal to thank them for. They have been through difficult times, and have played a very great part. But, sir, we cannot stop there. The next further stage, when you are really ready to seriously develop the country must be that type of settler whom you get out under a regulated scheme of closer settlement and more especially so that the

case after a period of war when there are large numbers of men who would like to come to these sort of countries, who will not have any money themselves. The fact that they fought for us for five years will not have given them any opportunity of learning farming or any other trade, and if it is not our duty to do something for these men I think it is very hard for me to say any more, because we all know that it is our duty to do something for them. I therefore suggest that we should not poke fun at "the spoon-fed" settler, but do our best to provide for him, which is what is proposed under this measure.

I am now coming to the chief reason why I have intervened in this debate, to point out that in several clauses, notably 4, 12, 15, 21 and 37, of the new bill the phrase occurs "out of moneys appropriated by the Legislative Council for the Colony for the purpose". Yesterday the hon. Member for Ukamba, as a parting shot said that one of the first results of the Bill would be that the hon. Commissioner for Lands would be asking Legislative Council for money. Well, I am going to save him the trouble, because if this Bill does become law, obviously we must have money to implement it. I therefore ask that we should be informed by Government in the course of this debate whether they are prepared to provide the money necessary to carry out the provisions of this Bill as soon as it has been given the Royal Assent, because if not, I feel that I shall have to ask Council members on this side of the Council whether they would ask Your Excellency's leave to suspend Standing Rules and Orders to get in a motion on the subject. Obviously to proceed with the intention of doing this Bill. Lastly, the suggestion has been made that this Bill should have a clause inserted in it providing for a time limit. There are two points of view, and both are worthy of investigation. The hon. Member for Rift Valley has put up one. I would like to put up the other. In my view, this Bill represents a turning over of the page, a new philosophy in regard to the holding in this country. I cannot see how we are going to, during the next 2, 3, 4 or 7 years—settlement schemes which are in operation. I hope to see our plans in operation for many years to come. If that be so, then

[Major Cavendish-Bentley]

I suggest that either we have got to be whole-hearted about it and bring-in a bill in which we really believe, in which case it is ridiculous to have a time limit. Only if we do not intend that, and confess that we are in fact half-hearted, should we put in a time limit. I think that even if we were half-hearted about it, we should have to realize that, if a time limit is put in, towards the end of that period it is going to be very difficult indeed to operate this measure, if not impossible. I personally am utterly and entirely opposed to the insertion of a time limit clause.

In conclusion, I would like to pay tribute both to the chairman of the select committee and the work he did in drafting this Bill between the times we were sitting, and also I should like to pay tribute to one or two members of the public who came before us on several occasions and were very useful indeed.

MR. PAROO (EASTERN AREA): Your Excellency, I rise to oppose this motion for the adoption of the select committee's report on the Land Control Bill. I will not try to oppose this motion on legal grounds, that the select committee has erred in not declaring certain details or in having expanded the Bill to a very large volume, but I will base my arguments and my opposition mainly on the one principle that the select committee has failed to remove the racial implication in the Bill. On the contrary they have strengthened the racial discrimination by substituting six members for four in clause 3 (2) (d) by giving power to the European elected members of Council to elect six members instead of four. The Bill itself, I think, so far as has been seen heretofore, a measure such as this was contemplated last March; a second bill was introduced for criticism last October; and the actual Land Control Bill on which the select committee has reported was debated in this Council last April, and within a month and a half we have seen it grow from 6 pages to 14. According to Hindu mythology, a soul which commits sins can never find peace; it has to be born again and again. I contend that until the sinful clause of racial discrimination is removed from this Bill, this Bill can never find peace.

The hon. member, in introducing the motion for the adoption of the select

committee report, stated that the objects of the Bill were, first, to prevent speculation in land and, second, to enable settlement after the war. The word "settlement", I think, might be misleading, and I hope that when replying to the debate the hon. mover will make it clear, so that there may be no doubt in the minds of people outside that "settlement" is meant not for all those who are discharged from the war or from military service, but only settlement for the white population of this country. To prevent speculation is stated to be the second object. Under clause 19 it is stated that, when the Crown acquires land, the Crown will have to pay the market value of the land, and that market value will definitely be an inflated value. In fact, the hon. mover stated that probably prices will be six times the cost to the land-owner, and this means that at the moment the land-owner can speculate by just sitting and waiting for an opportunity to get his land acquired compulsorily by Government for settlement purposes, and getting a very inflated price. The real object of these Bill has been ventilated in the speeches of members on this side of Council, and it is clear that the object of this Bill is nothing but to secure the sanctity of the White Highlands. The second object, which has also been made clear by members on this side is that all the white powers interested on the Land Control Board are to establish a white man's independent colony within the Colony. I think that is what some of them are trying to do, and I would not be surprised if the children studying in school to-day were asked to re-border in the atlases and maps a new border for the white colony in the Colony. Under this Bill the Governor is also delegating his powers which so far he has held. Clause 19 reads, "Subject to the provisions of section 20 of this Ordinance, acquire any land compulsorily which in the opinion of the board, whose decision in any such matter shall be final and conclusive, is being adequately developed and utilized by the person having control thereof". I would not be surprised if the board just gave the land over for shooting purposes.

The hon. Member for Ukamba referred to the questions of Indians who were offered land in Taveta district some

[Mr. Paroo]

years ago. A similar point was raised by the hon. Commissioner of Lands a few days ago, but I think both these gentlemen are not ignorant of the fact that this was refused because the Indian community refused to accept second-grade citizenship in this country, and did not want to prejudice their right over the White Highlands. Therefore, this offer was refused. The point has been made very clear on this side of Council by three speakers. Firstly, yesterday the hon. Member for Ukamba said that the death knell was rung by the Order in Council by the consent of His Majesty's Government to the White Highlands. The second point was raised by the hon. Member for Nairobi North this morning, when he said it is a domestic affair and the Indian community has no right to interfere in it. I understand that last April, when I happened to be absent on a Government mission to India, a similar warning was given by the hon. Member for Nairobi South when he warned the Indian community to keep hands off these White Highlands. It is a very well known fact that the Indian community has never surrendered its right to claim these White Highlands. They have asked for equality in this country. As a matter of fact, just a few weeks ago in conversation with a European friend, he even went further and said that the Indian community could put up other questions for settlement but they should refrain from interfering in land control or in the White Highlands, and then he added a threat and said that otherwise there would be bloodshed. The reply that I gave him was that if a few thousands of Indians were massacred on this point I did not think the Indian community would lose much. I think perhaps Government, which has recently enacted the immigration restriction regulations, do the understanding that there is a large Indian population in this country, might consider relaxing these ill-advised and unwarranted regulations. Nor will India lose much by a few thousand less Indians from a population of 318 million people. As we have not disclaimed our right to the White Highlands, we demand that Indian and African representation should have been included on the Land Control Board to give their views in the

management of the land of this country. For these reasons I oppose the motion.

