

# KENYA NATIONAL ARCHIVES

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COLONY AND PROTECTORATE OF KENYA

**LEGISLATIVE COUNCIL  
DEBATES**

**OFFICIAL REPORT**

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**SECOND SERIES**

**VOL. XXVI—PART I**

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**1947**

**EXTRAORDINARY SESSION**

**6th March, 1947**

## List of Members of the Legislative Council

### *President:*

HIS EXCELLENCY THE GOVERNOR, SIR P. E. MITCHELL, G.C.M.G., M.C.

### *Ex Officio Members:*

CHIEF SECRETARY (HON. SIR G. M. RENNIE, C.M.G., M.C.)  
ATTORNEY GENERAL (HON. S. W. P. FOSTER SUTTON, O.B.E., K.C.)  
FINANCIAL SECRETARY (HON. J. F. G. TROUGHTON, M.B.E.)  
CHIEF NATIVE COMMISSIONER (HON. P. WYN HARRIS, M.B.E.) (1)  
DIRECTOR OF MEDICAL SERVICES (DR. THE HON. N. M. MACLENNAN)  
DIRECTOR OF AGRICULTURE, ACTING (HON. D. L. BLUNT, C.M.G.)  
DIRECTOR OF EDUCATION (HON. R. PATRICK, E.D.)  
GENERAL MANAGER, K.U.R. & H. (HON. SIR R. E. ROBINS, C.M.G., O.B.E.)  
DIRECTOR OF PUBLIC WORKS (HON. S. R. BOYD)  
COMMISSIONER OF CUSTOMS, ACTING (HON. W. JOHNSTON)  
COMMISSIONER OF LANDS, MINES AND SURVEYS (HON. G. J. ROBBINS)

### *Nominated Official Members:*

MAJOR THE HON. F. W. CAVENDISH-BENTINCK, C.M.G. (Member for Agriculture, Animal Husbandry and Natural Resources).  
HON. MRABAK ALI HINAWY, O.B.E. (Specially appointed to represent interests of Arab Community).  
HON. K. L. HUNTER, O.B.E. (Provincial Commissioner, Nyanza Province).  
HON. E. M. HYDE-CLARKE, M.B.E. (Labour Commissioner).  
HON. C. E. MORTIMER, C.B.E. (Member for Health and Local Government).  
HON. J. C. MUNDY (Commissioner of Inland Revenue).  
HON. H. E. STACY (Solicitor General, Acting).  
HON. C. H. THORNLY (Deputy Chief Secretary).  
HON. H. C. WILLBOURN, M.C. (Postmaster General).

### *European Elected Members:*

HON. W. A. C. BOUWER, Uasin Gishu.  
HON. S. V. COOKE, Coast.  
HON. G. M. EDYE, Nyanza.  
MAJOR THE HON. F. DE V. JOYCE, M.C., Ukamba.  
MAJOR THE HON. A. G. KEYSER, D.S.O., Trans Nzoia.  
HON. W. G. D. H. NICOL, Mombasa.  
HON. W. F. O. TRENCH, Rift Valley.  
HON. E. A. VASEY, C.M.G., Nairobi North.  
HON. SIR ALFRED VINCENT, Nairobi South.  
HON. MRS. O. F. WATKINS, Kiambu.  
HON. E. H. WRIGHT, Aberdare.

LIST OF MEMBERS OF THE LEGISLATIVE COUNCIL—Contd.

*Indian Elected Members:*

HON. S. T. THAKORE (Central).  
HON. A. R. COCKER (Central).  
HON. A. B. PATEL (Eastern).  
DR. THE HON. M. A. RANA, M.B.E. (Eastern).  
HON. A. PRITAM (Western).

*Arab Elected Members:*

HON. SHERIFF ABDULLA SALIM

*Nominated, Unofficial Members:*

*Representing the Interests of the African Community:*

HON. B. MATHU.  
One Vacant. (2)

*Acting Clerk to Council:*

Mr. R. Tatton Brown

*Registers:*

Mr. A. H. Edwards  
Miss Bennitt

- (1) *Vice* Mr. W. S. Marchant, C.M.G., O.B.E., retired.  
(2) Caused by resignation of Ven. Archdeacon L. J. Beecher.

**ABSENTEES**

Hon. Director of Agriculture.  
Hon. Commissioner of Customs.  
Hon. Labour Commissioner.  
Hon. Member for Aberdare.  
Hon. Member for Rift Valley.  
Hon. Member for Central Area (Mr. Thakore).



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

EXTRAORDINARY SESSION, 1947

Thursday, 6th March, 1947

Council assembled in the Memorial Hall, Nairobi, at 9 a.m. on Thursday, 6th March, 1947. His Excellency the Governor (Sir P. E. Mitchell, G.C.M.G., M.C.) presiding.

His Excellency opened the Council with prayer.

The proclamation summoning the Council to an extraordinary session was read by the Clerk.

**ADMINISTRATION OF OATH**

The Oath of Allegiance was administered to: Hon. P. Wyn Harris, M.B.E., Chief Native Commissioner.

**MINUTES**

The minutes of the meeting of 5th February, 1947, were confirmed.

**PAPERS LAID**

The following papers were laid on the table:

By THE CHIEF SECRETARY (SIR GILBERT RENFREW):

The Development and Reconstruction Authority Report covering the period 1st August, 1945, to 31st December, 1946.

By MR. THORNLEY (ACTING DEPUTY CHIEF SECRETARY):  
Interim report of the Asian Civil Service Advisory Board.

**STANDING RULES AND ORDERS SUSPENDED**

With the permission of the President, under Standing Rule and Order No. 108, the Attorney General (Mr. FOSTER SUTTON) moved: That Standing Rules and Orders be suspended to enable the Control of Detained Persons Bill to be taken through all its stages without due notice.

Mr. STACEY (Acting Solicitor General) seconded.

The question was put and carried. Standing Rules and Orders were suspended.

**CONTROL OF DETAINED PERSONS BILL**

**\* FIRST READING**

On the motion of Mr. FOSTER SUTTON the Control of Detained Persons Bill was read a first time.

**SECOND READING**

Mr. FOSTER SUTTON: Your Excellency, I beg to move: That the Control of Detained Persons Bill be read a second time.

In moving the second reading of this measure, with your leave, sir, and with the leave of Council, in order that there should be no mistake as to what has been said, I propose to read a very short statement which will give the facts leading up to the introduction of this measure in this Council.

In October last year His Majesty's Government in the United Kingdom approached the Government of Kenya with an urgent request for help in connexion with the housing of Jewish detainees who were then held in Eritrea. They are principally suspected terrorists and others whom it was found necessary to detain under Palestine Emergency Regulations and to remove from that country on security grounds. The decision to ask us to help was only reached on highest grounds of policy and after full exploration of all possible alternative courses. At that time the Secretary of State made it clear that we were merely being asked to take such detainees "as a purely temporary measure", but at the same time he was not

[Mr. Foster Sutton] able to give any commitment as to the time of their removal. The Government here were informed that considerable importance was attached to the early move of the detainees in question from Eritrea to Kenya, and that is why arrangements had to be made urgently to accommodate them. In the result, a much longer delay in their arrival has taken place than was anticipated.

As I have already said, sir, the Government here were assured that we were being asked to take the detainees as a purely temporary measure, and we were also assured that as soon as it becomes possible to make decisions as to the future of immigration into Palestine, the necessity for removal of the detainees from Kenya at the earliest possible moment will be fully borne in mind. The matter was referred by His Excellency the Governor to the Executive Council, and under all the circumstances it was decided that it was our duty, as part of the British Commonwealth, to assist by agreeing to receive the detainees here. That decision necessitates the enactment into law of the Bill which we have met here to-day to pass through all its stages.

Passing to the Bill itself, I know hon. members have not had much opportunity of studying its provisions and I propose to go through the Bill, very briefly, clause by clause.

Clause 3 enables the Governor, where any person has been ordered to be detained or deported by the authorities of any British Colony or Protectorate, etc., and such person has been brought to the Colony in custody, to order him to be detained from the date of his arrival in the colony, for such period as may be specified in the order. Clause 4 provides that any person detained by virtue of an order made under clause 3 shall be deemed to be in lawful custody. Clause 5 enables any officer or guard having charge of detainees to use force, including firearms if necessary, to prevent escapes of detainees. Clause 6 makes provision for action to be taken for dispersing detainees who assemble with intent to carry out a common purpose and threaten a breach of the peace, by force if necessary, including the use of firearms. Clause 7 provides for the apprehension of escaped detainees.

Clause 8 seeks to enable the Governor to make regulations providing for the orderly administration of any place in which any detainees are detained. Clause 9 makes provision for publicity of any orders or instructions or regulations, and clause 10 makes it an offence for any detainee to contravene the provisions of the Ordinance or of any regulations or instructions issued thereunder. Clause 11 also makes it an offence for any detainee to escape or attempt to escape from lawful custody, and clause 12 makes it an offence for any person, other than a person having charge of detainees, to help them in any respect whatsoever.

That, very briefly, covers the whole of the provisions of this measure.

MR. STACEY seconded.

The question was put and carried.

#### IN COMMITTEE

MR. FOSTER SUTTON moved: That Council do resolve itself into committee of the whole Council to consider the Bill clause by clause.

MR. STACEY seconded.

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

Clause 8: MR. FOSTER SUTTON moved: That sub-clause 2 (b) be amended by inserting the words "week or" after the word "one".

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

MR. FOSTER SUTTON moved: That the Bill be reported to Council with amendment.

MR. STACEY seconded.

The question was put and carried. Council resumed. His Excellency reported accordingly.

#### THIRD READING

MR. FOSTER SUTTON moved: That the Bill be read the third time and passed.

MR. STACEY seconded.

The question was put and carried, and the Bill read the third time and passed.

#### ADJOURNMENT

Council adjourned *sine die*.

## Index to the Legislative Council Debates

### OFFICIAL REPORT

SECOND SERIES

VOLUME XXVI—PART I

First Session: 6th March, 1947

#### EXPLANATION OF ABBREVIATIONS

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

#### Administration of Oath—1

#### Attorney General—

See Sutton, Mr. S. W. P. Foster

#### Bills—

Control of Detained Persons, 1R, 2;  
2R, 2; IC, 4; 3R, 4

#### Papers Laid—1

#### Sutton, Mr. S. W. P. Foster—

Control of Detained Persons Bill, 2, 4

#### Standing Rules and Orders suspended—



COLONY AND PROTECTORATE OF KENYA

# LEGISLATIVE COUNCIL DEBATES.

OFFICIAL REPORT

SECOND SERIES

VOLUME XXVI—PART II

1947

SECOND SESSION

15th April to 17th April, 1947

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## List of Members of the Legislative Council

### President:

HIS EXCELLENCY THE GOVERNOR, SIR P. E. MITCHELL, G.C.M.G., M.C.  
*Ex Officio Members:*

CHIEF SECRETARY (HON. SIR G. M. REANIE, C.M.G., M.C.).  
ATTORNEY GENERAL, ACTING (HON. J. B. HOBSON). (1)  
FINANCIAL SECRETARY (HON. J. F. G. TROUGHTON, M.B.E.).  
CHIEF NATIVE COMMISSIONER (HON. P. WYN HARRIS, M.B.E.).  
DIRECTOR OF MEDICAL SERVICES (DR. THE HON. N. M. MACLENNAN).  
DIRECTOR OF AGRICULTURE (HON. D. L. BLUNT, C.M.G.).  
DIRECTOR OF EDUCATION (HON. R. PATRICK, E.D.).  
GENERAL MANAGER, K.U.R. & H., ACTING (HON. A. DALTON, C.B.E.).  
(2).  
DIRECTOR OF PUBLIC WORKS (HON. S. R. BOYD).  
COMMISSIONER OF CUSTOMS (HON. W. JOHNSTON).  
COMMISSIONER OF LANDS, MINES AND SURVEYS (HON. G. J. ROBBINS).

### Nominated Official Members:

MAJOR THE HON. F. W. CAVENDISH-BENTINCK, C.M.G. (Member for Agriculture, Animal Husbandry and Natural Resources).  
HON. MIBARAK ALI HINAWY, O.B.E. (Specially appointed to represent interests of Arab Community).  
HON. A. HOPE-JONES (Economic and Commercial Adviser). (3)  
HON. E. M. HYDE-CLARKE, M.B.E. (Labour Commissioner).  
HON. C. E. MORTIMER, C.B.E. (Member for Health and Local Government).  
HON. J. C. MUNDY (Commissioner for Inland Revenue).  
HON. H. E. STACEY (Solicitor General, Acting).  
HON. C. H. THORNLEY (Deputy Chief Secretary).  
HON. H. C. WILLBOURN, M.C. (Postmaster General).

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HON. W. A. C. BROWNE, Uasin Gishu.  
HON. S. V. COOK, Coast.  
HON. G. M. EDYT, Nyanza.  
MAJOR THE HON. F. DE V. JOYCE, M.C., Ulamba.  
MAJOR THE HON. A. G. KEYSER, D.S.O., Trans Nzoia.  
HON. W. G. D. H. NICOL, Mombasa.  
HON. W. F. O. TRENCH, Rift Valley.  
HON. E. A. VASEY, C.M.G., Nairobi North.  
HON. SIR ALFRED VINCENT, Nairobi South.  
HON. MRS. O. F. WATKINS, Kiambu.  
HON. E. H. WRIGHT, Aberdare.

## LIST OF MEMBERS OF THE LEGISLATIVE COUNCIL—Contd.

### Indian Elected Members:

HON. A. R. COCKER (Central).  
HON. DHANWANT SINGH (Acting) (Central). (4)  
HON. A. B. PATEL (Eastern).  
DR. THE HON. M. A. RANA, M.B.E. (Eastern).  
HON. A. PRITAM (Western).

### Arab Elected Member:

HON. SHIRIFF ABDULLA SALIM.

### Nominated Unofficial Members:

#### Representing the Interests of the African Community:

HON. E. MATHIU.  
HON. A. OIHANGA (5)

#### Acting Clerk to Council:

Mr. W. Fawley

#### Reporters:

Mr. A. H. Edwards  
Miss Bennitt

- (1) *Vice* Mr. S. W. P. Foster Sutton, O.B.E., K.C., on leave.
- (2) *Vice* Sir R. E. Robins, C.M.G., O.B.E., on leave.
- (3) *Vice* Mr. K. L. Hunter, O.B.E., Provincial Commissioner, Nyanza Province, resigned.
- (4) *Vice* Mr. S. T. Thakore, absent from Colony.
- (5) *Vice* Ven. Archbishop of the Hon. L. J. Bercher, resigned.

## ABSENTEES FROM LEGISLATIVE COUNCIL SITTINGS

### 15th April—

Hon. Member for Aberdare.  
Hon. Member for Nyanza.  
Hon. Member for Central Area (Mr. Thakore).

### April 16th and 17th—

Hon. Member for Aberdare.



COLONY AND PROTECTORATE OF KENYA  
LEGISLATIVE COUNCIL DEBATES  
SECOND SESSION, 1947

**Tuesday, 15th April, 1947**

Council assembled in the Memorial Hall, Nairobi, at 11 a.m. on Tuesday, 15th April, 1947, His Excellency the Governor (Sir P. E. Mitchell, G.C.M.G., M.C.) presiding.

His Excellency opened the Council with prayer.

The Proclamation summoning the Council was read by the Clerk.

**ADMINISTRATION OF OATH**

The Oath of Allegiance was administered to: Hon. Acting Attorney General, Hon. J. B. Hobson; Acting General Manager, K.U.R. & H., Hon. A. Dalton, C.B.E.; Hon. A. Hope-Jones, Economic and Commercial Adviser.

**MINUTES**

The minutes of the meeting of 6th March, 1947, were confirmed.

**PAPERS LAID**

The following papers were laid on the table:—

By Sir Gilbert Rennie:

Development and Reconstruction Authority, quarterly report, 1st January-31st March, 1947.

By the Acting Attorney General (Mr. Hobson):

The Legislative Council Ordinance, 1935, Schedule II (Variation) Rules.

By the Deputy Chief Secretary (Mr. Thornley):

Sessional Paper No. 1 of 1947, Judicial Department annual report, 1945, Transport Licensing Board annual report 1946, Registrar of Co-operative Societies annual report, 1946.

**ORAL ANSWERS TO QUESTIONS**

**No. 2—LIVE STOCK CONTROL**

MR. PRITAM (Western Area):

Is Government aware that the publication of Government Notice No. 1177 of 31st December last has very seriously affected Somalis and others engaged in the live stock trade for their livelihood; if so, will Government

please state what steps it proposes to take with a view to alleviating their hardships and enable them to earn their livelihood?

MEMBER FOR AGRICULTURE AND NATURAL RESOURCES (Major Cavendish-Bentinck): The Sale and Purchase of Slaughter Stock Order, 1947, which was published in Government Notice No. 1177 of the 27th December, 1946, is an interim order designed to cover the period between the cancellation of the Defence (Live Stock Control) Regulations, 1943, which were revoked with effect from the 1st January, 1947, and the permanent legislation which will be introduced into this Council for consideration in due course. Under the Live Stock Control Regulations, 1943, trading in slaughter stock was prohibited and this prohibition has been continued by the Sale and Purchase of Slaughter Stock Order, 1947. This latter order has therefore not altered the previous position in regard to Somalis and others engaged in the live stock trade.

MR. COOKE (Coast): Your Excellency, arising out of that answer, will Government expedite consideration of getting land for these homeless Somalis as suggested by me several years ago in a question in this Council, and nothing has been done in the matter since.

HIS EXCELLENCY: I do not think that that can be said to arise out of this question.