MR. FOSTER SUTTON: I did not like to interrupt the last speaker, but I feel that I should rise on a point of order. He suggested that I made a statement to the effect that persons whose land was acquired under this measure might get as much as six times the value of it. I said nothing of the sort; what I said was that this measure is designed to get over the type of situation which had arisen in a case recently where Government, under the India Land Acquisition Ordinance, was compelled to pay six times what it considered the real value of the land.

MR. MORTIMER: Your Excellency, in supporting the motion I hope not to take up the time of Council too long in an already somewhat prolonged debate, but there are certain important matters to which I ought to refer. First of all, I should like very cordially to join in the tributes that have been paid to my hon. friend the Attorney General as chairman of this select committee. Soon after his arrival in the Colony he was plunged into this important, complicated and controversial measure. He proved very quick in the uptake, and soon got a real appreciation of the background to the measure and of all the factors concerned. He has worked on this measure with the greatest energy and without regard to his own time or convenience, and I think this Council and the country owe a great debt to my hon. friend for the work he has put in in this way. (Applause.)

Reference has been made to various legal points, which have already been dealt with, as to the right of the select committee to make alterations in the Bill of a somewhat far-reaching character. I will not refer again to the legal side of the question, but merely refer in general terms to the kind of alterations that have been made. It has already been stated quite largely, in fact almost entirely, as a result of the second reading debate, and in an endeavour to interpret the wishes of this Council on the points at issue. That applies to the exclusion of areas under 20 acres; it applies to the appeal provisions in the Bill; and to the proviso that no land that is in the opinion of the board is beneficial occupation shall be taken compulsorily. It was always the intention that that

(Mr. Mortimer) was particular proviso would operate. It was left out of the original bill merely because of the difficulty of finding a satisfactory definition of what was meant by "beneficial occupation". Under the proviso to the Bill as it stands, that decision is left to the board who can, I am sure, be trusted to exercise authority in a judicial and responsible manner. If the party is aggrieved, however, he will have his right of appeal. The abolition of the exclusion of areas under 20 acres from the operation of the Bill was at the request of European elected members and in accordance with many representations that were made outside this Council. Although there were divided opinions, the select committee felt that it would be preferable to delete the exclusion and rely for further exclusions upon the last clause of the measure, clause 47, which allows Your Excellency, "after consultation with the Board and the Highlands Board, by notice in the Gazette, to exempt from all or any of the provisions of this ordinance such classes of land, and such dealings or transactions relating to land"; as Your Excellency may think fit. I have been asked to give an assurance that one of those exemptions will be the residential areas on the periphery of Nairobi, such as the Karen Estate and the Spring Valley Estate. I can, sir, give the assurance that as soon as the Control Board is functioning that will be one of the matters brought before it at one of its early meetings, and the suggestion will be made that representations be made to the Governor that those areas should be exempt.

Without taking the various points made in debate in due order, I should like first to deal with the remarks made by my hon. friend the Member for Ukamba. As always, I enjoyed listening to his speech immensely, and I reciprocate his expressions of esteem and warm affection with which he favoured me. Now I am accused of inconsistency. I have never claimed to be consistently consistent, nor do I claim that now, and for my moral support I fall back on a remark attributed to Dr. Johnson, that consistency is the hobgoblin of little minds. In this matter, however, I do claim to have been consistent—more consistent than the hon. member himself—for he admits to having changed

his views perhaps even more than once on this important subject during a long course of years. The original bill, which was prepared when a request was made for an acquisition bill to accompany a control measure, was brought in in March of last year. That first bill was drafted on a New Zealand model. The model from which it was taken may, of course, have been influenced by the reverberations of the hon. member's opulent oratory or persuasive eloquence coming down the years long after the hon. member's insouciant conservatism had re-asserted itself. Be that as it may, it was a New Zealand model that we worked from and we found when we examined the situation that practically all the dominions and some of the colonies had either introduced or were considering the introduction of legislation somewhat on our lines. I have here a very important report called "The Reconstruction of Agriculture", prepared by the Reconstruction Committee of the Department of Agriculture and Forestry of the Union of South Africa. In that report, reference is made to an act which is on the statute book of the Union, called the Unbeneficial Occupation of Farms Act of 1937. That Act provides that farms that have been unduly fragmented may be acquired compulsorily by the State. It goes on to say "it is evident that this Act could be applied for the expropriation of any or all farms which are of sub-economic size and which should be put to much more effective use. In any case it has no preventive implications, nor does it restrict unbeneficial occupation in so far as large holdings and land held idle for speculation purposes are concerned. Here should definitely also be included land held as labour farms. The Act should be amended to permit of these aspects being properly dealt with". That is a clear indication of the trend of public opinion in the Union of South Africa.

* COL. GROGAN: On a point of explanation, I understand this homily is addressed to me. My charge of inconsistency against the hon. gentleman was contained in the sentence that all this class of legislation should be covered by *ad hoc* legislation. That applies to all land irrespective of whether it is native land or immigrant land, and the hon. gentleman's answer, as I understand it,

[Col. Grogan] is a complete evasion of that charge of inconsistency and supports my suspicion of that downiness to which I referred the other day!

MR. MORTIMER: Well, sir, on that particular point I have not varied one iota. I still feel that legislation should exist, and if it does not exist that it should be enacted to ensure that all land shall be properly used, whether held by Europeans, Indians or Africans. (Col. Grogan: Then why stick in this?) I believe that every opportunity should be seized of inserting, wherever possible, measures for the control of land, for the improvement and beneficial occupation of the land, and to ensure that the State, the community as a whole, gets the best result out of the limited supply of land available to the community. The particular development clauses in this particular measure which the hon. member attributes to me, it should not be assumed emanated from me. As a matter of fact they did not. The hon. member said that this was merely a wheeze in order to enlarge my Land Department and to obtain increased staff. That certainly was furthered from my thoughts and never occurred to me, nor did the idea occur to me that I might use the opportunity by means of a kind of black mailing to obtain some more dignified and worthy accommodation for my department. It is certainly an idea that I will keep in mind. (Laughter.)

COL. GROGAN: That is a complete misrepresentation of what I said. My challenge was against the methods adopted by the Land Office for a very long time, during which my hon. friend knew they were ones of blackmail. I did not refer to his application for hundreds of thousands of pounds for housing for himself and his friends.

MR. MORTIMER: I think when the hon. member sees the Hansard report he will see that he used the other expression too, but I am open to correction. However, I commiserate with the hon. member that he failed to induce either me or my predecessors to rise to his challenge, and again I am sorry to disappoint him. The downy old bird declines to swallow the bait and the hook on which it is supported!

Referring to some of the details in the speech of the hon. member Mr. Amin, I have already referred to the abolition of the exemption of land under 20 acres. On the point of the constitution of the board, six elected members instead of four, there is no real change of principle. The object of the original provision was to ensure a majority of unofficials on the board. The object of the amendment is to make that assurance secure at all times and in all circumstances. It has been suggested that the members elected in that way will or could stultify the whole operation of the measure by refusing to function and attend meetings. Such a situation is so remote and ridiculous that I do not think we need think of it. There is not the slightest reason to assume that the people who accept this responsibility will refuse to carry out the obligations they have accepted. The hon. member also criticized the restrictions in the right of compulsory acquisition and its limitation to undeveloped land. That was always intended, and therefore in coming into the open with the proviso to the particular clause the select committee is doing no more than making clear the intention of the Bill, which was repeatedly stated. On the question of the time limit raised by the hon. Member for Rift Valley, I do not share the opinions expressed by the hon. Member for Nairobi South. I do not think it will be wise to insert a time limit to the operation of this measure, as I regard it as a permanent addition to the statute book of the colony. If, however, the time should come when the Bill ceases to have any value, when it is no longer required, or if its operation has not worked out as admirably as hon. members expect, it will be within the competence of any member of this Council to bring forward a motion that the measure be repealed or that a select committee be appointed to bring it under review. I feel confident that I can under review. I feel confident that I can say that if such a motion had the support of the European elected members, Government would readily accept it. I can therefore see no useful object to be gained by putting a time limit to the operation of the measure at this stage.

In reply to the hon. member Mr. Farooq, I will again say unequivocally that the object of this measure is to hasten further settlement in the Highlands of this Colony. There has never been any

[Mr. Mortimer] doubt of that. There is no subterfuge about it. The object of the measure is abundantly clear, and I once more reaffirm it.

MR. AMIN: On a point of explanation—

HIS EXCELLENCY: I do not think the hon. member was referring to you, but to the hon. member Mr. Paroo.

MR. AMIN: It was arising out of that—

HIS EXCELLENCY: There was no reference to any statement by the hon. member.

MR. MORTIMER: That intention is in accordance with the declared policy of His Majesty's Government and one from which there is no intention of the slightest departure. I think I have covered all the important points which have been made so far, and before sitting down there are two small amendments which I wish to move at this stage. I beg to move that the select committee report be amended by the following amendments to the draft Bill attached to the report: (a) by the deletion of the full stop at the end of paragraph (c) of clause 30 and the substitution of a semicolon therefor, and by the addition of the following as paragraph (d): "(d) enter upon and take possession of the land described in the award in cases where he has not already so entered and taken possession of such land"; and (b) by inserting between the figures and brackets "(ii)" and the word "members" which appear in paragraph (c) of clause 38 the following words: "the chairman and". The object of that first amendment is to make it abundantly clear that after all acquisition proceedings have been completed the Governor may instruct the Commissioner to enter and take possession of the land so acquired. That is in order to avoid any possible legal quibbles as to when or how or with what authority the Commissioner shall enter. The second amendment is to make it clear that the chairman of the Assessment Board is also entitled to the fees or allowances which are given to the members in carrying out their duties.

MR. BROWN seconded.

HIS EXCELLENCY: As explained by the hon. member, these amendments are

merely to correct drafting omissions in the Bill as presented. As the motion is of a formal character, I will put the question, unless any hon. member wishes to speak.

The question of the amendment was put and carried.

The debate on the motion as amended was resumed.

MAJOR KEYSER (Trans Nzoia): Your Excellency, as a member of the select committee I rise to support the motion. There are only one or two points to which I should like to make reference, and one is the question of the time limit. I am definitely of the opinion that the insertion of a time limit would weaken the Bill very considerably, but in view of the statement made by the hon. Commissioner for Lands and Settlement that if the European elected members supported a motion for the repeal of this Bill he thought Government would accept the motion, and as that statement was presumably a Government-inspired statement, I presume we can accept it, that that will happen to such a motion put up to this Council. That, in my opinion, is sufficient security for those who are doubtful about the Bill in the present form without a time limit. The other point I should like to bring up is the reference by the hon. Member for Ukamba to spoon-feeding settlers. Well, I was one of those soldier-settlers who came out here after the last war, and we were not spoon-fed. Perhaps the more robust ones of us survived, but we saw a very considerable number of extremely good men, who would have made excellent settlers, go down because of this lack of what the hon. member calls spoon-feeding. To-day we are considering what we are going to do for those of our countrymen who are serving in the Forces, and quite definitely those of us who took part in the last soldier-settlement scheme will not sit idle and watch those men who come out of the Services allowed to go under again as they were after the last war. (Hear, hear.) The only other point I should like to refer to is that of the hon. member—Mr. Paroo, who spoke of the Indian rights to the Highlands. I presume local Indians, again, would like to bring to his notice, as has been done many times before, that they cannot pay very much value to a right for which, when it was

[Major Keyser] challenged, with a possibility of being completely abolished, they did not take the one obvious and practical means of defending it. I should, before I sit down, like to pay tribute to the hon. and learned Attorney General for the extremely hard and able work he put in during the sittings of the select committee and the very great assistance he was to us.

MR. VINCENT: Your Excellency, I must rise for a moment to support the Bill, and also to ask for an announcement of a definite principle. The hon. Commissioner for Lands and Settlement did state that two portions of residential property adjoining Nairobi would be considered by the new board for a recommendation to you, sir, that they be excluded from the operation of the Bill. I would like the hon. and learned Attorney General, in reply, to let this Council know if it is Government's intention to exclude all residential areas which the board consider would not profitably and rightly come under the provisions of the Bill.

I am afraid that I must briefly refer to the statement made by the hon. member Mr. Paroo that I have warned Indians some time ago in terms of "hands off". That is not true. What I did state, and I state again, was this, that unless the British Europeans had originally come to this country years ago I did not think there would be any squatters to squat or Astartes to agitate to-day, and I warned His Majesty's Government at home that we would not for a moment tolerate any interference with our rights in the White Highlands. I did not attempt to embroil the local Indians, for many of whom I have a considerable respect. The only other point I wish to touch on, and it appears the only point on which there is a difference of opinion on this side of the Council, is the possibility of the insertion of a time limit in the Bill. I am against that, for this reason, that I support this Bill because I believe it to be an earnest endeavour to follow a course which is in the best interests of the people. But I warn this Council, and I warn Government, that unless we take the logical steps which must follow the passing of the Bill, as even though we insert a time limit of four or five years it might never run for that period,

because I regard this Bill as being tied up with a much greater wider planned development of this country including, as I have referred to before, the question of stabilization of prices for primary products. If we are going to encourage men on the land and then not see that they are protected in the matter of prices, in some way or other the whole of our economic fabric falls, and this Bill will be of no use whatsoever to the community. One can go on a long time talking along these lines, and I should probably be accused of not adhering to the matter before Council, but I feel that Government have shown a determination to meet our wishes recently in altering and amending Bills when in actual practice that has been found necessary. I feel that the select committee report before us and the Bill in its present form is an excellent start to achieve our object, and I am quite certain that if it is carried out with commonsense and toleration and intelligence it may gradually, in the light of experience, be moulded into one of the finest measures on the statute book of this Colony.

MR. MORTIMER: Your Excellency, in accordance with Standing Rule and Order 43, Section (viii), and with your approval, I beg to move that the question be now put.