MR. COOKE: Your Excellency—

HIS EXCELLENCY: I have ruled that it does not arise.

**No. 3—TRADE LICENCES**

MR. PRITAM:

Having regard to the fact that restrictions on the issue of trade licences have now been greatly relaxed in the adjacent territories, will Government please state when does it propose to take similar action since restrictions on the issue of trade licences were imposed to bring Kenya legislation in line with other East African territories?



FINANCIAL SECRETARY (Mr. Troughton): The matter is under discussion with the Trade Advisory Committee, and it is hoped that it will be possible to make an announcement regarding future Government policy within the next month.

#### NO. 4—UNLICENSED MOTOR TRUCKS

MR. PHITAM:

Is Government aware that a large number of unlicensed motor trucks with no front or rear number plate wander about the various parts of the country in the quiet of night? If so, will Government please state the steps it intends to take to suppress this growing evil?

ACTING ATTORNEY GENERAL (MR. HOBSON): Government is aware of the prevalence of this offence. Frequent checks are made by the police, both by day and by night, in all parts of the colony and a considerable number of prosecutions have already been instituted against owners and drivers of vehicles for such breaches of the law.

#### NO. 5—EX-MILITARY MOTOR VEHICLES

MR. PHITAM:

(a) Will Government please state the total number of trucks that were released by the military during the last twelve months for the use of civilians in Kenya?

(b) Will Government please state if it is satisfied that all trucks released by the military for civilian use have been duly licensed and, if not, will Government take such steps as it deems fit to see that only such motor trucks are allowed on the public roads as are properly licensed and also insured against third party risks?

MR. TROUGHTON: (a) 5,268 lorries and vans were released to the East African territories in the period February, 1946—February, 1947. Forty per cent of these were allocated to Kenya, but a rather higher percentage was in fact obtained as the allocation to the other territories were not fully taken up.

(b) Not all motor vehicles released by the military have been licensed as many have been broken up for use as spare parts. The police are taking all possible steps to ensure that vehicles actually on

the roads are properly licensed and frequent checks are held in all parts of the colony of vehicle and driving licences, competency certificates, P.S.V. identification plates and certificates of insurance with regard to third party risks. Prosecutions are invariably instituted where infringements of the law are observed.

MR. MATHU (African Interests): Your Excellency, arising out of that reply, is Government making any arrangements to see that motor trucks bought through the Motor Vehicle Control are either licensed or disposed of in such a way that those who have invested money in these trucks do not incur financial loss?

MR. TROUGHTON: Government has contended the motor trade and arrangements have been made under which owners of trucks who have no licences to run them on the road can dispose of them and incur no financial loss.

MR. COOKE: Arising out of the answer, is it not the case that proprietors of motor companies have refused to accept those trucks?

MR. TROUGHTON: No complaints of that character have reached Government.

MR. COOKE: They will be made through the British Legion.

#### NO. 10—TRADE LICENSING REGULATIONS

MR. COCKER (Central Area):

In view of the improved supply position of general merchandise, will the Government please now remove the Defence (Trade Licensing) Regulations of 1942?

MR. TROUGHTON: I would invite the hon. member's attention to the reply which I have just given to Question No. 3 asked by the hon. Member for the Western Area.

#### NO. 20—PRIVATE IMPORTATIONS OF WHISKY

MAJOR JOYCE (Ukamba):

Will Government state its reasons for debarring individuals from importing their own whisky as they have done in the past? If the answer is connected with the control of the distribution of whisky, will Government state if it is now prepared to leave its fair distribution in the hands of the regular importers?

MR. TROUGHTON: On the assumption that the hon. member has in mind Scotch, rather than Irish whisky, the answer to the first part of the question is that there is no objection to an individual importing his own whisky. He would not, however, necessarily be able to consume it himself. In order to secure a fair distribution, all Scotch whisky is frozen on arrival in the colony, and importers are required to dispose of it in accordance with instructions of the Imports Controller. This control was imposed some years ago because supplies of Scotch whisky were disappearing into black markets in Nairobi and Mombasa and residents in up-country districts were getting nothing of what is considered by many people to be a necessity.

As regards the second part of the question, the Government would gladly remove control if there were evidence of a strong public demand that it should do so. I will ask my hon. friend the Deputy Chief Secretary to bring the matter up at the next meeting, this afternoon, of the Committee which is considering controls generally.

#### SUSPENSION OF STANDING RULES AND ORDERS

With the permission of the President, MR. HOBSON, under Standing Rule and Order No. 108, moved: That Standing Rules and Orders be suspended to enable the following Bills to be taken through all their stages at this sitting: The Transport Licensing (Amendment) Bill, the Traffic (Amendment) Bill, the Local Government (Municipalities) (Amendment) Bill, and the Land and Agricultural Bank (Amendment) Bill.

THE ACTING SOLICITOR GENERAL (Mr. Stacey) seconded.

The question was put and carried.

Standing Rules and Orders were suspended.

#### BILLS

##### FIRST READINGS

On the motion of Mr. Hobson, the following Bills were read a first time: The Transport Licensing (Amendment) Bill, the Traffic (Amendment) Bill, the Local Government (Municipalities) (Amendment) Bill, and the Land and Agricultural Bank (Amendment) Bill.

#### TRANSPORT LICENSING (AMENDMENT) BILL

##### SECOND READING

MR. THORNTON: Your Excellency, I beg to move: That the Transport Licensing (Amendment) Bill be read a second time.

I do not think that it is necessary for me to add very much to the memorandum prepared by my hon. and learned friend the Attorney General as to the reasons for this Bill, except to say that experience over the nine years during which the Ordinance has been in operation has shown that it would be less expensive, less cumbersome, and generally more appropriate, if the authority to which appeals lay from the decisions of the Licensing Authority consisted of men having a knowledge of conditions in the country. This is particularly so because the questions on which the appeal authority is required to adjudicate are always in these cases questions of fact and not of law.

Clause 2 of the Bill seeks therefore to substitute as the appeal authority a tribunal, to be set up by Your Excellency, in place of the arrangements under the Ordinance. There is, however, one point to which I should draw attention in clause 2. It is that under sub-section (7) the last sentence of that sub-section reads: "The decision of the tribunal under the provisions of this sub-section shall be final and conclusive". There is a small incorrect bit of drafting there which it is proposed should be corrected at the committee stage. The purpose is, of course, that the decision of the tribunal under this section shall be final and conclusive, under the section as a whole, and not simply in cases where the grounds of appeal are considered to be frivolous or vexatious, to which that particular sub-section refers.

As regards Clause 3, I think it is only necessary for me to say that the chairman of the board has told me of the very considerable extra work of a secretarial nature which is caused by the fact that applicants for licences who are aggrieved by the decision of the Licensing Authority are allowed, time and time again, to renew their applications, though no new facts are adduced for the consideration of the board. It would be quite easy for the Licensing Authority

[Mr. Thornley] simply to put a blue pencil through those applications which are submitted time and time again without any new facts having been introduced, but the law requires that all sorts of notices, statements, etc., shall be sent out by the Transport Licensing Board in respect of every application. Every applicant has, for instance, to be notified of the date on which his application will be heard; in short, the whole procedure has to be repeated time and time again, and it is a very great waste of time.

I do not think there is anything else I need add in regard to this Bill.

Mr. HOBSON seconded.

MR. MATHU: Your Excellency, I should like to make just one or two comments on this Bill.

Firstly, I should like to request Government to consider the appointment of an African representative on the Appeal Tribunal. I make this appeal because I made another appeal previously when a Bill was passed through this Council dealing with the Transport Licensing Board, and suggested that, owing to the tremendous interest that the Africans have taken in the motor transport business, they should have a permanent member on the Transport Licensing Board. That, however, I did not get, and all we got was a floating membership, African members being appointed to attend meetings of the Board only when matters affecting their interests were under discussion in the various districts. I have had requests from Africans practically all over the country commenting on the unsatisfactory nature of the appointments. I should like to request that when this Bill comes into law favourable consideration should definitely be given to the question of African representation on the Appeal Tribunal.

The second point is as regards clause 3, where a new section 32 is added to the principal Ordinance. I should like to observe that Africans apply three or four times in the course of three months, and the reason for that, particularly during the last year or two, is the anomaly that arose when the Motor Vehicle Control issued permits for Africans to purchase motor trucks, and then when they went to the Transport Licensing Board to get licences they

were refused. Their trucks have had to remain perched up on logs of wood in the villages and elsewhere and therefore you can understand that the anxiety of a man whose truck is lying idle outside his hut is so great that he would plead to the Transport Licensing Board even once a week to make sure that his bus or truck is placed on the road. I think it is important for Council to know the reason why Africans repeatedly apply to the Transport Licensing Board for road licences, and I think it would be a great hardship to those people who have invested money in these trucks to have to keep them for twelve months without licences, even having due regard to what my hon. friend the Financial Secretary said in regard to the arrangements made with the motor trade to purchase motor lorries from a large number of Africans. I should like to suggest that consideration be given to reducing the period by six months, so that if an application has been submitted and turned down, the applicant may feel that it is within his rights to apply once more in the course of six months for a licence, if he does not choose to dispose of his vehicle in the manner, which I personally feel is most unfortunate, that has been outlined by my hon. friend the Financial Secretary.

With those remarks I should like to sit down.

MR. THORNLEY: Your Excellency, in replying to the points raised by the hon. member Mr. Mathu, I should like to say that consideration will certainly be given to African representation on the Appeal Tribunal at the time when the Tribunal is set up.

On the second point, as I understood my hon. friend, he said that he would like the period mentioned in clause 3 to be reduced from twelve months to six. I would point out that the chairman of the Board has absolute discretion under this new clause to consider any application, even if it is resubmitted within the period of twelve months. He could reconsider it after one month, three months, or six months, or any time within the twelve month period, and with that provision in the law I hope hon. members will agree that we can safely leave it to the good sense of an old and trusted public servant that he will exercise that discretion when

[Mr. Thornley] suitable circumstances arise which suggest that he should do so.

The question was put and carried.

### TRAFFIC (AMENDMENT) BILL

#### SECOND READING

MR. TROUGHTON: Your Excellency, I beg to move: That the Traffic (Amendment) Bill be read a second time.

This is a very simple measure, and is purely enabling in character. It seeks to enable the Governor in Council to make rules for three distinct types of purpose, all of them connected one way or another with the encouragement of tourist traffic. First of all, it will enable the provisions to be relaxed in regard to the registration and licensing of vehicles which are brought here by tourists making temporary visits, when those vehicles are licensed in other countries. Secondly, it enables our regulations regarding driving licences to be relaxed where people come to the country with perfectly valid international driving licences. Thirdly, it enables us to make arrangements to simplify procedure in connexion with people taking their own cars outside this colony on tour on temporary visits.

In fact, this Bill should encourage the motorist from outside the colony who wants to come here, and the motorist from the Colony who wants to go away on a temporary visit, to get the greatest possible enjoyment that he can get in these days of shortage of petrol.

Mr. HOBSON seconded.

The question was put and carried.

### LOCAL GOVERNMENT (MUNICIPALITIES) (AMENDMENT) BILL

#### SECOND READING

MEMBER FOR HEALTH AND LOCAL GOVERNMENT (Mr. Mortimer): Your Excellency, I beg to move: That the Local Government (Municipalities) (Amendment) Bill be read a second time.

The main purpose of this short measure is to provide a very important expansion of the borrowing powers of municipal authorities within the colony. In this colony it has been customary for local authorities to borrow money for their development from the Government, not because there has been any legisla-

tion bar to borrowing from other sources; but because there has been a very practical barrier which has effectively stopped such borrowing, in that the Government by law has retained the first charge over all the assets and revenues of the municipal authorities as security for its own loans. In the Development Committee Report provision is made of considerable sums of money for lending to local authorities. The Development Committee itself recognized that the sum provided was quite inadequate. It is abundantly clear to me that that is certainly the case. Every municipal authority has a large development programme, and the funds available through the Development and Reconstruction Authority will fall far short of the needs of the situation.

In the United Kingdom and elsewhere, and in other parts of Africa, it has been customary for local authorities to be able to borrow outside the Government sources, and there is no reason why we should not in this colony adopt a similar practice, provided that we can get rid of that major obstacle, the first charge of the Government upon all assets and revenues, and at the same time retain adequate security for Government's own loans. If this Bill becomes law, municipal authorities will be able to borrow from banking corporations and other financial institutions, or will be able to borrow by means of stocks, or revenue-producing assets, such as the erection of European and Asian housing, the erection of workshops and other assets of that kind, which have a mortgageable value of their own. The lender will, in such cases take the first mortgage upon the asset to be created from the money that he is lending, and that will be his sole security.

Clause 3 of the Bill will give the necessary enabling powers to permit of local municipal authorities engaging in this kind of borrowing. Every individual case will, of course, be carefully scrutinized and will require the consent of Executive Council and of the Secretary of State.

Clause 2 of the Bill deals with a minor matter, and purports to extend the powers of a local authority to enact by-laws for the better control of traffic. The existing sub-section among the by-law making powers gives a municipal authority power to prohibit certain speci-

[Mr Mortimer]

Let me quote a case of the Nairobi Municipal Council. We have for a very long time been worried by the heavy cost and rapid deterioration of our motor transport. We have, for some time been engaged on a scheme which we believe will enable us to save the ratepayers of the town something like £2,000 to £2,500 a year by an efficient garage and working service of our own. We shall need something between £10,000 and £15,000 to put up the building. The building could be no stretch of imagination be called a "revenue-earning character"; it is an "expenditure-saving character". But as this Bill stands at the present moment I think borrowing for purposes of that kind would be ruled out. I therefore propose to move in the committee stage the deletion of the words "of a revenue-earning character", and trust that Government will find itself able to accept that amendment.

Mr. HOBSON seconded.

Mr. COCKER: Your Excellency, the amendment provided for in clause 3 is a welcome measure which is long overdue. I hope that even while Government still retains the first charge over the assets of municipal authorities, the municipal Councils will be able to borrow money at rates comparable to the present market rates. The Nairobi Municipal Council certainly needs anything from two to three million pounds to embark upon their huge schemes.

Mr. VASEY (Nairobi North): Your Excellency, in rising to support this Bill, there are one or two comments I should like to make and amendments I should like to move in the committee stage.

Clause 3, line 23: The hon. Member for Health and Local Government mentioned the fact that the assets are to be "of a revenue-earning character". That to my mind is a very limiting and restricting clause, and an unnecessary clause. The principle of this Bill is to allow a local government body to borrow money upon an asset and, in the case of borrowing money from, shall we say, a financial corporation of any kind, obviously it would be unable to borrow money on an asset beyond the limit of the money which the financial corporation thought that asset could bear, so that the interest of the lender is guaranteed by his control of the money he lends. As this reads now, a local government body would be otherwise restricted in the purposes for which it could borrow money outside Government resources.

Let me quote a case of the Nairobi Municipal Council. We have for a very long time been worried by the heavy cost and rapid deterioration of our motor transport. We have, for some time been engaged on a scheme which we believe will enable us to save the ratepayers of the town something like £2,000 to £2,500 a year by an efficient garage and working service of our own. We shall need something between £10,000 and £15,000 to put up the building. The building could be no stretch of imagination be called a "revenue-earning character"; it is an "expenditure-saving character". But as this Bill stands at the present moment I think borrowing for purposes of that kind would be ruled out. I therefore propose to move in the committee stage the deletion of the words "of a revenue-earning character", and trust that Government will find itself able to accept that amendment.

The other point arises in the last sentence of the first sub-paragraph: "The repayment of the principal sum and upon such other conditions as may be agreed upon between the council and such other person with the approval of the Governor in Council and the Secretary of State." The borrowing of money at the present moment for municipal purposes is a long and tedious business. Government is often blamed—sometimes justly, sometimes unjustly—for delays of this kind. It is obvious, and I think no one would disagree with the fact, that where Government is authorizing its own money to be lent to a local government body then Government and His Majesty's Government in Great Britain, which must bear the ultimate responsibility for repayment, has the right to demand full approval. But I do submit that this is a case where, shall I call it, the long-deferring hand of the Secretary of State could be withdrawn. It should be safe, in a case of this kind where the whole question is not ultimate responsibility but is merely that the terms and conditions of the loan are such as are not injurious in the first place to the ratepayers—I am sure my hon. friend the Financial Secretary will reverse the order and say in the first place to the taxpayers and in the second place to the ratepayers—by upsetting the market position with regard to loans. I am not quite certain what the position will be if I move in committee the deletion of

[Mr. Vasey]

the words "and of the Secretary of State". We are perfectly prepared, I think, to recognize the necessity of submitting these loans to the Government as a Government.

There is one other point on which I would like guidance, and the hon. Acting Attorney General can also elaborate this point for me. In paragraph (2) the position may arise with regard to small groups of assets, that we do not wish to have individual assets pledged for individual loans, but we may be able to save administrative charges and a lot of negotiations by dealing with groups of small assets. I am not quite certain whether, as the first two lines of (2) read they would cover groups of assets as well as individual assets.

The first charge of Government upon local government assets is something which we have long contested, and which I trust some day Government will withdraw. I believe it does not exist in the United Kingdom. If that first charge were withdrawn we as a council could enter a municipal stock and bond market, and I believe could save our ratepayers a considerable quantity of money. At the present moment either the hard heart of the hon. Financial Secretary or the Secretary of State stands between local governing bodies and their desirable objective, but this Bill at any rate is a breach in the barrier, it is at any rate an invitation to local governing authorities to use their initiative and enable them to go forward with their development programmes with a little less restriction in the financial sense.

With the two amendments I have suggested, I have pleasure in supporting the Bill.