HIS EXCELLENCY: I am afraid I do not agree to give my consent.

MR. RENNIE: Your Excellency, the hon. Member for Nairobi North raised a question which is really the sole reason for my intervening in this debate. Before I go on to the question of finance which he raised, however, I should like to associate myself with the tributes which have been paid to the work of the select committee, and I think one must realize that even before the committee began its deliberations a great deal of the preliminary work had been done by the hon. Member for Nairobi North and the hon. Commissioner of Lands and Settlement before the hon. and learned Attorney General came into the picture. How much work my hon. friend the Attorney General has done since then we are all aware, and I think that to those three gentlemen in particular we owe a deep debt of gratitude for the care, consideration and hard work they have given to this measure.

(Mr. Rennie)

Now to deal with the question of finance. I am sorry the hon. Member for Nairobi North is absent at the present time, but the point he raised was this: will the Government give an assurance that finance will be provided to ensure that the provisions of this Bill are implemented? The fact is that £50,000 is already included in the schedule of this year's Estimates for closer settlement, and although I think the hon. member's point is that £50,000 was included for the purpose of implementing the old pre-war closer settlement scheme, the view of the Government is that £50,000, as well as the £250,000 which has been approved in principle as a loan, are both directed towards the same purpose, namely the furthering of closer settlement in this country. So far as immediate finance is concerned, the Government considers that the £50,000 that appears in this year's Estimate can be drawn upon if necessary for the purpose of implementing the provisions of this Bill. As regards the question of further provision, I am aware that at the present time a sub-committee of the Settlement Section of the Agricultural Production and Settlement Board is going into the question of closer settlement very carefully, and I have no doubt that the sub-committee will come along with a number of recommendations of one type or another. So far as finance in 1945 is concerned, the new Council will have an opportunity of going into that matter in connection with the 1945 draft estimates, and it will have an opportunity then of putting forward any views that it may hold on the subject of finance for implementing the provisions of this Bill and for acquiring land in 1945. I think that if the hon. Member for Nairobi North were here at the present time, he would feel satisfied that the money is there and the intention is there on the part of the Government to use that money for closer settlement purposes, including the implementing of the provisions of this Bill if and when it is finally passed into law.

Mr. FOSTER SUTTON: Your Excellency, I do not think in view of what has been said that there is very much for me to reply to. There are, however, one or two points I feel it would be right and fair for me to comment on. One is the point

made by the hon. member Mr. Amin. He objected to the fact that the select committee's report does not draw attention to the portions of the original bill which have been omitted, and I think there is something in what he said. I take full responsibility for that, and I regret that I did not indicate in the printed draft the omissions that have been made. One of my reasons for not doing so was the question of time, because the whole of the Bill had to be reprinted and it would have involved more work and it might have held up the tabling of the select committee's report. Another reason was that the omission under clause 1 is purely a formal one, and as I have already explained it is in accordance with proper practice. There is nothing behind it, it merely puts the matter on a proper footing, and the omission in the definition clause, clause 2, omitting reference to the exclusion of areas of 20 acres, I was under the impression had been agreed to by the Government at the request of hon. members on the second reading of the Bill. I was under the impression, probably wrongly, that it was the general wish of Council to delete that provision, and the select committee, after hearing all the evidence and the various comments on the Bill, came to the conclusion that it would be proper to omit it. It did not seem to me essential to indicate the two points referred to because Council already has before it the original bill, and it is quite easy to pick out the omissions that have been made. The only other substantial omission is the omission of the original penalty clause which has been replaced by the clause which is now clause 46. In view of the fact that any transaction entered into without the permission of the board is void, we thought that was sufficient penalty. As a matter of fact, I very much doubt if the courts would inflict any substantial fine in addition to the penalty which is inherent in the measure as it now stands.

The hon. Member for Ukamba suggested that this was rather a tortuous method of dealing with this legislation, that it could have been done in a very much simpler way by a simple amendment of the Indian Land Acquisition Act. All I can say is that the select committee, if they had thought it possible to make the policy effective by

(Mr. Foster Sutton) would certainly simpler amendments, would have done so. Very often the simple method is the most difficult to give effect to. The Indian Land Acquisition Act, in my respectful opinion, is our of date. If we acted under it the Crown, or the compulsory-acquisition-of-land, would be compelled to pay a very much higher price than it ought to be compelled to pay. I do, however, agree with him that we want a modern ad hoc Land Acquisition Ordinance which can be applied to any acquisition for any public purpose or any other purpose. There was not time to embark on that in the time we had available, but I have no doubt Government later on will consider the possibility of introducing such legislation. One or two hon. members have indicated their desire that Government should give an undertaking regarding the action that it will take under the exemption clause, clause 47, and you, sir, have authorized me to say that you will, have authorized me to give consideration of course, give favourable consideration to any recommendations that may be made by the Land Control Board and the Highlands Board. Hon. members will appreciate that both of these bodies have to be consulted by His Excellency the Governor before he takes any action on exemptions. It was never the intention of Government that this legislation should include within its orbit built up urban areas. I think it is a matter of common-sense. What on earth would be the good of interfering with urban areas, that were built up, for the purposes of land settlement? That is not the sort of land which is needed, and I have not the slightest doubt that if these two bodies I have referred to recommend that certain built up areas, residential areas, should be exempted from the provisions of the measure, you will find His Excellency the Governor will accept their advice and exempt them.

I do not think there is anything else I can usefully add except to say this, and I am sure that the committee and I am sure that the committee and I am sure that the committee would like me to say it, that we are all most grateful for the generous remarks that have been passed about our labours. I am perfectly certain that, having heard all the witnesses we heard, having moved about the country, it increased our desire to do our level best, to do what was right by the decent people who came and gave evidence before us. I myself was

immensely impressed with the honesty and decency of these people who wanted a measure of this kind because they thought it was for the good of the country, and they came before us and were frank. I am perfectly certain that their representations were not made by reason of self-interest, but were made because they thought it was right they should make them and that they were doing what was decent and honest in coming before the committee and urging the various points for consideration.

The question was put and carried.

CROWN LANDS (AMENDMENT) BILL

SELECT COMMITTEE REPORT

Mr. FOSTER SUTTON: Your Excellency, I beg to move that the select committee report on the Crown Lands (Amendment) Bill be adopted.