Mr. TROUGHTON: Your Excellency, with reference to the point raised by the hon. Member for Nairobi North regarding the deletion of the words "of a revenue-earning character" Government is very happy to accept his amendment. The security is with the lender, and if the Nairobi Municipal Council or anyone else can convince the lender that it is satisfactory for him to lend on an "expenditure-saving" asset there is not the slightest reason why that should not be done.

So far as the second amendment is concerned, the deletion of the words "of

the Secretary of State", it is the practice in this country that borrowing by local authorities, for reasons which I think are good, does require the Secretary of State's approval, and as a rule it is a matter of form. In relation to this particular Bill, as the hon. member himself knows, it has had to be taken up with the Secretary of State and his approval secured on this basis, and I would ask the hon. member not to press this particular amendment at the moment, because it would mean we could not proceed with the committee stage, but to let it go and we will take up with the Secretary of State the question of approving these things on our own with, out reference to London, and I sincerely hope the answer will be favourable.

Mr. VASEY: Your Excellency, I am quite prepared not to press this amendment.

Mr. HOBSON: Your Excellency, the hon. member for Nairobi North has asked for an expression of opinion from me regarding the question whether the second sub-clause 3 covers groups of assets. In my opinion it does. It is merely the ordinary and usual financial transaction, and the Bill as drafted will cover the point raised by the hon. member.

Mr. MORTIMER: Your Excellency, I have nothing to add to what has already been said by the hon. Financial Secretary.

The question was put and carried.

## LAND AND AGRICULTURAL BANK (AMENDMENT) BILL

### SECOND READING

Mr. TROUGHTON: Your Excellency, I beg to move: That the Land and Agricultural Bank (Amendment) Bill be read a second time.

This Bill is of a purely formal character. There is a defect in the original Ordinance, in that there is no provision for alternates for members of the Board of the Bank who are going on leave. It so happens that two or three of them are going on leave this year and, unless alternates can be appointed the Board will cease to function.

Mr. HOBSON seconded.

The question was put and carried.

## BILLS

## IN COMMITTEE

Mr. HORSON moved: That Council do resolve itself into committee of the whole Council to consider each of the Bills clause by clause.

Mr. STACEY seconded.

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

## TRANSPORT LICENSING (AMENDMENT) BILL

Clause 2. Mr. HORSON moved: That clause 2 be amended by deleting from sub-section 7 the words "The decision of the Tribunal under the provisions of this sub-section shall be final and conclusive", and by adding a new sub-section (B)—"(B) Any decision of the Tribunal under the provisions of this section shall be final and conclusive".

The question was put and carried.

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

## LOCAL GOVERNMENT (MUNICIPALITIES) (AMENDMENT) BILL

Clause 3. Mr. VASEY moved: That clause 3 be amended by the deletion from the proposed new section 88 a of the words and comma "of a revenue-earning character".

The question was put and carried.

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

## THIRD READING

Mr. HORSON moved: That the Transport Licensing (Amendment) Bill and the Local Government (Municipalities) (Amendment) Bill be reported to Council with amendment and the Traffic (Amendment) Bill and the Land and Agricultural Bank (Amendment) Bill without amendment.

Council resumed and His Excellency reported accordingly.

Mr. HORSON moved: That each of the four Bills be read the third time and passed.

Mr. STACEY seconded.

The question was put and carried and the Bills read accordingly.

## ADJOURNMENT

Council adjourned till 9.30 a.m. on Wednesday, 16th April, 1947.

## Wednesday, 16th April, 1947

Council assembled in the Memorial Hall, Nairobi, at 9.30 a.m. on Wednesday, 16th April, 1947. His Excellency the Governor (Sir P. E. Mitchell, G.C.M.G. M.C.) presiding.

His Excellency opened the Council with prayer.

## ADMINISTRATION OF OATH

The Oath of Allegiance was administered to Mr. Dhanwant Singh, Acting Member for Central Area, and Mr. A. Ohanga, African Interests.

## MINUTES

The minutes of the meeting of 15th April, 1947, were confirmed.

## PAPERS LAID

The following paper was laid by the Commissioner of Lands, Mines and Surveys (Mr. Robbins):—

Land grants return 1st October to 31st December, 1946.

## NOTICE OF MOTION

Notice of the following motion was given by Mr. TROUGHTON: "Be it resolved, that the Hon. E. Mathu be appointed a member of the Standing Finance Committee in the place of the hon. Archdeacon L. J. Beecher."

## ORAL ANSWERS TO QUESTIONS

No. 8—INCOME TAX ON ARMY PAY

Sir A. VINCENT (Nairobi South):

In view of the fact that officers who were on the reserve of a United Kingdom force at the outbreak of the 1939/45 war, and who were transferred in East Africa, from their civilian status to active service, have been subjected to United Kingdom income tax unless they happened to be in Government employment at the time of recall, will Government make urgent representations to the United Kingdom Government for a revision of their decisions in order that settlers may receive the same favourable treatment as Government officials, and be subject to tax on service emoluments at East African rates only?

Will Government state why United Kingdom tax has been imposed on East African personnel who happened

[Sir A. Vincent]

to be in the United Kingdom at the outbreak of the 1939/45 war and who joined the forces direct in the United Kingdom?

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

As regards the second part of the question, the Government is not aware of the precise reasons actuating His Majesty's Government, but the matter is being taken up with the Secretary of State.

NON-PARLIAMENTARY PAPER  
COLONIAL No. 210

## INTER-TERRITORIAL ORGANIZATION

Sir GILBERT RENNIE, Your Excellency, I beg to move: That this Council accepts the proposals for inter-territorial organization as set out in Non-Parliamentary Paper Colonial No. 210.

I need hardly say that this motion is one of the most important ever brought before this Council. Discussions in this country in recent months have shown that the importance of the proposals embodied in this motion has been recognized by all communities. The object of the proposals is to meet the urgent need for establishing a constitutional and judicial framework for the efficient administration of certain specified services and departments which are in existence in East Africa at the present time, and which are, by their very nature, inter-territorial. In addition, the proposals are intended to deal with certain services, also of an inter-territorial nature, which are projected for the near future. I do not intend to go into the past history of those proposals or of similar proposals. The important thing is to ensure that the present somewhat loose organization which works under the Conference of the Governors of East Africa is replaced by a constitutional and judicial framework which will ensure the efficient administration of those common services to which I have referred.

Recent events in this Colony have shown that the urgent need for this kind of organization is recognized by all. Some of us may have our own ideas as to what variations in the set-up proposed, but I think there can be little doubt that now there is no dispute about the need for

this juridical and constitutional framework proposed, and I suggest that in our debate on this motion we keep that most urgent need prominently in our minds and concentrate on it, rather than on some of the details which may not appeal to some of us as much as some of the other proposals involved.

So far as the proposed constitutional framework is concerned, it is that there should be an East African High Commission consisting of the officers for the time being administering the Governments of Kenya, Uganda and Tanganyika. That is the first part of the framework proposed. The second part is that there should be an East African Central Assembly; and the third part is that there should be an executive organization, supported in appropriate cases by inter-territorial advisory and consultative bodies. I will take up each of these parts of the framework individually, but at the outset I would make the point that it is made in paragraph 3 of Paper 210: that the proposals regarding the form and functions of the Central Assembly are limited to an initial period of four years. If the Assembly were continued thereafter, the intention is that the form that it would take and the functions which it would exercise would be reviewed *de novo* before the expiration of the four-year period.

As regards the first part, namely, the East African High Commission, the powers and duties of that Commission are fully set out in paragraph 4 of the Paper and I do not propose to recapitulate all of them. I would merely refer to one or two of those that I regard as of particular importance.

The first is that the Commission should be empowered to administer the scheduled services, exercising the usual powers of a colonial government in respect of them. I need not elaborate on that. I think all hon. members realize what is intended. The fifth item in the schedule is that the Commission will be empowered to appoint advisory and consultative bodies. We in Kenya have a fair amount of experience of the value of improvement in the value of such bodies, especially in the recent arduous war years, and it is important that the High Commission should be empowered to appoint such bodies.

[Sir Gilbert Rennie]

The next item in the list is the power to operate a fund, into which contributions from the East African territories and from other sources would be paid and out of which all expenditure incurred by the High Commission in respect of non-self-contained services would be defrayed. Mark the words, "non-self-contained services," because the self-contained services which they are formed would work within their own budget as self-contained services. The seventh item is "to enact legislation applying to East Africa as a whole—(a) with the advice and consent of each of the three Legislative Councils; or (b) on specified subjects with the advice and consent of the Central Assembly". Hon. members will observe that it is suggested, or it is proposed, that there should be two distinct methods of enacting legislation applying to East Africa as a whole. The first is with the advice and consent of each of the three Legislative Councils. The second, as I have mentioned, is as regards specified subjects with the advice and consent of the Central Assembly. Those are an advance on the earlier proposals put forward in 191, and the reason for each of them is obvious.

As regards the chairmanship of the High Commission, it is proposed that when the officer administering the Government of Kenya is the substantive Governor of Kenya, he will be the standing chairman of the Commission, but when he was not the substantive Governor of Kenya the members of the High Commission would be empowered to appoint a Chairman from among their number.

We now pass on to the second part of the proposals, namely, the East African Central Assembly. This, as all members are aware, is a most important part of the proposals. The constitution of the Central Assembly is set out in paragraph 6 of the Paper, and there it is stated that the Central Assembly should consist of 23 members sitting under the chairmanship of a Speaker appointed by the High Commission, who would have a casting but not a deliberative vote, and that the members should be appointed as follows:—Seven official members appointed ex officio from the staff of the High Commission services, and five members appointed from each of the

three territories, Kenya, Uganda and Tanganyika, with one member of the Arab community appointed by the High Commission. So far as the territorial members of the Central Assembly are concerned (that is to say, the five members appointed from each of the three territories) it is proposed that they should be appointed as follows. The officer administering the Government of the territory concerned would appoint one territorial official; the unofficial members of the Legislative Council of the territory concerned, voting as a whole, would elect one member from among their number; and the officer administering the Government of the territory concerned would appoint one European, one Indian and one African unofficial member. The Paper goes on to state that in Kenya, where European and Indian unofficial members of the Legislative Council are elected, arrangements could be made for these members to be elected by the respective elected members. That, in fact, would be the intention as regards Kenya. The period of appointment would be four years initially, and any appointments and elections subsequently required would be only for the remainder of the four-year period.

Paragraph 9, which sets out the powers and responsibilities of the Central Assembly, is again of the greatest importance and perhaps I may be permitted to quote:—

(i) To consider the annual or any supplementary estimates of revenue and expenditure of the High Commission, of the Assembly and of the scheduled services.

(ii) To approve such annual or supplementary estimates of expenditure (with such amendments as the Assembly might think fit) subject, in the case of non-self-contained services, to the relevant contributions from the East African Governments concerned being subsequently approved by the territorial Legislative Councils.

For the above purposes the Assembly would be authorized to appoint from among its members a Finance Committee on the Budget and a Standing Finance Committee to consider applications for additional provision submitted during the course of the year.

[Sir Gilbert Rennie]

(iii) To consider, by question or motion in the Assembly, matters arising out of or affecting the scheduled services.

(iv) To legislate on specified subjects."

The important point to note as regards the first two items is that the Assembly will have power not only to approve annual estimates, but to amend them as it may think fit, and the second point to remember is that this approval of the Central Assembly is subject, in the case of non-self-contained services, to the relevant contributions from the East African Governments concerned being subsequently approved by the territorial Legislative Councils. That, if I may say so, is a very wise provision.

As regards item (iii)—"to consider by question or motion matters arising out of or affecting the scheduled services"—note should be taken of the last sentence in paragraph 10, which states that unofficial members may introduce motions on any subject within the scope of the Central Assembly under the usual rules. I leave out, for the time being, the earlier part of that sentence, which states that unofficial members will have no power to initiate legislation. The point I am making at the present time is that, by motion, any unofficial member could introduce a discussion on any subject within the scope of the Central Assembly.

The third part of the proposed constitution is the executive organization and the advisory and consultative bodies. It is proposed that the scheduled services should be grouped under the principal executive officers of the High Commission, namely, the Administrator to the High Commission, the Member for Finance, the Member for Transport and the Postmaster General. I need not recapitulate all the details of the proposed departments under each of these officers. They are set out in paragraph 12. It is important to note that these four principal executive officers—plus the Legal Secretary, the Commissioner of Customs, and the Economic Secretary, would form the seven official members of the Central Assembly.

Paragraphs 14 and 15 of the Paper deal with the powers of the High Commission to appoint advisory and consultative bodies, and it will be noted that it

is proposed not only to continue the existing bodies (namely, the East African Production and Supply Council, the East African Industrial Council, the Standing Research Committees, and the East African Publicity Committee), but to appoint three new bodies: an East African Posts and Telegraphs Advisory Board and, when a scheme for the amalgamation of the Kenya and Uganda Railways and Harbours and the Tanganyika Railways and Ports Services has been approved, an East African Transport Advisory Council. The need for those three proposed bodies is, I think, obvious.

Now I pass on to the scheduled services which are set out in paragraph 17 of the Paper. As hon. members will see, the list is long and formidable, and almost in itself demonstrates the need for some such framework as is now proposed. In passing I might say a tribute to the Secretariat of the Governors' Conference which, through the past strenuous war years, has kept the wheels of an antiquated and inadequate machinery turning; and I think I can honestly say that, if the chief executive officers of the Governors' Conference Secretariat had not been very able men, the need for the new organization would be much more obvious than it is to-day. (Hear, hear.)

As regards the common services projected for the future, they are set out in paragraph 18 of the Paper, and I need not take up the time of Council by going into each of them in detail. I think hon. members will agree that it is essential that all these should come within the purview of the Central Assembly that is proposed and under the executive jurisdiction of the High Commission.

Paragraph 19 of the Paper is an important one, since it deals with the proposal to augment the list of scheduled services and, in view of its importance, I will take the liberty of reading it:—

"The above list of the scheduled services, in existence or projected for the near future, would not be augmented during the initial period of four years without the clearest expression of approval in each instance in each of the three territorial Legislative Councils. If it were found during this period that a motion for extending the list met with substantial opposition

[Sir Gilbert Rennie] from unofficial members in any of the Legislative Councils, effect to the proposal would not be given without further consideration and further opportunity for debate."

I am aware that one or more amendments have been suggested to that paragraph, and in the circumstances I await a statement about the suggested amendments before commenting further on the proposals in paragraph 19.

In paragraph 20 are set out the legislative powers of the Assembly—again a very long and comprehensive list, although it is obvious from discussions that have recently taken place that in the opinion of some people the list at the moment is not sufficiently comprehensive. I propose to mention only one or two of the items in that list, for example, that which deals with appropriations: "Appropriation, providing for the expenditure of the High Commission, of the Assembly and of the scheduled services, the Appropriation Bill in respect of non-self-contained services being introduced after the relevant contributions from the East African Governments concerned had been approved by the territorial Legislative Councils". If hon. members will link that particular item with paragraph 9, items (i) and (ii), which deal with the powers and responsibilities of the Central Assembly in respect of estimates and supplementary estimates, they will see that the procedure proposed as regards non-self-contained estimates, is that the estimates would be first of all submitted to the Central Assembly for approval. They would then go, for the approval of the relevant contributions, to the Legislative Councils concerned, and thereafter an Appropriation Bill would be introduced into the Central Assembly to cover the required appropriation.

Item (ii) dealing with customs and excise, and item (v) dealing with income tax, are also important, and hon. members will note that it is not proposed to empower the Central Assembly to fix customs and excise tariff rates, or income tax rates and allowances. The power to fix such rates will still remain with each of the territorial Legislative Councils for application within the territory concerned. The corollary to that would be that the Central Assembly would have no power, no responsibility or functions

rather, in respect of the levying of taxation.

Paragraph 21 deals with additions to the list of subjects for legislation, and the proposals are similar there to those that I have mentioned in respect of paragraph 19. Paragraphs 22 and 23 are important since they make it clear that, so far as enactments by the High Commission are concerned, "the subjects upon which the High Commission legislate with the advice and consent of each of the three territorial legislative councils would be decided from time to time with such advice and consent". That, of course, is merely commonsense, but it is important that it should be stated. Paragraph 23 disposes of a subject that has caused apprehension in the minds of some people. It states: "The enactment by the High Commission of legislation on an East African basis, whether with the advice and consent of each of the three Legislative Councils or with the advice and consent of the Central Assembly, would not necessarily mean that the administration of the legislation must be centralized.—Would not necessarily mean that the administration of the legislation must be centralized.

Whether this was desirable or not would be considered in each case on its merits when the legislation was under discussion". Again commonsense.

In paragraphs 25 to 27 are set out the proposals dealing with the proposed amalgamation of the Kenya and Uganda Railways and Harbours Administration and the Tanganyika Railways and Ports Services; the amalgamation of the Kenya Customs Department and the Tanganyika Customs Department, and the proposal that the Posts and Telegraphs Department should be converted into a self-contained department. I do not propose to go into these various proposals in detail; no doubt later speakers on this side of Council will elaborate any points that seem to them to require elaboration. I would merely say, as regards these various proposals, that due note should be taken of the point made in paragraph 25, that before the proposed amalgamation schemes were applied, they would require the approval of each of the three territorial Legislative Councils, of the High Commission, and of the Secretary of State. Due note should also be taken

[Sir Gilbert Rennie] that, pending approval of the schemes of amalgamation, the customs and excise services—and this would apply to the railways and harbours services—also would not come within the executive jurisdiction of the High Commission or within the purview of the Central Assembly. In view of the fact, however, that the Posts and Telegraphs Department is at the present time an inter-territorial department serving all three territories, it would come within the purview of the Central Assembly and the executive jurisdiction of the High Commission as soon as they were constituted.

Paragraphs 28 to 34 contain the proposals regarding finance. The only point that I would make in that connexion is the distinction that is drawn in paragraphs 28 and 29 between the non-self-contained services when the Central Assembly deals with the estimates of such services. As is stated in paragraph 28, when a scheduled service is self-contained, as is proposed in the case of the East African Posts and Telegraphs Department, or the East African Railways and Harbours Administration after a scheme of amalgamation has been approved, the Central Assembly will perform all the functions in relation to such services as are performed by a territorial Legislative Council in relation to a territorial department: That would be the position when a service was self-contained. But, in dealing with the estimates of a non-self-contained department, the Central Assembly would approve the estimates or any supplementary estimates of expenditure of the scheduled services (with such amendments as the Assembly might think fit) subject to the relevant contributions from the East African Governments concerned being subsequently approved by the territorial Legislative Councils. The position, in fact, is that as regards non-self-contained services the territorial legislatures will have to approve the necessary provision of the necessary contributions in each case.

That summary covers most of the main points of the proposals. No large increase in staff will be required. Indeed, as stated in paragraph 35 of the Paper, "the staff required for existing services is already in East Africa, from the three governors downwards, and most of the services

mentioned have been in operation for a considerable time". "No large increase in staff will be required", and the position as we see it now is that all of us recognize the need for this new juridical and constitutional framework. The present proposals have been framed after a great deal of consideration, and after a great deal of discussion, and I would suggest that the important thing is now to set up the new constitution governing these various services as soon as we possibly can. They do not fully meet the wishes of everyone, that has been made clear in recent discussions, but I would suggest that they are a workable compromise, and they should be given a chance of working at the earliest possible opportunity. Those of us who have seen the working of the present organization, which is described in Paper 191 as a somewhat loose organization, realize fairly clearly the defects of the present system, and although the framework proposed may not be in the eyes of everyone absolutely ideal, I suggest again that it is a workable compromise and should be given a chance of showing at the earliest possible date that it can work.

Before the new constitution, the new framework, can be introduced, a certain amount of legislation will be necessary, and a good deal of preparatory work will be required there, and also in getting ready the necessary administrative procedure. The probability is that it will be possible to introduce the new arrangements on or about the beginning of January, 1948, although it may be found both practicable and desirable to get the High Commission itself working before the other parts of the new framework are actually in force. That is a matter that will be gone into, but the general aim, as I say, at the moment will be to get the new constitution working about the 1st of January, 1948.

There is one other matter that I should mention in this connexion. If this Paper 210 is accepted and put into force, the constitution of the Kenya Legislative Council will be affected. Hon. members are already aware from the note that was published in the paper recently at the same time as your despatch, sir, No. 44 of the 15th March, was published, that the Secretary of State has already agreed in principle to an unofficial majority in

[Sir Gilbert Rennie] has authorized to say that he has also agreed to the constitution as proposed in that despatch, namely, 15 official members and 22 unofficial members, with a Speaker. So far as the 22 unofficial members are concerned, the members would be 11 Europeans, 5 Indians, 2 Arabs, and 4 Africans, and the number of the total Council would then amount to 37.

It was made clear in the note to which I have referred that you, sir, in your impending visit to the United Kingdom will discuss these various proposals with the Secretary of State in order that proposals acceptable to him may come back for the consideration of the Legislative Council. I make that position clear at this stage of the debate in order that hon. members may be aware of the Secretary of State's view as regards the Kenya Legislative Council.

In conclusion, I would make one point. These various proposals, as I have stated, have been arrived at, have been drawn up, after the most careful consideration of the various views that have been put forward—in some cases, as we all know, often conflicting views. I would therefore suggest that if any hon. member wishes to put forward suggestions for variation they should be put forward rather as recommendations for the Secretary of State's consideration than as conditions governing the acceptance of this motion. Hon. members will appreciate, I think, that a motion in these terms, or in some what similar terms, will be debated in each of the three Legislative Councils in East Africa, and if the acceptance in each case is to be ringed with conditions and stipulations we shall have the whole matter thrown back into the melting pot again, and a great deal of delay will inevitably occur. I would therefore venture to suggest that any proposal for variations should come forward as recommendations for the Secretary of State's consideration rather than as conditions governing acceptance. I think we all realize that any such recommendations and proposals put forward will receive the closest consideration by the Secretary of State.

Now, sir, I come to the end of my speech. For my own part I would say that I am satisfied that these proposals—and I have studied them over a long

period fairly closely—offer a satisfactory solution to a very complicated and difficult problem, and I have no hesitation whatsoever in recommending them for the acceptance of this Council.

ACTING GENERAL MANAGER, K.U.R.H. (Mr. Dalton): Your Excellency, it is with great pleasure but a sense of acute personal diffidence that I second the motion put forward by the hon. Chief Secretary, a motion fraught with such possibilities for the future of the East African territories. The proposer has dealt ably with the main functions of the new organization; it is probable that hon. members would like to hear something from me on the economic and administrative case for the amalgamation of the two transport systems.

If one looks back at the history of the world's railway systems, one finds that most of them grew up piecemeal. One hundred years ago the British railways began as a multitude of small units which gradually combined to form main transport systems as we knew them in the early 1900's. Then after the first world war the Government enforced a compulsory grouping system on the 120 separate companies which still remained, out of which emerged the present Big Four. In South Africa, too, the railway system developed out of separate state railways to become the present vast network serving the whole of the Union. In the United States of America, on the other hand, the tendency was for railways to remain as separate companies, and the melancholy consequence of this was seen in the bankruptcies and closures of the less prosperous systems between the early thirties and the outbreak of the last war.

So in East Africa, with the setting up of an organization to provide for the more efficient administration of common services, it becomes inevitable and natural to achieve unified control of the railways, railway operated roads, ports, and inland water transport services of Kenya, Uganda, and Tanganyika. It is natural, too, that we should ensure adequate liaison between those services and other transport services, air and road, so that the greatest economy and efficiency may be achieved in the use and co-ordination of those services.

[Mr. Dalton]

That there should be closer co-ordination between the transport policies of the three territories has long been admitted. How best to achieve that co-ordination has been the subject of many inquiries and many debates since the Ormsby-Gore Commission was sent out in 1924 to consider the "masses to be taken to accelerate the general economic development of the British East African Dependencies and the means of securing closer co-ordination of policy than on such matters as transportation." That Commission reported: "*Prima facie* there is a strong case for united control of the railway, harbour and inland water transport systems of Kenya, Uganda and Tanganyika. It has already been pointed out that there is an essential geographic and economic unity in these three territories. It is a corollary of that unity that the system of communications should be developed to a common policy." The Commission added: "It is obvious that the common factor of British administration in all these territories ought to be utilized not only to avoid wasteful competition or the duplication of effort in serving the joint hinterland, but to secure such advantageous results as may be achieved by a development of inter-territorial trading. All these considerations point to the importance of a single control."

Now, sir, the amalgamation of the railway systems in itself without the setting up of a High Commission and a Central Assembly would not solve the problem. Not only would there be left the impossible administrative problem of a general manager endeavouring to serve and present his budget before three separate Legislative Councils—in a difficult enough with two—but there would be the equally impossible situation of a general manager endeavouring to serve the sometimes conflicting interests of each individual territory, when those interests run contrary, as they may well do, to the interests of transport development as a whole. Under a central administration the general manager of the combined railways would be concerned only with the provision of the most efficient transport system serving at the lowest cost the interests of East Africa as a whole. Nor would the setting up of a High Commission and Central

Assembly, while permitting the two railways to retain their separate entities under separate general managers, provide a practical solution. The possibilities of friction between the two independent managements under a Central Assembly would still be present and centralized direction could not be made wholly effective.

I can think of no better illustration of how conflicting interests may impinge upon the most economic use of transport than by instancing the difficulties encountered at competitive points where the interests of the transport system, the transport users, and the individual taxpayers of two territories are apt to be at variance, and by referring to the problems connected with the distribution of traffic at the southern end of Lake Victoria and at Moshi. Hon. members will probably remember the somewhat acrimonious inter-territorial exchanges at a high level which followed the construction of the railway between the Tanganyika central line and the port of Mwanza, lapping as it did the rich hinterland of the southern shores of Lake Victoria, and coming into immediate competition with the inland water transport services of the K.U.R.H., which had developed that traffic in that area. Similar problems arose after the end of the world war with the linking up of the Tanga line with the main K.U.R.H. system at Moshi. The diverging interests of the Kenya and Uganda Railways and the Tanganyika Railways were brought together for the time being in 1937 by the pooling and financial agreement known as the Rhodes-Robins agreement, but this agreement, now due to expire, was only a partial solution of the problem. It was the best that could be done under the independent railway management. So long as the financial stability of the Tanganyika Railways is the responsibility of the Tanganyika Government, and deficits have to be met out of the Tanganyika budget, so long is the Tanganyika Government forced to insist on the maintenance of certain rating levels and on a distribution of traffic at competitive points which will ensure the self-sufficiency of the Tanganyika railways. Only thus can the cost of running that railway be met, and the need of Government subsidies lessened.

[Mr. Dalton]

The result has necessarily been a tendency to create artificial divisions of traffic and to direct traffic flows rather in the interests of the financial stability of a particular railway than in the interests of the economy of East Africa as a whole.

Hon. members may ask, does this proposal mean that the Kenya and Uganda Railways will finance the Tanganyika Railways? As that is, I would first refer to certain developments—agricultural and mineral—which are taking shape at present in Tanganyika, and which may well alter the face of that country. They may have the effect of transforming the position of the Tanganyika Railways from the humble one of a poor relation to that of a rich relation with whom, sir, we might be happy to be allied. (Laughter.) Ten or 15 years hence our successors here may well applaud the precision which, I hope, we shall show this week, but all that lies in the womb of the future.

Taking the picture as we see it to-day, again I would refer to the advantages derived from the grouping of railways in other lands which made possible the more even development of the countries as a whole—South Africa, for example—by the provision of superior transport facilities in those areas which by themselves might not have been adequately served. Inevitably the proceeds from the more advanced areas will assist in this more even and general development of the East African territories. With a complete financial merger of the two systems, the profits of the combined railways will finance the whole system. The flow of traffic will be directed with the sole object of promoting the interests of transport by using the most economic routes, which may alter from time to time, and so the tendency should be for transport costs over the whole system to be lower than they otherwise would be. But that is not to say that the new railway will take over all the deficits and all the obligations of the old. A committee will first be appointed whose duty it will be to examine the financial arrangements which will be necessary. That committee will no doubt be at pains to ensure that the new joint railway is brought to birth with a healthy and vigorous constitution.

On the higher plane, complete co-ordination of policy will be at once achieved. Wasteful capital expenditure will be avoided, rating policies will be developed without regard to narrow interests, and a transport framework will be available to meet the expanding needs of the East African territories which, because of their geographic and economic unity, can, as most Commissions agree, only be furthered by unified control. The new organization will take over the functions at present exercised by the East Africa Transport Policy Board, functions which are, in fact, seldom exercised. It will be strengthened by the power to enact legislation, and the proposed Transport Advisory Council will ensure full co-ordination of policy while safeguarding the real needs of each individual territory.

One important administrative advantage lies in the arrangement whereby the General Manager will present his budget to the member, whose duty in turn it will be to present it before the High Commission and the Central Assembly. The General Manager will thus be relieved of the onerous political responsibilities which fall upon him under the present organization, and would be free to devote the whole of his energy and ability to the efficient management of the combined railway.

On the short term advantages, I feel I should sound a note of warning to those who may see in the amalgamation of the transport system a panacea for all transport ills. It must be borne in mind that there are certain physical disabilities which will for some time militate against the full development of the possibilities of transport amalgamation. There is, first of all, the lack of a physical connexion between the central and main Tanganyika system, and the K.U.R. & H. system. There are also the different braking systems which have developed in the two railways. There is the vacuum brake on the Tanganyika Railways, and the Westinghouse brake on the Kenya and Uganda Railways. These two factors—the lack of a physical link and the different braking systems—make it impossible a common user of rolling stock, and so the greatest advantage which amalgamation usually brings in its train will not immediately be achieved. But

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there will be other advantages: central and more economic direction, standardization of equipment and methods, the building up of a common stock of stores, the development of a common rates structure throughout the whole system, the possibilities of more economic operation. In instance, for example, the possible operation of the Tanga line with K.U.R. & H. stock, and the transference of the vacuum-braked stock to the central line. All these should be available within a reasonable period after the present industrial difficulties in the United Kingdom have been overcome.

But, however tardily the major improvements may be in materializing, the setting up of a central legislature marks the beginning of a new framework for East Africa within which she can confidently develop her possibilities. The difficulties, practical and political, which up to now have made the introduction of this central legislature impossible have gradually been surmounted. Paper 210 brings near its achievement, and in that achievement the unification of the transport services will not be found to be the least gain.

I beg to second. (Applause.)

SIR ALFRED VINCENT (Nairobi South): Your Excellency, I am certain that all communities in this country are indebted to you for the publication of your despatch No. 44 which was laid yesterday as Sessional Paper No. 1 of 1947, and I hope that you will allow me to associate your despatch with Paper 210 in my brief remarks.

The present world wide political confusion arising from the war of nerves which seems to exist between the Great Powers, together with the perplexing decisions of the United Nations Organization—for instance, in the refusal in one case to send a matter to the International Court of Justice; later to be followed by the sending of a matter of quite similar nature to the International Court of Justice; not to mention the use of the veto when the voting goes against a Power which has the use of that veto—has given rise to general concern and perplexity everywhere. It is therefore gratifying that this Government have placed before us two

straightforward documents which we can understand clearly, and which give us a definite picture of Government's intentions, and thus do not add further to local political confusion and uncertainty. I must say that I deplore the fact that the original proposals were not of the character that are before us to-day, and that the method of introduction of the original proposals was not used for the introduction of the present proposals, as I am certain that a great deal of unnecessary work, time and bitterness would have been prevented, and that the attitude and intentions of the present British Government would not have been so misunderstood.

Whatever merit I might have thought one particular merit. It did cause us to place on record the attitude of the European community towards constitutional alterations and the matter of representations, and this Government and the Home Government should no longer be under any misapprehension on this particular score.

I welcome the proposals in their present form, because I believe they will give us the opportunity of close collaboration with all the peoples of this and the other territories and provided that the matters which come before the Assembly are regarded from an inter-territorial point of view, and not from a parochial point of view, this first step to lead us forward to progress. But if matters which come before the Assembly are immediately translated into racial or political issues, then that Assembly must assuredly fail.

The British Government has shown its determination to assist these territories, not only by the measures and the grants under the Colonial Development and Welfare Act, but also by the recent nuts production scheme for ground nuts (which I hope will not only be carried out in Tanganyika, but will be extended also to Kenya), and again by the port and railway developments which are planned in Tanganyika. Therefore, I believe that this action on the part of the British Government makes it all the more essential that we have a territorial body to co-ordinate these common services, so that we may get the best results out of this planning.



(Sir A. Vincent)

I believe that in building up that central organization we must hasten with caution and we must be extremely careful regarding the cost of that organization, because the cost will have to be borne ultimately by the taxpayers of the territories concerned.

So much has been said and written about Paper 210 and the Paper it replaces that it is unnecessary for me, after the very clear details given by the hon. mover, to go into the details of the Paper; but there are three points to which I must refer. We have heard this morning that the Secretary of State has agreed to the suggestions made, with your usual foresight, sir, in your despatch, and we are very grateful that at this juncture he has made his acceptance known. Under the circumstances we feel, with reference to the appointment of territorial members (page 3, paragraph 7 (ii)), that we should ask that the one member referred to should be elected by the whole Council from the outset, and we propose that the Secretary of State be requested to agree to this course and that, as far as Kenya is concerned, the following be substituted for paragraph 7 (ii):— "The members of the Legislative Council, voting as a whole, would elect one unofficial member from among their number, all members of Council having a free vote".

Then, referring to paragraphs 19 and 21, which were specially referred to by the mover, surely the meaning of these paragraphs is that, if matters are discussed again and the opposition still remains, those subjects shall not be added to either schedule? Therefore, in order to clarify that particular point, we would like an assurance from Government that if, after the further consideration referred to in the paragraphs, the substantial opposition continues regarding any specific service or subject, no such additions will be made to the list of scheduled services or to the subjects for legislation under these paragraphs.

Provided the above assurance is given, and provided also that the despatch contained in Sessional Paper No. 1 of 1947 is agreed to by the Secretary of State and is not altered in any material detail, my colleagues and myself are prepared to support the motion before Council to-day. It would, however, be quite

untrue to say that these proposals are not regarded with a certain amount of misgiving and anxiety on the part of a good many people in this country, probably because of the events that preceded their publication, but I assure you, sir, that once the position is clarified in the way we have requested, you may rely upon us to do all in our power to make the Assembly a lasting success.

Mr. PATEL (Eastern Area): Your Excellency, I beg to oppose the motion before the Council, and in doing so I shall be expressing the views not only of the Indian elected members, but also of the Indian community of Kenya. It is with great regret that the Indian community finds itself in the position of opposing a scheme for the improvement of the Governors' Conference.

The Indian and African communities in this country had accepted the broad principles laid down in the proposals contained in Paper 191, but when they accepted them they made it very clear that the condition under which they did so was that the equal representation proposed in Paper 191 would be implemented. That condition has not been fulfilled, and an alteration has been made to suit the desires and demands of the European community of this country. I have tried to understand the necessity for that change, but I have failed to do so. Let us examine the reasons which influence His Majesty's Government and the Governments in this country to alter the proposals in regard to the composition of the Central Assembly in this manner.