In moving this I do not propose to take up very much time of the Council. This select committee report follows the normal and routine procedure. We have not appended a draft, but what we have done is, although only minor amendments have been made to the original clause 70a, we have had it reprinted in our select committee report, for the reason that we thought it was easier for members to follow. If you just delete a few words in line two and line three it is difficult to follow what has been done, so I propose to draw attention to the amendments in 70a which the committee have recommended; most of them are verbal. For instance, we have deleted the words "as described in the seventh schedule to this ordinance" because they are unnecessary and redundant. This Bill, if it is passed by this Council, is going to become part of and be read as one with the Crown Lands Ordinance, and as that ordinance contains the seventh schedule there is no need to include those words in the clause. The only major alteration we recommended in the sub-clause (1) is the deletion of the word "hold" and the substitution thereof of the word "acquire". It was not intended that this measure should have retrospective effect. If you use the word "hold" it obviously includes every transaction prior to the enactment of the Bill, whereas if you use the word "acquire" it speaks only from the date that the only measure becomes law. That is the only substantial amendment there. Sub-clause

[Mr. Foster Sutton].
 (2) of 70a is new and I have already explained the reason for it. It is a plain deed to link up the procedure under this measure with the procedure under the Land Control Bill. Sub-clause (3) is the old sub-clause (2). The old clause reads "Any instrument purporting to effect any of the transactions..." and we suggest deleting "purporting" and substituting "in so far as it purports". The reason for that is it is not necessary to render the whole of an instrument void. It might be a settlement, and the way we suggest it should read will merely render any particular portion of the instrument which is contrary to the provisions of this ordinance void, and it will not invalidate the whole instrument. Then we slightly alter the reference to the banks. It is an exact copy of the clause to be found in the Land Control Bill and it was inserted here for the same reasons as we recommended the alterations in the other Bill.

Clause 70b is new. It empowers the Registrar to refuse registration in any case where the Governor's consent, if it is required, has not been given. I think that is necessary. We have recommended the deletion of the old clause 70b because the provisions there are covered in the proviso to 70a (1). "Provided that nothing in this sub-section contained shall affect (a) any such transactions made by or in favour of the Crown; (b) any gift of land by way of testamentary disposition". That follows the method recommended for adoption in the case of the Land Control Bill. I do not know if hon. members are familiar with the Crown Lands Ordinance, but the amendment in sub-clause (3) of clause 71 of the Bill referred to the select committee would come into Part VIII of the Crown Lands Ordinance, and the title of that part reads: "Transfer of and dealings in land". The committee considered that that was not a very appropriate place to put an amendment such as this, dealing with shares. We thought it would be better and clearer if we recommended the introduction of a new part and gave it another title, which would be Part VIII, and the title would be "Special provisions relating to companies holding land", because that is what we are endeavouring to deal with. 74a in the new part that is recommended for adoption comes the measure to

companies registered under the Companies Ordinance, 1933, or any ordinance repealed by that Ordinance. In other words, it confines its operation to companies who are registered and incorporated in Kenya. I do not think I need dilate on that. It has been recommended for obvious reasons. It is no use embarking on something you cannot enforce. The new 74b (1) is almost an exact copy of the original clause 3 amending section 71 of the Crown Lands Ordinance. That prohibits, as the original one did, dealings in any share warrant, debenture or ordinance of any kind to a person of a different race to the person by whom such stock and so on are disposed of. It prohibits any such dealings unless the consent of the Governor has been obtained, and it merely follows the policy, as I have already said, which is incorporated in the bill that we debated on the second reading.

Then 74b (2) is new, and is inserted with the object of making it possible to provide an appropriate procedure for obtaining the Governor's consent. Rules will be made so that persons who wish to make application will know exactly what to do. 74c, 74d, 74e, 74f and 74g are new, and they are recommended and have as their object the prevention of evasion which could take place in cases where bearer securities are issued. It is quite obvious that that left a loophole in the legislation, and we recommend these clauses with the idea of buttoning it up and blocking the loophole that at present exists. 74c requires the secretary and directors of any company to refuse to register any stock unless the Governor's consent in writing has been obtained. 74d requires the secretary and directors of any company to call in any bearer securities in order that they may be registered in a book kept by the company for the purpose, and 74b (b) requires the person who is holding any bearer shares or stock to send them to the company for registration. It is no use leaving it only to the company, which may use its best endeavours to get stock in and the persons holding it may refuse, so this seeks to compel them to send their bearer securities in. As soon as they come into the hands of the company, the company is required to register them, and they cease then to be unregistered or bearer stock or shares. For the same reason we also provide that no company shall issue

[Mr. Foster Sutton].
 any bearer shares, share warrants, debentures payable to bearer, or unregistered stock. That speaks from the enactment of the measure. 74f provides penalties if any person contravenes any of the provisions of Part VIII of the measure, and I draw particular attention to the opening words: "Any person who without reasonable excuse contravenes any of the provisions". That is inserted with this object, to cover the position that might arise now, of a person serving with the Forces who is out of the country. The ordinance is enacted, and it requires that person to send in his shares. If he is out of the country on service it might not come to do so, and he would be guilty of an offence. It was therefore thought desirable to insert the words "without reasonable excuse", so that if anyone comes along after the war and he has reasonable excuse he cannot then be convicted. Clause 74g provides for forfeiture. It enables the court to forfeit any share or stock in respect of which an offence has been committed. The penalties in 74f are fairly high, but not as high as those contained in the bill of the 19th October, where it was suggested the penalty should be £5,000. I think the penalties we now recommend are more in keeping with the type of offence envisaged by this measure.

There is a minority report by the hon. member Mr. Amin. He says that clause 2 is merely a repetition of the provisions in the Crown Lands Ordinance and is unnecessary. I presume he is referring to section 71 of the Crown Lands Ordinance, and I respectfully disagree with the statement. It is not a repetition. Under section 71, the procedure is totally different. It merely enables the Governor to declare a transaction void. The new 70a makes it void *ab initio* unless the Governor's consent is first obtained, and I think there is a very material difference between the two. It prohibits such transactions, and in my submission it is merely a continuation of the policy that it was intended to incorporate in the Crown Lands Ordinance. In the light of experience it was found that there were loopholes. It is not a new policy, but merely a continuation of the original policy and an effort to make that policy effective. It is no good meddling about with a thing like that.

If you have a policy and find your law does not properly effect it, it is the duty of Government to find some means of making it effective. The recommendations of the majority of the committee on this Bill may not make it 100 per cent effective, but they do go a long way towards doing so. Then the speaker said the new clause 74a is to extend the present objectionable practice of racial discrimination, and he also objects to them on the ground that they make such commercial transactions between Europeans on the one hand and Asians and Africans on the other dependent on the previous consent in writing of the Governor. Well, I am not prepared now to debate a policy that was decided on a very long time ago, but I submit that this does not extend it at all. As I have pointed out, it merely seeks to give effect to it, there is no extension whatever. It is absurd really. You adopt a policy for land, and it can be got over if the person chooses to form himself into a company, so that far from extending the policy, so that far from extending it we are merely tightening the tentacles of it. It is no good blinking at it, the object of the Crown Lands Ordinance was to keep a rein on all these transactions, and it will, I am willing to confess, if the recommendations of the committee become law, mean that in any transactions between Europeans on the one hand and Asians and Africans on the other will be dependent on the Governor's consent. We are dealing with land in the Highlands, and the policy regarding that land in the Highlands has been settled and reaffirmed on a number of occasions. We are not talking about every transaction between different races, we are merely talking about transactions which do affect the disposition of land in the Highlands or an interest in land in the Highlands, so that I think the comment of the hon. member is a bit wider than it is justified. It does not affect all commercial transactions in the way he assumes it does. Then he objects to the penalties, he says they are entirely new and go far beyond the objects and reasons given for the introduction of clause 2 in the original bill. All I can say is this, that under the original bill, although certain transactions were prohibited, I found it difficult to see how we were going to punish a person, and if we have pro-

[Mr. Frister Sutton]
hithed these transactions we must have a penalty, and we must make the penalty pretty high. These transactions are difficult to control, and if we embark on trying to prevent them we must make the penalties high for infringement. This is suggested by the committee as an endeavour to frighten people from committing breaches of the ordinance. That is the position, and I defend it on the ground that it is logical. I do not think I need comment any more on the minority report. I have endeavoured to explain very briefly the purport of the recommendations of the majority of the select committee.

Mr. Brown seconded.

Mr. Amin: Your Excellency, in rising to approve the adoption of the majority report of the select committee, and to ask Council to reject it instead of accepting it and to adopt the minority report, I have this to say. There is a slight misunderstanding which I should like to remove from the mind of the hon. and learned Attorney General, and that is in regard to the comment I have made in the minority report dealing with clause 2 of the main report. I have stated that the provisions in clause 2 adding section 70a and n are repetitions of certain provisions in the Land Control Bill and not that they are repetitions of all provisions of the Crown Lands Ordinance. To simplify matters, I would refer to clause 10 of the Land Control Bill as it now stands; that is the clause dealing with the exact point here, restrictions on dealings in land. There is provision in the Land Control Bill for that, and I submit that what is stated under 70a and n is in effect the same thing. If it was meant to only alter or substitute a clause of the principal ordinance, I would not need to say so, because it would be out of place. I am sorry, it is clause 10 in the original draft and not in the amended bill. I know the hon. Attorney General will accept what I state. It is replaced by a clause 7 (1) of the bill as amended by the select committee. In the debate which followed on the motion to adopt the select committee report on the Land Control Bill, there were several suggestions made by hon. members that there might be a possibility of a repeat after a time of that ordinance, and if the object of this bill was to complement the

provisions in the Land Control Bill, it is fair to ask and to point out now that if the particular provisions under the Land Control Bill were to expire after some time, then these provisions under clause 2 should also be put an end to. At some stage during the discussions of these particular provisions I gathered an impression that they were not meant for use in respect of dealings between peoples of different races as defined in the Crown Lands Ordinance, and that the intention was to prevent alienation of land to people belonging to an alien race or to undesirable aliens. If that is so, I would want that assurance given right away because, as we have already pointed out on various occasions, these secret intentions which are not disclosed in the body of the ordinance may be more substantial than the actual provisions in the bill and they should be stated specifically and made public. Beyond that, on that particular clause, I have nothing to say.

Coming to clause 3 of the bill as now recommended, I have a few points to make, and they can be dealt with in a very short space of time. The provision which this new clause 3 is supposed to have amended, is something quite different from what we have now got from the select committee. The bill to amend the Crown Lands Ordinance as sent to this select committee stated in effect in clause 3 that section 71 is amended by inserting certain provisions and the provision dealing with share transactions and that dealings in such shares would have to be reported to the Commissioner of Lands. In the original bill, it only meant that the procedure to be followed was that the Commissioner was to be informed of a particular transfer of a share so that he would have an opportunity of reporting the matter to the Governor, and it would then be within the power of the Governor to veto the transfer, the period within which the power could be exercised according to section 72 (1) being three months. The nature of that provision meant that the transfer of a share or debenture was to be treated on the same footing as the transfer of land itself. The transaction was inherently legal, it was not a prohibited act, it was not an act for which any penalties could be imposed, it was an act legal, *ab initio*. Within three months the Governor could object, and when that was done the transaction would be null and void. What we

[Mr. Amin]
mean by null and void can be defined as an action which cannot be taken to a court of law for enforcement of rights. So that a person who purchased land under the original ordinance could be told this transaction was null and void, but the person who sold could not go to court either and persons who might know about it cannot inform the police and say that an illegal act had been committed.

I want to make the distinction clear so that there will be no misunderstanding. The act of transfer of land under section 71 of the ordinance is a legal act, and the consequences that follow do not make the act illegal at any stage, in the sense that it can be punished by fine or imprisonment. That is what the original amending bill intended to do about the transfer of shares. The provision required that the dealing would have to be informed to the Commissioner of Lands, and if at any stage the Governor within three months objected to the transfer the act would be null and void, and that was all there was to it. What has happened in the new clause? In my submission, the nature of the act is changed, the nature of the clause is changed, and it is entirely new and foreign, foreign in the sense that it is described to be an illegal act which can be punished, while the other is not. That is not only an extension of the policy of racial discrimination in regard to land in the highlands but an extension of the policy to commercial transactions, and it also makes that particular policy so wide that it goes far beyond what the policy is in practice in respect of the transfers of land. Dealing with that particular clause, the hon. and learned Attorney General said that the intention in the original bill was that all companies owning any interest in land in the highlands should be subject to that clause. All companies were intended to be so treated. Foreign companies were expected to be so treated, and several members in this Council raised the point that that was impossible, that it would be ridiculous and contemptible to treat them like that, because it stretched this racial principle to contemptible lengths by requiring foreign countries with mixed populations to follow a practice we ourselves are ashamed of. I am sure that the best British traditions would make us ashamed of a thing

like that. We also found it was not possible to enforce that principle to foreign countries. Is it then right to enforce that principle to the subjects of the British Crown? If you cannot enforce it because there is no possibility of doing so of thing against foreign countries, then that and might resist, is it right then that the people who have accepted submission to the British Crown—and I do not mean only Indians but also Africans, because sooner or later their land will be too small and they must have a share in occupying the Highlands—should have it enforced on them?

Another point: I have referred in the minority report to breaches in practice of the convention under which certain signatory Powers were entitled to a say in this area of the Congo Basin, so that their nationals should be treated without discrimination, and some are British subjects. What happens? There are certain Powers who could enforce this obligation, and that is why you are obliged to say now that this white Highlands policy is not a policy of British European only, otherwise there would be no other reason to hide it. The people who were signatories to the convention could enforce its application. Now what will happen in a few years time? This convention will have to be reconsidered by the people who in connexion with the Congo matter in relation with the Congo Basin Treaty will be the United Nations, which includes Russia and Nations, China, as well as India, and includes also Asians and Africans in the British Empire, and if the Congo Basin Treaty is going to be torn to pieces before the end of the war, before the people who matter have any opportunity of saying anything, I think you are stretching this to unreasonable lengths. What I mean when I say this is that for a very insignificant gain you are going to give a very insignificant part for many years, too far. We have seen for many years, from 1915 to 1943, that very little land, or a very insignificant portion of land in the Highlands; has directly or indirectly passed into—

His EXCELLENCY: Order! Order! I must ask the hon. member to confine himself to the terms of the motion and his minority report. We are dealing now with the question of the transfer of shares in land, and you have made your point as regards racial discrimination,

(His Excellency) but I must ask you not to range over the whole field of political policy.