Firstly, it is well known that there was strong opposition from the Kenya European settlers, supported by the European community of the Northern Provinces of Tanganyika, and their chief ground for opposition, as I was able to read in the newspapers, was that they were prepared to have equal representation with the African community, if necessary, but never with the Indian community. That was the attitude which was taken at every meeting which was held in this country, in a very frantic manner, during those days when Paper 191 was discussed throughout Kenya and the northern part of Tanganyika. It cannot reasonably be denied that the modifications made are due to pressure from the European settlers of this country, and

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I personally believe that when the Indian and African communities believed that a new era was being introduced by His Majesty's Government in proposing to give equal non-official representation for the three major races residing in this country, they were deluding themselves. Events since then have proved that the small European community of this country was far more powerful than the combined opinion of the Indian and African communities. It cannot reasonably be denied that the change made in the composition of the Central Assembly is unfavourable to the Indian and African communities. I realize that in Paper 210 emphasis has been laid on territorial representation, but it does not hide the fact that it has been done with a view to securing greater representation for the European community and to meet the wish of the European community to have no equality under any circumstances with the Indian community.

When I read the letter dated the 24th February, 1947, at the beginning of Colonial Paper 210 I find the following:—"It is now over fourteen months since the proposals for inter-territorial organization in East Africa were published in Colonial Paper No. 191, in December, 1945. These proposals have since been the subject of wide discussion in the East African Territories, and, during my visit to East Africa last year, I was able myself to discuss them with members of all communities in each of the three Territories." I know that it was made very clear to the Secretary of State for the Colonies during his visit, by both the Indian and African communities, that they did not accept these proposals unless the proposal for the composition of the Central Assembly was implemented.

It is also very clear from the recent speeches made by the European elected members, including the speech made by the leader of the European elected members, that they have gained their point of view in the proposals in 210. The principle of equal racial representation has gone. "It is a tremendous concession has gone," they say, "to the European community," and "It is due to the opposition we have taken to Paper 191." It would be futile to deceive the non-European communities of this country by saying "No; these proposals are as a result of discussions

and as a result of the necessity for arranging things in a manner which will meet all points of view." Paragraph 22, page 8, of Paper 191 says:—"The suggestion that the unofficial members of the Assembly chosen by the territorial legislatures should represent the three major communities in equal numbers arises from the impossibility of devising any generally acceptable formula by which to decide the relative importance of the respective claims of the communities concerned. The racial composition of the Legislative Councils differs from territory to territory and none offers a satisfactory general pattern for a joint assembly. It was this question of representation which proved to be the most controversial part of the report on a scheme for closer union made by Sir Samuel Wilson in 1929 and it was found impossible to secure agreement at that time. It does not appear to His Majesty's Government that to the East African Governments that, in the case of a joint legislature of the type now proposed, there is any logical alternative to equal representation".

Now, sir, it is quite clear that when these proposals were put forward there was such emphasis laid on the question of equal representation, that has now been altered, the only conclusion to which the non-European communities of this country can come to is that, the pressure by the small European population of this country was so strong that His Majesty's Government and the local Governments were unable to resist it. While on that point I must mention that, for the sake of Kenya, the Uganda Protectorate is also asked to follow a course which they would not have done if Uganda had been independent to take the step. For instance, in the Uganda Legislative Council to-day there is equal representation for all the three major communities: three European members, three Indian members, and three African members, as far as the unofficial side is concerned, but under Paper 210 Uganda will be asked to follow a course which they may not like to do. Under Paper 210 Uganda may have to send to the Central Assembly two Europeans or two Indians or two Africans and one member from the other two sections. If Uganda could act by itself and not be interfered with by the dictation of the European population of Kenya, they would surely

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elect to have equal representation for all the major communities, but they are in the unfortunate position of having to associate themselves with Kenya, and that is why they have to abandon the principle of equal representation on which they have in their Legislative Council. (Laughter.) It is true that my hon. friends the European colleagues have a great deal to smile at now and the Indian community a great deal to resent. I may say that the Indian community would have accepted the other changes proposed in Paper 210 if this question of representation on the Central Assembly could have been satisfactorily solved, but I think that this Government and His Majesty's Government have attempted to meet only one side in making the new proposals.

I recognize that there are a great number of defects in the present organization of the Governor's Conference and that there is a great need for improvement at early date. I also recognize that up to now the procedure to secure common legislation is very cumbersome and that it is absolutely essential that we must devise some scheme by which we can improve the present method of dealing with common subjects of the three territories, but at the same time I cannot persuade myself or persuade the Indian community to accept the position of changing what was considered at one time by His Majesty's Government as well as by the three governors of the East African territories that there was no alternative but to have equal representation for the three major communities. Therefore, there is no alternative for the Indian community but to strongly oppose this motion before Council. I should also like to say that this will be a lesson for the other communities residing in this country, the lesson that unless one becomes a nuisance, and simply a nuisance, there is no chance of getting a reasonable hearing from Government. Well, that is what this change teaches us today.

Among the other changes which are proposed some are not acceptable to the Indian community. Particularly I refer to page 3, paragraph 9 (ii); "For the above purposes the Assembly would be authorized to appoint from among its members a Finance Committee on the

Budget and a Standing Finance Committee to consider applications for additional provision submitted during the course of the year." I will compare that with what appeared in Paper 191, page 9, paragraph 26: "The Finance Committee on the Budget should consist of the whole of the unofficial members under the chairmanship of the Financial Secretary. A small Standing Finance Committee would be required to consider applications for additional provision in the course of the year, and this might consist of the Financial Secretary as chairman, the three official members of the Assembly nominated by the respective Governors and a European, an Indian and an African unofficial member." Why that has been changed. I do not know, but I am quite certain that that is again the result of the viewpoint taken by the European side.

I have also certain remarks to make upon the question of the appointment of advisory board, in particular referring to page 9 of 210, where it is stated: "The composition of the Council would be otherwise be prescribed either in relation to race or as to the numbers of official or unofficial members. The objective would be to secure for the High Commission the most competent advice available." Very good, I agree with that, but what happens in this country? When it suits the Government and the European community, they divide the whole of the population into various groups as Europeans, Indians, Arabs and Africans, either for education, medical facilities, or other matters, and they say: "We must have water-tight compartments." When it suits them not to have Indian or African representation on any body, they always think of appointment on merits. What will happen in this regard? To-day in Tanganyika there are two Indian members on the Railway Council, Uganda has lately appointed an Indian member on the Railway Council of the Kenya and Uganda Railways, but Kenya has never thought that there is any Indian who could be appointed to any of these bodies. What will happen when we have the Central organization sitting here in Nairobi? On the Transport or Railway Council or any other organization appointed to advise the Director of Transport or Railway Manager, no competent Indian will be found in the East

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African territories to represent the Indian community and, if I may coin the word, there will be "Kenyanization" of East Africa in this regard. The prospect of Kenya will be followed, and poor Uganda and Tanganyika will be compelled to overlook the precedent they have followed so far of appointing two Indians in Tanganyika and one in Uganda. That is why I strongly oppose the remarks made in paragraph 27 (2) of Paper 210, because I am quite certain this will be used against the appointment of any Indian representative on any central advisory body. The best course would have been, before any scheme was brought into operation, to consider the views expressed by all communities, and not only the views expressed by the European community of this country. I am very glad that paragraphs 9 and 10 of Paper 191 are retained as part of the proposals reserving the final responsibility of His Majesty's Government in the administration of these territories, and that neither political closer union nor the fusion of the East African territories is considered practical politics. I am very glad that these are retained in the new proposals.

The Kenya European population from what I have seen in the newspapers accept the proposals in Paper 210, subject to the grant of the unofficial majority in the Kenya Legislative Council. I personally welcome the new proposals for this Council, particularly because the African representation is to be increased. It was long overdue, and I personally heartily welcome the new change. At the same time, I must protest that the new set up of the Kenya Legislative Council proposed in yesterday's despatch No. 44 is made contingent upon the acceptance of the proposals in 210. I strongly oppose that, because it overlooks the need for increased African representation on its own merits. The Africans have been claiming greater representation long before the publication of 191, and to link it up with the proposals made in 210 is, in my submission, absolutely wrong, and amounts to telling the African: "If you want increased representation you will have to vote for Paper 210 whether you like it or not." That, in my submission, is a moral force exercised against the African members.

The leader of the European elected members, the hon. Member for Nairobi South, made some remarks in the course of his speech referring to: international confusion and local political confusion of thought and so on: I am not prepared to enter into a discussion about the international situation and what the United Nations Organization should or should not do. But I am certain about one thing, that the European community in this country still desires to live in an age that is fast disappearing. They do not want to recognize the new forces which have been at work to-day in the whole world, whether they like it or not. They will have to learn pretty soon that the relations between all the continents, countries and races will have to be readjusted on a just and fair basis, otherwise they will land themselves into trouble, and perhaps their children will have to repent for it.

The hon. Member for Nairobi South said that they opposed the representation which was granted in 191. We know that that was the basis over which the whole of the European community in Kenya went wild when that Paper was published, and the leader of the European elected members categorically rejected 191. We know that. It is history in this country, and we will not forget it very soon. He is inviting collaboration between communities when the Assembly is formulated. He said there should be collaboration between the various communities and territories, but the basis for such collaboration is lacking. If the European community really intends that they shall retain the leadership in this country, it will not be by exercising force or pressure which is unwarranted. Leadership can rest only on a moral basis. I remember one of the elected members suggested to me that it would be a statesmanlike attitude on the part of the Indian community if it opposed the Paper and then said that we were prepared to accept the proposals in the interests of the country. I would like to say that a statesmanlike attitude on the part of the European community would have been to say: "We accept in the interests of harmony and goodwill between all communities the proposals for equal representation in 191, but to create mutual goodwill and to see that people of moderate views are elected to

[Mr. Patel] the Central Assembly let us all sit together and jointly elect an equal number of Indians, Europeans, and Africans. That would have been a statesmanlike gesture on the part of the European community of this country. But when they say they will have nothing to do with equality with the Indian community they cannot turn round and say to us that "We should be good boys" and that we should accept whatever they like. We cannot follow their lead, a lead which has never shown a moral basis as far as the Indian community is concerned and has never inspired any confidence in the minds of the Indian community all these years.

I do not think I want to take up the time of the Council very much longer, for I notice that some of my hon. friends, my European colleagues, do not like what I say and desire me to resume my seat as soon as possible. (Laughter.) At the same time, I would not forget that it is they who have created the racial issue on these proposals—(Mrs. Watkins: Never.) The racial issue was created when the proposals in 191 were discussed by them! It is they who talked in terms of European leadership, no equality with them for Indian or African, and now they want to teach us that we should not talk in terms of racialism, that we should be good boys, and in a friendly manner accept whatever the European community tells us to do, if that is their attitude the Indian community will not accept it. I know the influence political power in this country and you may be able to have your own way, but at the same time I must say that although these proposals will be brought into operation against the legitimate desire of the Indian community we shall not accept them and will always agitate for the implementation of Paper 191.

With those remarks I strongly oppose the motion before Council.

SIR A. VINCENT: Your Excellency, I did not interrupt the speaker, but I should like now just very briefly to rise to a point of order on a mis-statement which he made.

He stated that I, the leader of the European elected members, had claimed that we have won a great victory over Paper 191. That is completely inaccurate.

The only meeting I have attended and the only reference I made was as follows—I have a copy here: "In my opinion our resolutions and representations to the Home Government arising from Colonial 191 have been reasonably and fairly met by the Secretary of State in Colonial 210". I do not regard it as a victory but as a matter of logic and equity. (European members: Hear, hear.)

HIS EXCELLENCY: The hon. Arab elected member has unfortunately a very bad cold and has lost his voice so he is unable to speak on this motion. His colleague, being an official member, is under certain obligations. If the Council has no objection—and I must make it clear that it lies entirely with Council—with the indulgence of Council it is proposed that the hon. Mbarak Ali Hinawy should simply, on behalf of his colleague, read the remarks that the hon. Arab elected member would have made had he not had this cold. This procedure is a little unusual, and I am advised that according to May's Parliamentary Practice it is not strictly correct, but it appears to me to be a sensible arrangement to make.

MR. MATHU: Your Excellency, when Paper 191 was published, Africans throughout the country expressed an opinion of satisfaction in regard to the broad principles embodied therein, and they did express the view that they would accept the proposals in 191, and emphasizing the point that the provision of paragraph 22 of that Paper was the main principle which led them to accept the principles of reorganization of these territories. During the interim period, up to the time when Colonial 210 was published, opinion changed from what was contained in 191 by the Secretary of State and the European members of this Colony, and now we have a departure from that principle. It would be illogical, particularly when there is no justification on my part, to accept the proposals in 210 when I had accepted the proposals in 191, and I therefore rise to oppose the motion before Council on that score.

There is, however, a remark that has been made by the hon. mover that any suggestions we may make in regard to amendment or otherwise of Paper 210 should be done with a view to giving the

[Mr. Mathu]. Secretary of State for the Colonies an opportunity of either rejecting the suggestions or accepting them. Personally, I would like to suggest that the appointment of one member in paragraph 7 (ii) of Paper 210 should be done not by the unofficial members of the Legislative Council voting as a whole, nor the new proposal of the whole Council voting together, officials and unofficials, but that the three members for the whole of the three territories should be appointed by the High Commission. It will be noticed that in the original proposal in 191 there were four members who were to be nominated by the High Commission, and I still think that that principle should be tried in Paper 210.

I should like to make it definitely clear why I make that suggestion. Firstly, I think it is not correct, it is not just, for a small minority of the European community here to work as hard as they can to have the whole of the political power in their hands. I think that if this suggestion was agreed to, and the High Commission were to appoint the three members under paragraph 7 (ii), no community could feel it was within its rights to claim that that one member should be appointed from the whole community. I can imagine that if Your Excellency as chairman of the High Commission, if and when formed, appointed a European as your first choice, the other communities would at the end of the four years say that that member should come from their community. There we have a great opportunity of bringing all the races together. As it is, we know that it is the expressed opinion of the European community in this country that that member, as far as Kenya is concerned anyway, must always be a European. That is the very point I am disagreeing with and that is why I say I shall not accept the present proposal, where the unofficials voting together will appoint one member, or the other new proposal that even officials of Government should come into this and vote for one member. Other communities will have no chance whatever.

The suggestion for the inter-territorial reorganization is not a new one. We know that it goes back to the Ormsby-Gore Commission of 1924, and it was

proposed by the Hilton Young Commission and Sir Samuel Wilson in 1929, and we know that the question of closer union was rejected by a series of commissions and we have accepted the principle of territorial reorganization in regard to common services or scheduled services in this Paper 210. We have not quarrelled with that, but to bring in this principle of keeping other communities out in the constitution of the Assembly in the sense that the European community will always be in the majority is a thing we feel we cannot accept.

In the original 191 there was also a safeguard in regard to the appointment of members of the Standing Finance Committee of the Central Assembly. That, sir, is now left vague, and the African community particularly feel that they will not have any security unless it is specifically laid down that there will be an African serving on the Standing Finance Committee of the Central Assembly. That will be another point which I should like considered by the Secretary of State for the Colonies in coming to his final decision in regard to this Paper. (Mr. Cooke: Hear, hear.)

Now I should like to come to the proposal that Your Excellency has made in regard to the composition of the Kenya Legislative Council. In the first place, I should like to say on behalf of the African community in this land that the action the Government has taken to accept increased African direct representation is most welcome. I should like also to point out that we feel most sincerely that four seats will not be sufficient, and that consideration should be given in the near future to a higher number of Africans on this Council. It is more important in view of the fact that a recommendation has been made and accepted, as we have been informed this morning, of forming an unofficial majority in the Kenya Legislative Council. If that be the case, if, I think, most important that direct representation of Africans should be adequate, and it is for that reason I say that, while we accept for the moment four seats for African members in this Council, we would like to urge on Government to review the situation in the near future.

Personally, I did not feel very comfortable, and I am still not comfortable on this question of an unofficial



[Mr. Cooke] the Indian member in the first five days attended for about two hours. That is a board which intimately concerns the Africans of this country. It concerns the wages and the conditions of service. Some of the Europeans who attended, attended at very considerable personal inconvenience, but apparently my Indian friend and colleague on that board did not think it worth while to attend for the first three days, and then attended for about an hour on the fourth day, and not at all yesterday. I do submit that you cannot have power without responsibility.

Now, sir, a statement has been made that the Secretary of State yielded to the threats—to the rumblings of the Rift Valley no doubt and the threats of Thomson's Falls! Well, my hon. friend may get that one across the Indian peninsula of this country but he will not get it across many intelligent people, because I find it very difficult to believe that the Secretary of State and the Labour Government—which did not hesitate to nationalize the mines and nationalize the Bank of England—would be deterred from doing their duty by the protests of a few up-country farmers! I distinctly remember my hon. friend on my right, the hon. Member for Nairobi South, saying last year that if this proposal of an Assembly was put through, it would be only over his dead body—(SIR A. VINCENT: Quite inaccurate, sir.) [Laughter]—and that balloons would go up. My hon. friend looks very much alive at the moment and I do not suppose there is much prospect of any dead bodies! I am certain that he did say he strongly objected and would resist at every point—(SIR A. VINCENT: In that form.)—in that form. Well, he is shown that compromise for which he is so well renowned in this country and accepted the Assembly against, I am sure, his own better feelings. So that is one of the matters on which the Secretary of State has not yielded.