MR. AMIN: As Your Excellency writes, it was on the basis of the note I have made in my minority report, referring to the seriousness of extending this policy that I said what I did. Having dealt with the question of—the treaty obligations and having also dealt with the Imperial obligations to people of different colours within the Empire itself, I will only deal with those clauses providing penalties and clauses making it an offence to commit certain acts. I would not refer to the ruling that Your Excellency gave in the other instance, only half an hour back, for any purpose except to make it clear what I understand from that ruling, that anything which came called relevant to the original clause of a bill is capable of being added by select committees according to the practice of this Council.

HIS EXCELLENCY: Order! Order! I must ask the hon. member to confine himself to the motion before the Council. If he wishes to challenge or interpret the ruling of the Chair he should do so formally on another occasion.

MR. AMIN: Your Excellency, I did not intend to challenge or question your ruling. What I want to say is that Standing Rule 71 which applies here, being exactly similar to Standing Rule 34 which applies to the practice in the House of Commons, states that amendments can be moved which are relevant to the subject matter which it affects. In my submission these provisions making the transfer of shares subject to the previous consent in writing of the Governor—

LORD FRANCIS SCOTT: On a point of order, the paragraph the hon. member is referring to is on bills and not on select committee reports.

HIS EXCELLENCY: That is so.

MR. AMIN: The proposal to turn a perfectly legal act into an illegal one by amendment of the select committee is a matter wholly foreign to the original clause and is therefore contrary to standing rules. I have finished, and I want to say that I received a great amount of courtesy and consideration

from the chairman of the select committee before which I had—I will not call it my good fortune, but rather painful duty—to attend several times. The difficulty of one member whose mother tongue is not English, against so many in a committee like this can be appreciated by anybody who really wants to understand, I am quite sure that had it not been for that amount of courtesy and consideration at the hands of the hon. Attorney General on that select committee I would not have had even the heart to sit on the committee, because in this particular instance all the members were serious and sincere in what they wanted to do, and what I wanted to say could not be accepted by them in any form other than in the form of a minority report.

MR. FOSTER SUTTON: Your Excellency, might I rise to give an explanation, I think I ought to have stated it in moving, but I was under the impression we had already given an undertaking that we were going to do it. The last speaker referred to the fact that this measure does not attempt to interfere with companies operating in foreign countries. For the simple reason that it is impracticable, I have already stated in this Council that it is our intention to supplement this Bill with another one at the next session of Council amending the Companies Ordinance, requiring any company owning land in the Highlands to become registered and incorporated in Kenya, and then it will be brought under the provisions of this measure.

MR. PATEL: Your Excellency, I rise to oppose the majority report before this Council. I will refer to the question of transfer of shares, etc. If you look at the objects and reasons given in the first bill which was read a second time in this Council, paragraph 2 of the objects and reasons states: "The object of clause 3 of this Bill is to remedy a defect in section 71 of the Principal Ordinance by providing that the same provisions shall apply to a transfer of shares in a land-owning company as apply to transfers of land." At that time the provision in regard to land was that Your Excellency had power to veto any transaction with members of different races, and that meant that at the time this Bill was passed a second time the intention was that Your Excellency would have the

(Mr. Patel) right to veto any transfer of shares between members of different races in any company which held land in the Highlands. Now Part VIII in the Bill presented by the select committee there provides two things; one is that there should be consent at the beginning before any transfer takes place, and secondly it provides for penalties. It may be that perhaps I do not follow the legal implications as the hon. and learned Attorney General does, but I submit that civil liability and criminal liability are decidedly matters of policy. In the original bill the right to veto a transfer of shares in a company holding land only meant that the transferee could not acquire ownership in the shares. There was nothing to suggest either in the original Crown Lands Ordinance or the amending bill which was read a second time providing criminal liability, and therefore I submit it is decidedly a matter of principle which has been changed by the first bill. I submit the intention of the right of veto which did not make the transfer of shares illegal, but null and void after a certain period. It meant that the transferee did not become the owner of those shares.

The hon. mover said that there was nothing in the report to indicate that any commercial transactions were affected. I will give you only one instance. Supposing the Electric Light and Power Company requires for its purpose to acquire one or two acres of land in the Highlands for its industrial purposes, that will mean that no shares in that company can be transferred by a European to an Asian or an African, and if that is not interfering with industrial or commercial purposes I do not see what it is. The Crown Lands Ordinance, 1915, which provided the right of veto, was enacted during the last war, and it is now being amended during this war, which is intended only to veto transfers to bring it into line with transactions governing land. If that is the only intention—as the hon. mover stated, to button up things—then I submit this Bill is going too far. At that time the intention was to veto only transfers in land used for agricultural purposes. Now it will mean that even an undertaking or a company which acquires one or two acres of land in the

Highlands for its industrial or commercial purposes will be debarred from transferring shares to non-Europeans. I submit, sir, that the select committee report has altered the principal of the Bill, the select committee report is against all the intentions of His Majesty's Government and I strongly oppose the report before Council.

MR. FOSTER SUTTON: It is perfectly true, and it would be idle for me to attempt to deny it, and I do not propose to do so, that the select committee recommend substantial changes in the original Bill, but I think it is going too far to say it was not the intention to have penalties. It is perfectly true that the Bill laid before this Council did not provide for them, but if you go back over the series of bills that have been prepared in connexion with this matter—I refer particularly to the one in October, 1943—you will find there was a penalty, and it was the intention that there should be one. It was published in the Gazette and it sets out clearly what the intention was, and so far as I am aware the intention of Government in connexion with the matter has never really changed. It was in Part IV—special provisions relating to companies holding land—that was in the original Land Control Bill and provided a penalty.

MR. AMIN: On a point of order, if it was in the Land Control Bill, why was it removed from there and introduced here?

MR. FOSTER SUTTON: It was removed from the Land Control Bill upon which we had the second reading and which was referred to the select committee, for the reason that it was considered that sort of provision would more properly come within the orbit of the Crown Lands Ordinance than the Land Control Bill, and I think my learned friend will agree that is the case.

MR. AMIN: On a point of order, the transfer of a share is not a land transaction; it cannot come within the Crown Lands Ordinance either.

MR. FOSTER SUTTON: All I can say is that we must agree to differ on that point, because it seems to me that carried to its logical conclusion, the transfer of shares; if you transfer

[Mr. Foster Sutton] enough of them, might place in the hands of one or more persons control of land in the Highlands; it is not actual physical transfer of land, but if a company's main business is the holding of land and the operation of land in the Highlands, then you are in fact—although it may not be legally so—transferring an interest in land. I do not care how it is argued; I do not see how you can escape from the argument. It is true that our recommendations go very much further than the penalties recommended by the committee only apply to Part VIII: "Any person who without reasonable excuse contravenes any of the provisions of this Part of this Ordinance"—that is in 74c (1). We have suggested no penalty for contravention of the new 74c except the fact that the transaction is void *ab initio*. The reason why we recommend a penalty for share transactions is that it is, unfortunately, more difficult to control. You can control transfers of land because a person has to go to the registrar to register it, but in the case of shares it is more difficult. I think everything the hon. member Mr. Amin said backs up the opinion of the select committee on the matter. Of course, it is possible to evade, and that is precisely what we are trying to do by our recommendation. I consider if you analyse what has been said every single word, if you are being serious about the matter, supports the recommendations we have made.

MR. AMIN: Evade what, sir, on a point of order?

MR. FOSTER SUTTON: I will explain that. It is possible to evade, and unless you provide heavy penalties, people will do so. If you do not have any restriction on the transfer of shares, before you know where you are you might have the whole policy of the ordinance defeated. The hon. member Mr. Patel says I interfere with commercial transactions. I readily agree; it does interfere. It attempts to interfere with any transaction regarding shares between different races if it is a share in a company holding land in the Highlands. That is the intention, but it does not interfere with commercial transactions generally. What is the real hardship? It only requires an application to His Excel-

lency. The majority of the committee did not feel that bringing the share provisions under Part VIII of the Crown Lands Ordinance was any use. Under Part VIII you cannot do certain things without informing the Commissioner, and the Governor's right of veto would then arise. What is the use of that? How are you going to prove the transaction has taken place? There is no penalty, and if it ever does come to light within the period named it can only be declared void. This does go further. It makes it void *ab initio* and provides a penalty for contravention of the new Part VIII of the ordinance, and it was intended by the majority of the select committee that our recommendations should be such that they really gave effect to what we believed to be the policy. It is for this Council to say whether we have interpreted the wishes of Council correctly or not.

The question was put and carried.

LOAN EXPENDITURE

MR. TUNSTER: Your Excellency, I beg to move: Be it resolved, that this Council hereby approves the expenditure during 1943 of a sum of £2,544 upon the purposes specified in the schedule hereto as a charge against Loan Account; Schedule—Advances pending the raising of loans authorized: (a) Settlement Loan, £2,381, (b) Educational Buildings, £163; £2,544.

Hon. members may be aware that at the outbreak of war certain loans were authorized in principle, but it was then decided to finance certain projects by way of advances pending the raising of loans. One of those projects was closer settlement of lands recommended by the Settlement Committee in 1939. Paragraph 143 of the report refers to the recommendation for advances to retiring pensionable Government officers for the purchase and/or development of land, and item (a) in the schedule to this motion includes the sum of £1,400 for this purpose. It is the first advance of its kind under the Settlement Committee scheme. Item (a) also includes a sum of £981 to be spent on the training farm which the committee recommended should be established. Advances amounting to £8,028 were authorized for this purpose, of which £6,708 had been

[Mr. Tester] expended up to the end of 1942, and £981 had been spent in 1943. These two sums of £1,400 and £981 make the allocation under (a). Item (b) is a sum of £163 for the Egerton School at Njoro, the full estimate being £9,800, of which £8,830 had been spent up to the end of 1942. I can certify that these expenditures were made on projects authorized by the Council from advances against loans to be raised later, and all that is required now is specific covering authority for expenditure actually made in 1943.

MR. FOSTER SUTTON seconded.

The question was put and carried.

COFFEE INDUSTRY (AMENDMENT) BILL

SELECT COMMITTEE REPORT

MR. BROWN: Your Excellency, I beg to move that the select committee report on the Coffee Industry (Amendment) Bill be adopted.

We devoted a good deal of time to a point made in debate on the second reading by the hon. Member for Kiambu about precluding any person who had been convicted of receiving stolen coffee from obtaining a licence. Her object was to introduce a provision whereby automatically any person who had been convicted of receiving would be debarred from holding a licence, at any rate for a period. I believe that in the recommendations of our committee she has achieved her object. I am going to deal with them more fully later on, but that is the substantial amendment which we recommend. There are certain other amendments also. First, we recommend that the definition of coffee, as a mission agent be amended to include a person employed by a coffee dealer as well as by a grower. We also recommend that in the proposed section 4a a person who deals in coffee locally, should also be entitled to deal in buni. There is in the Bill no licence for dealing in buni locally. The local buni trade is small, and we recommend that a coffee dealer under a B licence should also be entitled to deal locally in buni. The proviso to clause 4c was found in need of amendment. That is the proviso which says that no person "who, in the opinion of the Advisory Committee, has not

sufficient knowledge or experience properly to conduct the business specified in the licence" shall have a licence. It was found that, as the proviso was drafted, in the case of a one man business where the owner had not got sufficient knowledge or experience, but where a member of his staff had, no licence could be given. We have recommended that that proviso be amended, and provision is now made whereby a one-man business with a person on his staff of sufficient knowledge and experience can obtain a licence. There is a minority note by the hon. member Mr. Parsons on this proviso, in which he says it is unnecessary. But the point here is that the last word under this proviso rests not with the Director of Agriculture but with the Advisory Committee, within whose knowledge the question of whether or not a person has sufficient knowledge or experience should particularly rest.

Now I come to the point of the hon. Member for Kiambu. She pressed this matter very hard in the debate, and has pressed it very hard for the last three years. Personally, I am as anxious as she is to achieve the object which she has in view, and I firmly believe that by our recommendation that object has been achieved. But it has been achieved in what I may call the right way rather than, if I may say so, the wrong way. The suggestion was that it should be achieved by a proviso on these lines: "Provided, however, that no licence shall be issued to any person who has been convicted of any offence in relation to coffee under Chapter 31 of the Penal Code" within a certain number of years, and 10 were suggested, preceding his application. That must necessarily be open to criticism, because if any of the without taking into account any of the facts of the case on which the person had been convicted of receiving, automatically he would be debarred, however small his culpability, from obtaining a licence for a period of years, 10 or whatever it may be. Legislatively I think that would be objectionable, and the way we would be endeavouring to meet the object of the hon. member is by amending 4c, the hon. member is by amending 4c, containing the power of the Director to grant a licence, by saying that the Director shall refuse to issue any licence unless he is satisfied that the applicant is a fit and proper person to hold such

amendments will be referred in detail to the Indian Elected Members Organization in sufficient time to afford that Organization an opportunity of submitting its objections to the Secretary of State with a view to preventing their introduction?

Reply:

All three parts of the question will be answered together.

The Government has taken steps to consult representative Indian opinion regarding the proposals which have been formulated for a reorganization of Maize Control, and now awaits comments from those consulted.

No. 57—POTATO CONTROL**Mr. PAROO:**

Will Government, in accordance with the request of 99 per cent of the traders in M'olo and in accordance with the practice adopted in other centres, direct the Potato Controller to form a syndicate to handle the native-grown potatoes delivered at M'olo?

Reply:

It is the intention of the Potato Controller to form a syndicate at M'olo as soon as arrangements have been satisfactorily agreed amongst traders at that centre.

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