I would like to turn to what the hon. Chief Secretary said in his speech and to emphasize this point about a clear expression of approval. I suggest that both in paragraph 19 and in paragraph 21 expression "clear expression of approval" must be read in the second sentence as it is read in the first. I do not really think there is any need for alarm

there. I think if a proposal comes again before members of this Council for any addition to the schedule, you must read the "clearest expression of approval" into it at the time when it comes up a second or third time. And with my knowledge of this country the "clearest expression" on any subject is a most difficult thing to obtain. There is quite a reasonable and sporting chance that if this country does clearly express its approval to-day it may in six months' time change that opinion. (Laughter.) But at any rate I do suggest that it must be read into the second sentence and that that is the proper interpretation of that paragraph.

I have not very much more to say, but I would end with this note.

As far as I am concerned, I am concerned, I am entirely free of any racial prejudice. I should like to see the best man on top. I agree with Lord Lugard that the races must travel on parallel lines—equal opportunity for those who strive and equal admiration for those who achieve. And I would say this, that we must make an end to political controversy in this country, and I do hope the Secretary of State will not be deterred from doing his duty. This matter has been discussed *ad nauseam*, and we have far bigger problems in front of us which must be solved if the country is to survive, so that I hope the line the Secretary of State will take is to say: "A plague on both your houses" and insist on this Paper being implemented, having regard, of course, to the reasonable suggestions which have been made for slight modifications of details.

I support the motion. (SIR A. VINCENT: Well done!)

MR. COCKER: Your Excellency, I entirely agree with the hon. mover of the motion that Paper 210 before us is perhaps the most important ever laid before this Council. Certainly it is going to have very far-reaching effects on the constitution, not only of Kenya but of all three East African territories. I must compliment the hon. recorder of the motion, the hon. Acting General Manager, on a very interesting and instructive speech—one might almost say a lecture—pointing out the advantages which are bound to accrue to the countries and the prosperity which perhaps may follow.

[Mr. Cocker]

I wish it was possible for Indian members of this Council to put up any suggestions for a workable compromise, but we have a mandate that is absolute and clear, and that is to oppose and demand the implementation of Paper 191. Before I actually start dealing with the Paper, I would refer to a few remarks, perhaps rightly made, by the last speaker in connection with the attendance of individual Indian members at meetings of the Standing Finance Committee. I do hope that they have gone home to those for whom the remarks are meant. The fact is most deplorable, but I must say that it is taking undue advantage of the position to express that, because of certain things which have happened in the past with individual members, the Indian community as such is not entitled to demand its due share in the administration of the Government of this country.

I assure you, sir, that Paper 210 has been fully considered by the Indian community of Kenya, its advantages and disadvantages have been weighed against those of Paper 191, it has been fully debated, and we must frankly say it has been found unacceptable. The Indian community has rejected its departure from the principle of equal non-official racial representation. No one has said a word against the urgency of some form of inter-territorial organization to subordinate the essential common services of East Africa, but however pressing the need, however great the urgency, both political and commercial sections of the Indian community are not prepared to sacrifice the principles of equality of racial representation on the East African Assembly and the inter-territorial and consultative bodies. With one voice they have condemned what they term "this unhappy surrender" which is made in 210 to the demands of the European settlers in Kenya; with one voice they condemn racial representation because they realize that the European community forms only a microscopic minority of the entire population; with one voice they condemn the utter disregard shown by the Secretary of State for the Colonies to the views and considered opinions expressed by the other races, that is the Africans, Indians, and Arabs, who form the great bulk of the population of this country. They feel that they are passing through very anxious

times, and therefore it is essential that they raise their voice to express their disapproval of the details of Paper 210 as strongly as possible on the floor of this Council, as poughout the length and breadth of Kenya, and perhaps of East Africa, and it is their intention to make very strong representations to the authorities overseas.

It is a well known fact that the Indian community has been opposed to the very idea of closer union, chiefly because they have always felt, and perhaps felt rightly, that the racial policy which has unfortunately been followed in Kenya will overflow into the other territories. With the appearance of Paper 191 they had found a ray of hope therein and they heaved a sigh of relief, but they are very much perturbed over this revised edition in the form of Paper 210, which has abandoned the very welcome original features of non-official racial equality. I have heard, as I said, and have read in the news papers, that it is not a victory for the European settlers but a victory for compromise. Compromise, indeed! It becomes more than a mere joke when such an assertion is made by those who believe in the creed of and who, in private conversations, but not openly, admit that they belong to the Labour Party.

We are further told that the variations now before us are a recognition of the principle that in the administration of the common services experience and administrative ability must form the main factors. Granted every time, but for the sake of argument I will yet contend that if the leadership based on the experience exercised and the administrative ability shown by the unofficial Europeans in this Council and in so many other public institutions, such as Nairobi Municipal Council for instance, is any criterion of this compromise, then I submit that the categorical rejection of Paper 210 by the Indian community is fully justified. Their fears are well founded. They have had bitter experience in the past, and are not prepared to undergo another period of trial. They are more than ever convinced, indeed, that there is no logical alternative to equality in non-racial representation. I would not doubt the strength and even the sincerity of the arguments if those arguments had been allowed to be put

[Mr. Cocker]

into force in all the Government and public institutions of this Colony, including the Civil Service and Railways, where the lowest grade European is considered to be better than the best of the Asian brains, ignoring the fact that equal opportunities for training are not provided. If those arguments were to be put into practice in the Civil Service and the Railways on the basis of open competition right through, I am sure that the very people who are advancing those arguments would curse the day when it was accepted.

I am very glad to notice that the hon. Member for African Interests, Mr. Mathu, has very clearly put before the Council the attitude of the African community. I am sure that he, as well as all members of this Council, are fully aware of the resolutions passed recently by the Kenya African Union which prove that the African community is just as much opposed to these proposals contained in Paper 210 as the Indian community. The Indian members have their hands tied—they cannot put up any suggestions, but the hon. member Mr. Mathu has taken advantage of the opportunity offered by the hon. Chief Secretary and put forward a very good suggestion. If I had my way, that is, if I had a free hand, I would say that paragraph 7 (ii) should be amended to provide for the election of an Indian, an African, and a European in rotation. That, I am certain, would go a long way towards appeasing those who are fighting the principles of non-appointment. I am not agreeable to the appointment of this member by the High Commission as suggested by the hon. member Mr. Mathu. I would prefer that that election was made in rotation to provide for the interests of all races.

In my opinion, it is a well known fact that Kenya will not be ripe for self-government for some time to come. I believe the time will come when the African community will have a very much larger share in the administration of the country's Government. Sir, I welcome the proposals made by you in your despatch No. 44, particularly your recommendations for an increased representation of African membership, but I would have been very much happier if

that recommendation for the increased representation by Africans was not linked up with the acceptance of Paper 210. I submit that this is a case which stands on its own merits, and that your Excellency would have been more than justified in divorcing that recommendation from the compulsory acceptance of 210. Before I conclude, I would like to point out that the non-European communities of Kenya are very strongly opposed to white self-government. They look forward to the day when with their increased representation the various races (the Africans, Indians, and Arabs) will be able to play a very much greater part in the direction of the country's affairs. They look forward to the day when the Government of this country will be a government of the people for the people and by the people.

Mr. Mundy (Commissioner for Inland Revenue): Your Excellency, I rise to welcome the proposal in Colonial 210 for the constitution of an inter-territorial organization. I do not propose to deal with the question of representation, but rather to look at a different aspect, and that is the practical side which, I believe, needs representation of the interests of East Africa and for the benefit of East Africa. Since 1939, when the Joint Income Tax Department was formed, I think I have experienced more than anyone else the trials and troubles which beset a department which operates in four different territories under four separate laws, and is responsible to four separate governments and their people. Nevertheless, it has its compensations. It makes it easier to appreciate the problems of East Africa as a whole, and to understand that there are different points of view and different opinions in each of the territories. And it is with that knowledge and experience that I feel I can support these proposals confidently.

Just at this moment I think it is, perhaps, a little unfortunate that when income tax was extended to the other three territories there were not four separate income tax departments set up, because I believe it would have put the people of East Africa to such trouble and inconvenience that it would have hastened the day when proposals of this kind would have come before this Council. As it was, quite a unique tax-

[Mr. Mundy]

tion system was devised under which, although there were still four separate income tax laws, the tax could be levied on an East African basis, and that system was extended successfully to the excess profits tax. I think it is true to say that that has operated very satisfactorily from the point of view of the taxpayers. I refer, of course, to the system and not to the payment of the tax! and it may well be thought that no alteration is necessary.

There is an entirely different point of view. During the last eight years it has been necessary in order to maintain this East African system, to pass into law some 30 separate ordinances, and to make between 60 and 70 sets of rules, orders, proclamations and notices which, under an East African organization, could have been reduced to one-third of that number. Apart from the time and trouble which had to be spent in drafting printing and discussing all these separate laws, much time was also wasted in endeavouring to secure inter-territorial agreement before the bills were in fact published. Not infrequently a problem would arise in one particular territory or the Legal Department, for instance, would disagree with the drafting of a Bill, and no sooner had that been done than another problem would arise in another territory which had to be dealt with by an exchange of telegrams or the much more expensive process of chartering an aeroplane and flying down and settling the thing on the spot. Then, when the Bill came before the Legislative Council, I am sure that the debate was hampered by the fact that there had been inter-territorial agreement beforehand, and not only did the debate lose some of its value in that way but I think it lost some of its value because there was not an East African point of view.

The income tax laws have been made uniform throughout East Africa, not for the sake of uniformity but there is a very substantial volume of East African income, and it is necessary to make the law to fit the income and not the income to fit the law. It is, therefore, in the application of that law to East African income that I have found one point which may be raised and debated vigorously in one Legislative Council, whereas it may be entirely overlooked in another because,

although it may well be of great importance, it does not necessarily assume the same magnitude. I believe that the constitution of an East African Assembly will remedy that position which I have outlined. Also the constitution of an East African Revenue Advisory Board is also most desirable. It is in matters of taxation most important to be able to secure public opinion, and at the present time there is no means whatever of doing that, and I strongly welcome the proposal that an East African Revenue Advisory Board should be formed. I think that what I have said in regard to the Income Tax Department applies with much force to the other departments and services which are listed in this Paper.

I do regret that this Paper does not contain proposals for the enactment of standard rates of income tax through the Central Assembly. It is my opinion, and I feel sure I am right, that it would only be in most exceptional circumstances that it would be necessary to impose a different level of taxation in one territory from the others, and the suggestion that there should be standard rates which could be adjusted would have met that position admirably. It has never in the past been a case of fixing a level of taxation in one territory and then imposing it on the other territories. Rather it has been the case that there has been a fair level of taxation which will meet the wishes of all territories concerned. It has in practice been done in the past, and I see no reason why it should not be done in the future. I do not think it is appreciated that even though a particular level of taxation might produce a temporary surplus just for the time, the economy of East Africa is such that the yield from taxation cannot be estimated with that degree of accuracy which makes it possible to change the rates or allowances for income tax in small amounts from year to year so as to produce just the right amount of revenue to produce a balanced budget against estimated expenditure. The yield from taxation, especially when this present wave of what I would call false prosperity has passed, is likely to fluctuate from year to year, as it did in the pre-war years, and I would suggest that the only wise policy in relation to that is to fix a fair level of taxation over possibly a number of years and only to vary it when there is a

(Mr. Mundy) marked change in the economic or financial position of East Africa. I do not want to labour this question, because I believe it is absolutely essential to go ahead as rapidly as possible with these proposals, which are so urgently required, but I would express the hope that, even though there is no provision for standard rates of tax, it will still be possible to maintain this uniformity and so avoid the many troubles and pitfalls which would arise if it were not so enacted.

Apart from income tax, I should like to say just one word on the financial responsibility which would fall on the East African Assembly. For the current year, 1947, the various departments and services which are listed in paragraph 17 of the Paper will spend well over a million pounds. Kenya's contribution towards that amount is shown in the Colony's Estimates, mainly under the head of lump-sum contributions or subventions, of which no detail is shown. Of that amount nearly £700,000 is in fact expended by the East African Anti-Locust Directorate, whose activities extend outside the borders of Kenya. Nevertheless, it is quite clear that there is a very heavy load of expenditure which needs full and proper control by a legislative body and a finance committee, and that is one of the reasons why it is so important that this organization should be set up, so that that expenditure can be brought under proper control.

On the wider issue of finance, in addition to the expenditure I have mentioned, if the Customs Department is put on an East African basis, together with the Posts and Telegraphs Departments and the combined road and rail services, it will involve an annual expenditure of the order of some six and a half million pounds. This expenditure would be East African in character. It needs East African control if all the points of view are to be brought together and collated; if overlapping and duplication is to be avoided, and if the planning and the policy is to be developed to the best advantage of all the East African territories.

It is a task of this magnitude and this importance for which the East African Assembly and the High Commission

should be responsible, and which makes the adoption of these proposals so necessary for the benefit of East Africa.

MR. MASAK ALI HINAWY (Arab Interests). Your Excellency, at the outset I must thank you personally, as well as hon. members of Council, for granting me permission to read the very, very brief notes made by my hon. friend and colleague the Arab Elected Member, containing the remarks that he wished to make on the motion before this Council. I am sure that had my hon. colleague been well and not suffering from a very bad cold, he would have made elaborations on the very brief notes that he has prepared on his speech, but unfortunately he is unable to do so. I will therefore just read the very brief notes he made.

He says: "I am afraid I cannot support the motion before the Council. When Paper 191 was being discussed with the Secretary of State for the Colonies I presented the case for my community, but it appears that no consideration has been given to my representations. There is no doubt that the Council can realize that one man cannot adequately represent the community on the Central Assembly, more particularly when that man has to look after the interests of that community in the other two territories. The position of my community is made worse when one considers the proposed changes in this Council as visualized in Sessional Paper No. 1 of 1947 which was laid before Council yesterday.

"In view of the non-recognition of the rights of my community and the non-consideration of their representations, I oppose the motion."

That concludes the remarks.

MR. DHANWANT SINGH: Your Excellency, it is generally said that these proposals are for the benefit of the whole of Kenya. The only point at issue in regard to the proposals is the one regarding the composition of the Central Assembly. A comparison of paragraph 7 of Paper 210 and paragraph 22 of Paper 191 shows that at the time Paper 191 was drafted by the Colonial Office they had one point in view. They wanted at that time to find some sort of formula which might be accepted generally; in other words, by all the communities living in

(Mr. Singh) Kenya Colony and the other colonies too. But when they prepared the proposal on the same subject in Paper 210 it appears that they ignored that principle altogether. They do not appear to satisfy the claims of all communities. Paragraph 22 of Paper 191 clearly gives the reasons for the suggestions made therein.

There are two reasons put forward in that Paper for equal representation. One is "the suggestion that the unofficial members of the Assembly chosen by the territorial legislatures should represent the three major communities in equal numbers arises from the impossibility of devising any generally acceptable formula by which to decide the relative importance of the respective claims of the communities concerned". They have stated their reason for equal representation clearly: "That it does not appear to H.M. Government or to the East African Governors that, in the case of a joint legislature of the type now proposed, there is any logical alternative to equal representation". In opposing the proposals on this subject in Paper 210, the Indian community (feels that they have not been made with the idea of satisfying the claims of any other community than the European. They are not at all logical. There is another factor to which I ask you to direct your minds, and it is that in Colonial Paper 191 every effort has been made to show the reason why equal representation has been suggested, whereas in Paper 210 no effort has been made at all to show the reason why a departure has been made on a matter of such vital importance. There seems to be something behind the minds of the officials in the Colonial Office, there seems to be some sort of pressure on them. Even if it did not appeal to their sense of justice, even if it did not appeal to them in their own words, logical, they have set out the proposal in Paper 210. It appears to me that when they set out the proposals contained in Paper 191, they must have kept in sight the overwhelming demand of the poorer races of the world, and they must have accepted the principle that no Government could be successful unless it sought two principles: that there must be equality of justice and no discrimination. They tried to avoid it, but they knew quite well that

the co-operation of all the races in Kenya was necessary for the prosperity of the Colony. Unfortunately, for reasons best known to themselves, or, in the words of my hon. friend Mr. Patel, under some sort of pressure from their European friends in Kenya Colony, they have yielded to the proposal made by our friends and they have sacrificed the general principle of democratic government.

I do not want to discuss at any length the other proposals contained in the Paper, but I would say that it is not in the interests of the Indian or the African or the Arab communities in Kenya. But it is in our common interests that we must have some sort of constitution which satisfies the claims of every person living here. Every community must learn to co-operate with the other. We must lay aside our sentiments when we are just on the threshold of preparing our new constitution. Hon. members will agree with me that it is not an ordinary law that can be amended by the Attorney General; it is not an Ordinance that can be amended without any formality, but it is a fundamental law and it is very difficult to amend it, and, when we bring it into force, if we are not unambiguous the result will be that there will be constant bickering among the different races, and the prosperity of the Colony will be ignored, and there will be tension between the different races on points which are of no importance.

Hon. members—particularly the European members—I appeal to you in the name of the country which no doubt is your adopted country (though after 10 or 20 years it will no doubt be the mother country of your sons and grandsons), no doubt, for sentimental reasons, you look to the welfare of your mother country—I appeal to you, in the interests of the future generations of all the races living here, that it is necessary that we should co-operate, and co-operate in our common interest, and that we should settle our differences on these sentimental points. (Applause.)

The debate was adjourned.

ADJOURNMENT

Council adjourned till 9.30 a.m. on Thursday, 17th April, 1947.

**Thursday, 17th April, 1947**

Council assembled in the Memorial Hall, Nairobi, at 9.30 a.m. on Thursday, 17th April, 1947, His Excellency the Governor (Sir P. E. Mitchell, G.C.M.G., M.C.) presiding.

His Excellency opened the Council with prayer.

**MINUTES**

The minutes of the meeting of 16th April, 1947, were confirmed.

**ORAL ANSWERS TO QUESTIONS**

**No. 9—CONTROLS AND DEFENCE REGULATIONS**

**MR. COCKER:**

Will Government please make a comprehensive public statement regarding the activities of the Committee appointed to Review the Wartime Controls and the Defence Regulations?

**MR. THORNLEY:** Yes, sir. Since the Committee was set up the following Controls and Defence Regulations have been removed:—

1. Cattle and Sheep dipping materials Control.
2. Control of Distribution of matches.
3. Control of Distribution of motor batteries.
4. Live Stock Control.
5. Pig Control.
6. The Salt Permits Order.
7. Petrol Control.
8. Lubricants Control.
9. Wool Control.
10. Civil Salvage Control.
11. The Defence (Native Personnel) Regulations.

Tyre Control has been substantially modified.

In addition, a number of others have been and are being carefully examined. The Committee has met regularly in the past and is proposing to meet once a week in the immediate future. The Committee has also recommended that a review of the cost of Controls generally should be undertaken by the Standing Finance Committee of this Council.

**MAJOR KEYSER (TRANS NROIA):** Arising out of that answer, has the Live Stock Control been removed or the name only changed?

**MR. THORNLEY:** There is no Live Stock Control at the moment.

**MAJOR KEYSER:** On a point of order, there is a Meat Marketing Board. We were told yesterday that it is functioning in the same way as the Live Stock Control?

**MR. THORNLEY:** It is not a Control for which my committee has any responsibility.

**MEMBER FOR AGRICULTURE AND NATURAL RESOURCES (MAJOR CAVENDISH-BLINTOCK):** Although the Live Stock Control and the Pig Control as run during the war period have come to an end, there is still control exercised over the marketing and delivery of pigs by the Pig Board, that is by the producers themselves; and, as the hon. member has said, there is the Meat Marketing Board which deals with the distribution of slaughter stock.

**No. 11—INDIAN REPRESENTATION**

**MR. COCKER:**

Will the Government please state if it is its intention to provide for direct representation of the Indian community on the Railway Advisory Council and the Harbour Advisory Board? If the answer is in the negative, will the Government please state reasons?

**MR. THORNLEY:** I would refer the honourable member to the statement made by my honourable friend the Financial Secretary in his speech in this Council on the Railway Estimates on the 21st of January last.

**No. 15—MALINDI WATER SUPPLY**

**MR. COCKER:**

Will Government please state the position with regard to the proposed water supply for Malindi: (a) Is the source considered ample and satisfactory; (b) If so, why is there delay in the installation?

**MAJOR CAVENDISH-BLINTOCK:** With regard to part (a) of the question, a considerable amount of investigation is required before a suitable source for the Malindi Water Supply can be selected. This investigation cannot be carried out until either additional technical staff becomes available or works of a higher priority have been completed.

Part (b) does not, therefore, arise.

**No. 21—DISTRICT COUNCIL ROAD GRANTS**

**MAJOR JOYCE (UKAMBA):**

In regard to the allocation of funds for the maintenance of District Council roads, has Government accepted the principle that those District Councils in whose areas the density of traffic is greatest should have a proportionately greater allocation of funds per mile?

**MR. MORTIMER:** Traffic density has been taken as a major factor in determining the allocation of the Basic Road Grant to District Councils but not as the only consideration. A general re-allocation of the Basic Road Grant was undertaken in 1936 and took into account the following factors:—

- (i) rainfall and terrain,
- (ii) availability of hard-surfacing material,
- (iii) volume of traffic,
- (iv) nature of traffic.

2. Periodically since 1937 there have been adjustments of the basic grant payable for the maintenance of certain roads where it has been shown to the satisfaction of the Government, as advised by the Central Roads and Traffic Board, that traffic on a certain road has appreciably increased relatively to the traffic on other district roads.

3. For the information of the honourable member, average road grants payable to District Councils, including the additional allowance in 1947, are as follows:—

Nairobi District Council	£41 10 per mile
Nyanza District Council	£33 10 per mile
Trans Nzoia District Council	£33 per mile
Naivasha District Council	£30 10 per mile
Nakuru District Council	£29 10 per mile
Uasin Gishu District Council	£29 10 per mile
Aberdare District Council	£29 10 per mile

**STANDING FINANCE COMMITTEE**

**APPOINTMENT OF HON. E. MATHU**  
**MR. TROUGHTON:** Your Excellency, I beg to move: Be it resolved, that the Hon. E. Mathu be appointed a member of the Standing Finance Committee in the place of the Ven. Archdeacon the Hon. L. J. Beecher.

This motion arises from the resignation of Archdeacon Beecher from this Council.

**THE CHIEF NATIVE COMMISSIONER (MR. WYN HARRIS)** seconded.

The question was put and carried.

**NON-PARLIAMENTARY PAPER**  
**COLONIAL No. 210**

**INTER-TERRITORIAL ORGANIZATION**

The debate was resumed.

**MR. NICOL:** Your Excellency, I rise to support wholeheartedly the motion before Council.

At the outset I should like to say that I do deplore the attitude which was adopted by hon. Indian members, and it was with some relief and refreshment that I listened to the speech of the hon. Commissioner of Inland Revenue, who brought the debate back to earth and did remind us that the whole substance and basis of 210 is really economic. However, I will just say this, that I think the Indian community are extraordinarily well off in this country, but if they do not consider they are, there will no doubt be a considerable exodus when India gains her independence!

I feel I must also touch on the speech of the hon. member Mr. Mathu, and I must say I cannot help expressing surprise at his opposition. The impression I got was that his rejection of Paper 210 and his criticism of Your Excellency's dispatch No. 44 displayed, to my mind, ingratitude. I think we have made it quite clear from this side of Council and elsewhere that we are all anxious to see the advancement of the African. We are all ready to help in that advancement. The hon. member quoted West Africa. West Africa is far more developed than East Africa. The road of development and advancement is long and difficult and has to be travelled with patience. I think it is only fitting that some should at this stage emphasize some of the benefits which have accrued to the African through the coming of the European, and



[Mr. Nicol] I will enumerate only a very few of them. First of all, the abolition of the slave trade, the reduction in infant mortality, the stoppage of inter-racial warfare. The sacrifice of many Europeans, both missionary and others, in bringing education, medical services and other benefits to a backward race, cannot be overlooked. And now at this time the hard pressed United Kingdom taxpayer is making free grants and interest-free loans to benefit the African and to develop his country and help him enormously. Has any other country—for example, has India—contributed by gift or loan to African development? Before, therefore, he and his new colleague (who I am very glad to be privileged to welcome to this Council) vote against the motion I would ask them to ponder these things: I would ask them to accept the hand of friendship and the help and the guidance which we are prepared to extend to them, and let us lead them along that difficult path of advancement towards improved culture, improved endeavour, and eventually to looking after their own affairs. (Hear, hear.)

Turning to 210, which I very definitely welcome, I would again stress that it is economic, and that being so, I do sincerely trust that when the Kenya team to the Central Assembly they go as a Kenya team and treat matters on a Kenya basis and not allow any racial controversy to intervene. I personally cannot see how on earth, when you look at these scheduled services, you can bring in any racial problems here—tactics and hypocrisies—research, for instance, does not lend itself. Anyhow, there is no doubt that a framework is needed at this time to take over really what has been done by the Governors Conference. I regret that there are certain omissions from the Paper but, taking it by and large, I think it is extraordinarily good. Of course, anything new has got to be tried out and it has got to be worked out by trial and error. As has already been pointed out, the Assembly is for four years only, and I draw hon. members' attention to that, because during that time it is to be reconsidered *de novo*, and surely that is the time, after experience of its working, to see how the composition should be arrived at.

The hon. mover said that paragraph 4, sub-paragraph (vii) (a) was an obvious one. I am not quite certain how that is going to work. It says that the powers and duties of the High Commission will be "to enact legislation applying to East Africa as a whole, (a) with the advice and consent of each of the three Legislative Councils". Does that mean that with East African legislation the three Councils will discuss it and the Assembly will be bypassed, or, after the three Councils have discussed it, will it then go to the Assembly for further consideration? I am not quite certain how it is going to work, or whether the High Commission, having got the blessing of the three Legislative Councils, will then promulgate legislation on their own.

I take it that, in regard to paragraph 7 (i), the territorial official appointed by the officer administering the Government of the territory concerned will not be subject to the whip of the Administrator of the Central Assembly and that he will be free to vote as he thinks best.

Turning to the list of scheduled services towards the end, it says "liaison with the East African Airways Corporation". I think that that is not enough. I think that the conduct and control of the East African Airways Corporation should come under the Central Assembly, in the same way as it is the intention that the Railways should come under its control. Liaison is not sufficient. In fact, I personally would be very glad to see a special member delegated to look after that particular baby.

Paragraph 20, sub-paragraph (iii), in Mombasa (and I agree with them) they are very worried to see that 18 (b) of 191 has been cut out. 18 (b) of 191 reads: "Customs and excise legislation, including tariff rates", but saving the rate of suspended duties", and in the new Paper it is "Customs and excise—administrative and general provisions not including tariff rates". As these customs duties are really indirect taxation, and as it is essential that the duties are the same throughout the three East African territories, I do think it would be better to revert to the original suggestion of customs and excise legislation, including tariff rates but saving the rate of suspended duties. The danger, of course, is that perhaps one territory might have one rate of duty and another territory another rate of duty, and you merely encourage

[Mr. Nicol] Anyway, the commercial smuggling. Anyway, the commercial community are very anxious that that should become the function of the Central Assembly.

In regard to income tax, however, that is direct taxation, and I do feel that it is only right that the local legislatures should have authority over what rates of tax are to be charged. It preserves their right, really, of taxation with representation.

I am most disappointed, and the commercial community generally are disappointed, that commercial legislation has been left out of the legislative powers of the Assembly. The Chambers of Commerce have for years and years advocated having the same commercial legislation throughout all the East African territories, bankruptcy and the like. Provision for that was made in Paper 191, and I can merely repeat that I am very sorry indeed that it has been left out of 210. I sincerely trust that the three Legislative Councils will, at a very early date, pass resolutions transferring commercial legislation, the administration and the initiation of it to the Central Assembly.

I must say that I welcome the suggested amalgamation of the Railways, but I do consider that the ports and harbours should be divorced from Railway control—that is coastal ports and harbours—I do not mean lake ports. The recent report of two experts on railways and harbours in South Africa—I cannot remember their names, I am afraid, at the moment—advised against the ports and railways being run together in conjunction. I have had some 20 years' experience of the port of Mombasa and I have been a member of and on for the past 20 years, of the Harbour Advisory Board, and it has been more than proved that Nairobi, and in particular the accountants in Nairobi, cannot run ports. In handling ships there must be certain flexibility. Harbours, by their very nature, are not like railways; they do not run on lines. I sincerely trust that the *ad hoc* committee which is proposed in paragraph 27 (b) will take evidence on this subject of divorcing the coastal ports from the railways. A port trust or port commission has been advocated for many years, and those of us who know the port urge that this opportunity to

introduce a port trust should not be missed.

There has been mention of the cost of this new Assembly, and it is anticipated that it will not cost very much more as the staff is already in existence. Of course, there are bound to be increased costs, but they may be of a rather minor nature. All these various boards, travelling expenses for members and all that sort of thing does increase costs, but that is suggested in dispatch No. 44 that the unofficial members of the Kenya Legislative Council should receive salary, or pay, or whatever you like to call it. It is proposed that unofficial members of the Central Assembly are likewise going to receive some remuneration? I should also like to take this opportunity of welcoming dispatch No. 44, which envisages to my mind a great advance for Kenya. I personally do not think it can be considered as self-government. It would be on very few occasions, if any, that a measure would be brought by the Government which would receive the unanimous opposition of the whole of the unofficials. If it did receive the unanimous opposition of the whole of the unofficials it would be a pretty rotten measure I should think.

At any rate, I again welcome these proposals, and when they are implemented it will be a great step forward in East African economic history. I beg to support the motion.

MR. OHANGA (African Interests): Your Excellency, I rise to oppose the motion and to support my colleague, the hon. member Mr. Mathu. So much has already been said of the African viewpoint as regards Paper 210 that I will not attempt to take up the time of the Council in trying to bring forward things which have already been said, but I should like to take a few minutes in regard to paragraph 7 (ii), which is the major bone of contention as regards the racial point so far as the African community is concerned.

I should like to point out that the Secretary of State, as well as the Governors of East Africa, say in paragraph 22 on page 8 of Paper 191, "It does not appear to His Majesty's Government or to the East African Governors that, in the case of a joint legislature of the type now proposed, there is any logical alternative to equal

[Mr. Ohanga] representation". That point is important now. The method of selecting the fourth unofficial member under paragraph 7 (ii) to the Central Assembly evades the racial issue, and it is not at the same time explained logically how the racial point is covered. I am aware that in Your Excellency's dispatch No. 44, para. 1, paragraph 2, a plea for some provision is made: "Nevertheless, I take the opportunity of observing that when an unofficial majority has come into being in Kenya it would seem to me appropriate, if the East African Assembly is extended beyond the first four-year period, that subsequent elections of a member to it from Kenya should be by the whole of the Council and not only unofficial members, the official members enjoying a free vote. This would serve to emphasize the territorial nature of the seat and to diminish racial competition for it". I do not think that even if we take it that the official side of Council is not really racially concerned, no non-European member of the Council would have a chance of getting that seat. I therefore support one of the two suggestions made by the hon. members Mr. Mathu and Mr. Cocker. I appreciate the method of the hon. member Mr. Cocker in trying to do it by appointing a member of a different race in turn, but I support as the better one the proposal made by the hon. member Mr. Mathu that that particular member should be appointed by the High Commission.

With regard to the increased representation of Africans on this Council, I register my wholehearted approval on behalf of the African community. Sessional Paper No. 1 does seem to us to provide for part of the necessary increase in African representation in this Council, but at the same time I should like to point out that the hon. Member for Rift Valley, when appointed, would have a disproportionately larger area geographically than he can efficiently deal with if in addition to that province he has also to look after the extra-provincial districts of Turkana, Northern Frontier, and Masai. But it is encouraging to note that increased representation in this Council of Africans has been welcomed here. Social progress will be accelerated, not by the imposition of the claims of one race, however superior, against the claims of other races, however inferior,

but by the mutual understanding and co-operation of all races. (Applause.)

MAJOR JOYCE (Ukamba): Your Excellency, though the hon. mover of the motion asked us not to waste too much time by going into details, I do propose to refer, not in any great detail but at rather more length, to the subject of civil aviation in these territories as outlined by the proposals in this Paper. It suffers, as far as I can judge, from one or two difficulties. In the first place it proposes that the High Commission shall be the Air Authority and, in my opinion, that is pitching it too high a level. I do not think this is the occasion to go into great detail, but I hope that point will be considered. Furthermore, in regard to the division of responsibility among the members, it is rather odd that, as mentioned by the hon. Member for Mombasa, liaison with the East African Airways is to be under the Member for Transport, whereas the Directorate of Civil Aviation is presumably included under other common services which would come under the control of the Chief Secretary. I feel that these two services should come under one and the same person, and, further, I would like to suggest that civil aviation is of such increasing importance and will be, not only to these three territories but to the whole of Central Africa, that I should like to strongly support the suggestion already made, namely, that it might have a member of its own.

"As you are aware, sir, there has been a good deal of dissatisfaction in this country over the whole set up and organization of civil aviation, but this is not the appropriate occasion to go into that in detail, and I should like to say that, in collaboration with the hon. Member for Nyanza—and I hope the hon. Member for Mombasa—we will take an early opportunity at the next session of this Council to raise the whole matter. I would therefore suggest that when the details of this reorganization are being gone into that an attempt should be made to pitch the Air Authority at a lower level and the responsibility for the whole of civil aviation at a higher level. That is all I have to say on the subject of aviation.

I would like now to ask the hon. mover when replying if he would be good enough to explain exactly what steps will be taken, in regard to those services that

[Major Joyce] be self-contained, to allocate such profits as may occur from them either to the Central Assembly or to the various territories. He referred to the point that the Posts and Telegraphs service will become, it is proposed, a self-contained service. We are aware that as things are now this Colony derives from the postal excess of expenditure from the postal services to roughly the extent of £120,000. Though, of course, I would agree that the postal services could well have more money spent on improvements, we must make allowance for the fact that, if the revenue of Kenya is going to lose £120,000, we may be faced with a demand for increased taxation to make up the difference.

Finally, I would like to pay some tribute, if I may, to the patience of the Secretary of State in allowing discussions on this subject to go on for a matter of 12 or 14 months. I personally hope that the opportunity for further protracted discussions will not be required, and will in fact not be given. I think we have discussed the principles in both these Papers at very considerable length, and the time has now arrived when we should come to a decision and get on with the practical job of co-ordinating these services.

Finally, I entirely agree with the conditions for his support mentioned by the hon. Member for Nairobi South, and subject to the same conditions I support this motion.

MAJOR KEYSER: Your Excellency, yesterday morning when I came here I thought that we were going to have a short debate on this Paper 210, but ever since I have been in this Council in every debate the contribution from the hon. Indian members has always boiled down to a moan about how they are being treated in this Colony. My own view is that they are getting the most generous, far more generous, treatment than they really deserve. When you come to think of it, that during the two wars they have been defended by other races and have done very little towards defending themselves. I think it is a little bit ungrateful of them to take the view they have.

But, apart from that, it is all a question of representation as far as I can see, and the main moan about representation has

come from the Indian members, and also from the Arab representative. Well, sir, you will notice in both Paper 191 and Paper 210 that European membership is mentioned. In other words, it is on a continental basis for Europeans and Africans, but for Indians and Arabs it is on a national basis. Why, sir, should not the Indian and the Arab representation be called Asiatic representation? In which case, instead of having additional members to represent the Arab nation, you would have merely representatives for the Asiatic nations, because under the present basis I think my hon. friend for the Coast would have a very good case which I should support for a member for his country (Laughter). COOK: Hear, hear! (Laughter.) So that I think that both in 191 and 210 the Asiatic nations have been treated very generously and have got far greater representation than they really are entitled to. (Indian members: Question!)

I must again refer to the speech made by the hon. member Mr. Mathu. For some reason which I cannot understand, I cannot see—I may be very dull—I cannot see the connexion between the quotation he made from a memorandum written by a Mr. Mitchell who was an official in Tanganyika many years ago. I cannot see the connexion between that and 210. (Laughter.) I can only think that there is some ulterior motive in having quoted it, and I would say that is what I suspect. In the quotation itself it was intimated that "European land owners were casting envious eyes on the native land units and had prepared schemes by which to seize them. Far from that being the case, the reverse is the fact. I was in Tanganyika in 1926, having a look at the Southern Highlands, and I did not like it at all. I finally inspected one particular spot which was called Mbozi, which you probably know, sir. Well, when we got there I was most surprised, for the chief and his elders came round and they were rather vying with each other as to who would give us land, and we really had a most instructive fortnight with many of them. I was saying, "Let me show you my land". I asked why they were so anxious for us to come there, and they said: "At present there are no means of earning a living. If we want work, we have to walk through Dodoma to Tanga and get a job on a sial estate, and when we have

[Major Keyser] finished we have to walk back. It takes six weeks to walk there and six weeks to walk back. If you people take up land here we will have employment near our homes, and they were really most anxious that we should take up land at Mbozi.

I am stressing this point, because it should go on record that the African was anxious that we should take up land in order that his economic position could be improved—

HIS EXCELLENCY: I do not want to cAMP the hon. member's style, but he prefaced his remarks by saying that it had nothing whatever to do with the subject under debate? (Laughter.)

MAJOR KEYSER: I agree, sir, but I thought the hon. member had imputed certain motives to myself as a land owner.

The hon. member Mr. Mathu then went on to say that it was obvious that from the European view Kenya must be secured for the European people only. That again is not based on any sort of fact at all, and I cannot make out why that statement should have been made. As the hon. Member for Mombasa pointed out, there is no implication at all that we are either trying to take the native land or are not doing our best to help the native advance.

MR. MATHU: On a point of explanation, I do not remember saying that the European community want to secure land in Kenya for themselves entirely, and I disclaim saying that.

MAJOR KEYSER: What I wrote down was that the hon. member said it was obvious that the view of the Europeans was that Kenya must be secured for the European people only. Perhaps when *Harvard* is published we will get the correct words, but I refute that statement completely if it was made in those words.

Getting down to 210 (laughter)—(HIS EXCELLENCY: You certainly must come to it)—I have very few remarks to make in support of the motion, but I must disagree with the hon. Member for Mombasa when he stresses it is that the tariff rates should be fixed by the Central Assembly. I do not agree with him at all. I am not going to enlarge on it, but it should be left to the territorial legislatures to fix their tariff rates.

When the hon. Acting General Manager spoke yesterday, I thought he was going to give us a few details of the basis of discussions—which would take place over the amalgamation of the railways, and I was rather hoping he would mention the point about the responsibility for the railway loans, because to-day the responsibility for those loans is carried by this Colony, and if there is going to be an amalgamation of the railways such as is visualized I am of the opinion that that responsibility should be transferred from the Colony to the Railway Administration. I was hoping that he might possibly have enlarged on that. Perhaps the hon. mover in his reply could tell us whether anything of that sort has been visualized.

I beg to support.

MR. PRITAM: Your Excellency, I had not intended to speak on this motion before Council, but in view of the strictures of the hon. Member for the Coast regarding the attendance of the Indian member at meetings of the Standing Finance Committee I think an explanation is due from me. His remarks were not only intended against me personally against the Indian member on the Wage Board, but also against the Indian community. I was advised to ignore the remarks because they came from an individual member, but I still think I should give an explanation to the Council. It is true that I was absent from the meetings of the Standing Finance Committee for something like 15 hours in all. The reason is that the hon. member Mr. Thakore was going abroad; he suddenly changed his idea and at the 11th hour asked me to act for him. Not knowing anything about the duties I was naturally dissent, but in the end I did agree. The reason why I was absent I have explained to the hon. Member for the Coast, that my wife had to be twice X-rayed, and the third time I was advised by the doctor to be at the house. That is my record, and it is unfortunate that the hon. member, without ascertaining the facts, made the remarks about me and my community—

MR. COCKLE: On a point of order, I was referring to Mr. Thakore.

MR. PRITAM: An apology was due by me, if any was needed at all, to the

[Mr. Pritam] chairman of the Standing Finance Committee, from whom I should have obtained leave before absenting myself. I am very sorry I did not do that. I think I have the unique distinction of being the only member, except the hon. member Mr. Mortimer, who has not been at the Council since it came into being has attended every session without fail. I am a member of the Supply Board and also of the Advisory Council on Indian Education, and I have attended all meetings, and the very member who accuses me was himself absent from a very important meeting on Tuesday, though perhaps it was due to unavoidable circumstances, but he judges matters merely by attendance at meetings of committees. My experience is quite different. We have co-operated far too long but we do not get the results we should.

Take the Paper 191. Had it been accepted by my European friends they would never have got what they are getting to-day, but it is by making themselves a nuisance and creating trouble that they get what they want. (A member: Nonsense.) Either you are right, or the Secretary of State is wrong, but he says very clearly: "It does not appear to His Majesty's Government or to the East African Governors that, in the case of a joint legislature of the type now proposed, there is any logical alternative to equal representation". He cannot be right all the time—either he was then right or he is now right. (A member: Wrong both times.) (Laughter.)

The hon. Member for Trans Nzoia has said something about the war service of Indians. He has indulged in things which I should attribute to sheer ignorance, for if he remembers the statement of the Right Hon. Winston Churchill, who loudly proclaimed that India alone had provided 21 millions of volunteers—(Members: Not Kenya Indians.) (MR. COCKLE: Not allowed to join.) I have to mention these things although they are irrelevant because I must refute the argument. As it is, I am not one of those who were enamoured by 191, for the simple reason that it gave to 30,000 Europeans the same representation in the Central Assembly that it gave to 80,000 Indians and four million Africans. So where is the equality? It is racial equality for unequal numbers, and for that reason I strongly oppose this motion.

Mrs. WATKINS: Your Excellency, I rise to support the motion because I believe that it will facilitate the re-ordination of those services which have been described by the hon. Chief Secretary as naturally inter-territorial; ones that cannot be limited by territorial boundaries, but which have often been hindered by territorial control. We all agree that there is this urgent need for a central organization to replace the one which was again so aptly described by the hon. Chief Secretary as a loose organization—the Governors Conference. (Laughter.) Of course, it had the enormous privilege of being off the record in all its debates, and Your Excellency will go doubt be surprised to hear, and this Council perhaps will be surprised to hear too, that I consider the debates of the Governors Conference, the Inter-territorial Council and the preliminaries to the inter-territorial decisions should be on the record, more particularly because they are financial, and we, the taxpayers of this country, should be aware of the inter-territorial expenditure. So far this had not been done, and it may also even indicate that we may later on get partial control of our own finances.

The mandate that was given me by my constituents has already almost entirely been covered by our leader, the hon. Member for Nairobi South. He has indicated that we will form the fourth official member from here on the Central Assembly to be chosen by the whole of Legislative Council. We want also to support the suggestion that additions to the schedule must not go through if they are met with any very violent opposition by the unofficials of these territories. I can imagine quite a lot of things being added to the schedule by common consent, and we may even feel irritated if certain of our own special additions cannot go through, but I am quite certain it is a wise restriction, so that we do retain the sovereignty of our own legislatures over our own affairs. It seems to me extremely important.

My constituency wishes to accept 210 in principle, without prejudice to any amendments which they might wish to make to their Kenya Legislative Council, or political progress as and when those things are possible. That is their attitude, and I would say at once that while we are not altogether happy about 210, we are more than happy to give it a

[Mr. Watkins] I wish to give it an honest trial, and to do our best to see that the thing does work, because we realize that we have got to have a Central Assembly of some sort; even if it is revised in four years' time we shall have to have it in some form.

There are one or two points that I think should be made. We have been accused by the hon. Indian members of trying to retain control in European, or British, hands. I told in a thread suspicion that the British intend to rule in their own Empire. It is just a suspicion that has become rather apparent lately, for we know that it is only under our rule that progress of these territories is made possible, which but for us being here would have been impossible for centuries. We know that perfectly well, and to those people outside the indigenous people of these countries, who live here under our rule and under our protection, I would suggest that they would be here for half a year if we were not here to protect them and to look after their interests. I would also add that if they feel that we do intend to keep things in European hands, they are right. That, I think, is indeed what we do intend, and the Kiamlu constituency would back me up in this, I know. We do intend to retain our responsibility in this backward country and for the many races that are under our protection and under our rule.

There was one point in the speech of the hon. member Mr. Mathu, which I think has been dealt with already, in which he said that he saw it in the Press that these territories are to be retained for Europeans only. It must have been of the record, I think, Your Excellency, because I certainly did not see it, but then I do not read the Indian Press. I am not sufficiently educated to be able to absorb it at all. When the hon. member Mr. Mathu asked for a square deal, I would ask him to look round the world and see if any other country has offered him anything like the square deal that Britain has. It is more than a square deal, it is a very generous deal indeed. I believe that 210 and 211 may be so, that excellent despatch of yours, No. 44, taken together are part and parcel of that square deal which we are offering to the Africans, because I believe that very firmly, I am able to support 210 heartily

and to say that we are going to give it an honest trial, although we are not quite sure how it is going to work. We do not contend that we are happy about it, but we do think it is progressive, and we think that if we back it and try and make it work, it will be progress indeed, and progress more particularly for the African.

MR. VASEY: Your Excellency, there remains little, to my mind, at this stage left to underline the support which has been given to this Paper and this motion.

I should like also to underline my support to the suggestions of the hon. Member for Nairobi South in regard to certain assurances, I, in common with the hon. Member for Mombasa, would like to see commercial legislation to some extent in the list of legislative subjects, but not beyond the examples given in Paper 191; at least not at this stage. The commercial community was a little worrier in 191 by the fact that these particular classes of legislation were only quoted as examples, and they were afraid it indicated the possibility of a further spread. For that purpose I should like to repeat now what commercial legislation I believe the commercial community wish to be dealt with under the new legislative assembly. They are bankruptcy, company law, registration of business names, inventions and trade marks. If they cannot be introduced into the list of subjects now, the earliest opportunity will be taken by myself and other commercial members of moving a motion in this Council that they should be added to the list of subjects, because the same level of commercial legislation is essential if the commercial economy of East Africa is to be built up on a sound basis. One other detailed point that I should like to be considered as a possible addition to the subjects is that of Co-operative Societies legislation. The Co-operative Societies legislation in Tanganyika differs considerably from that of Kenya, and we have found, and I speak as Chairman of a Co-operative Society in Kenya, difficulty in operating our branches under different regulations. I support the hon. Member for Trans Nevia when he stated that he could not agree to the Assembly being given the right to put on tariff rates. I think, without going into details, that a great many of my colleagues would support his opinion.

[Mr. Vasey] I would take up the time of Council for a few minutes for one or two principles and one or two things which must be said. Both the hon. member Mr. Mathu and the hon. member Mr. Ohanga (whose maiden speech, if I cannot agree with the subject matter, was at any rate a speech on which I should like to congratulate him) have spoken as for the African community. I think it would be perhaps desirable to put on record that I do not think that is the united opinion of the African community. I read the African Press, and one of the papers I read is a paper called Mwalimu, which is edited and published by Councillor Francis Khamisi, a member of the Nairobi Municipal Council, and in two very excellent leaders he has supported Paper 210 very strongly. In his last leader he used the words that he considered the proposals "fair and reasonable at this stage". As an African, and as a thinking African, it is obvious that he cannot be satisfied, because they must wish to be progressive, but it is satisfactory to know that an African who thinks beyond the political stage and beyond the stage of popularity, is prepared to state that he considers them fair and reasonable, and to hold to that opinion in spite of the fact that the veracious African Press controlled by the Indian community have tried to cry it down.

The hon. member Mr. Cocker, in a somewhat oblique manner, referred to private conversations with some of the members who pretended to be a member of the Socialist Party. I have never made any secret in this country of the Socialist economic doctrine. I have found difficulties in agreeing with everything that is done and applying it to this particular territory, and that refers particularly to some parts of 210, but I support it because I believe that it is a victory for common sense, which is only another way of saying what the hon. mover said in his very excellent opening speech, that it is a working compromise, and that is what we have got to face. I would say with regard to membership, that I would have been far more satisfied if it had been a blank cheque for four members, without any racial delineation of any kind, because this is an economic matter. This is not an occasion where the interests of the African, or the interests of the European,

or the interests of the Indian, are the things to be considered by the Central Assembly; this is a matter where the interests of the whole shall be considered, and the building of an economic structure without which no political structure can survive.

But I am prepared to sacrifice my own feeling that there should be no racial delineation, that it is wrong that you should say that one African shall serve, irrespective of his capacity for government of that kind, or that you should say that one Indian shall serve, irrespective of his capacity for government of that kind, or that you should say that one European should serve, irrespective of his capacity for government of that kind. A Government of this kind must and can, in the interests of everybody, be carried on by the finest brains available in the country. We have sacrificed our point of view to be met by an outpouring of racial bitterness which has been deplorable in the extreme. I will not deal with it, because to do so with it only means a perpetuation of more bitterness, but I do suggest to the members of the Indian community and to the African members that the new despatch 44, the assurance that that constitution will be accepted by the Secretary of State, is throwing a new responsibility on those members, as on ourselves, and that days of irresponsible statement and of taking advantage of everything to seek, or choose, the path of political popularity through racial animosity must come to an end. I read the Indian Press very regularly. I do not think there is an Indian paper published in a European language which I do not read, and the most deplorable thing I read, and the most deplorable thing I read that Press about 210 and over despatch 44 has been the continual deliberate and willful misrepresentation. It has been deplorable to see the Indian Press suggest that hon. members on the Government side of Council would so far forget the duty that they, and you, sir, are entrusted with by His Majesty's Government as to this place race above the final interests of this territory. We may disagree with them time and time again, but of their sincerity and their determination to carry out their duty of governing (Hear, hear) my opinion, be no question. (Hear, hear)

With those remarks I wish to sit down, but as I close I should like to say that I hope that when this is through we shall see the co-operation of those members

[Mr. Vasey] who will serve this territory on the Central Assembly, and that when the new Legislative Council assembles next year with the composition as laid down by yourself, sir, I trust that the hon. members to the left of us will realize the responsibility with which they are faced, and will realize that if this great experiment in the beginning of self-government is to be a success it can only be achieved not by continually attacking a community so that it must defend itself, but by real co-operation—co-operation of a practical kind, not to be expressed in virulent racial speeches.

Mr. THOMSON: Your Excellency, there are two or three points only on which I want to touch.

In the first place, the question of the payments to be made to members of the Central Assembly is, I think, a matter for consideration by the Assembly itself in the first instance, and I have no doubt that I will tackle it. There is no question that this reorganization will cost something, but it should not cost very much. The Assembly will involve expenditure on the pay and allowances of members, and that sort of thing, and there will also, I think, have to be something in the nature of a High Commission Gazette got out from time to time, though whether it will be sufficiently a best seller to cover the cost of bringing it out remains to be seen.

In so far as postal revenue is concerned, the point raised by the hon. Member for Uluaba, the Governments have not the slightest intention of relying on revenue from postal services. In paragraph 26 of 210 it says: "The assets of the department would be valued and an interest and redemption payment made to territorial revenue in respect of the capital contribution of each territory as ascertained by this valuation". Until a valuation has been made we have not got the slightest idea as to what the annual contribution will be, but it might very well come to something approximating the excess of revenue over expenditure now, and if it did not and the Governments did find it necessary to get more from the Post Office than that, there is no reason why it should not be done, but it should be designated quite clearly a tax, and it would be quite clear that the Post Office was being used as a

taxation machine, whereas to-day none of us has the foggiest idea whether the Post Office is a taxing machine or not to-day.

The final point is the question of railway loans, raised by my hon. friend the Member for Trans Nzoia. I think we would probably all agree that the development of this country in the past has been to some extent retarded in that the credit of the Government has been affected in that the railway loans appeared as part of the Colony's public debt, and that is a thing that we are now trying to get rid of. I sincerely hope that it will be possible for the Railway to raise its own loans on the security of its own assets, and that is a matter that was taken up by representatives of this Government on the Railway Advisory Council some time ago. But let me make it clear that the fact that it is not is not the fault of the Railway. It would suit the Railway very well to be able to raise their own loans. They could do so at a time that may suit them, and the time that suits them may not always happen to suit the Colonial Government, and so on and so forth. They could also regulate the amounts in accordance with their needs. They would like it, and we would like it. The difficulty we have encountered and which we have been trying to solve is this, in order that the Railway may be able to come to the market and ask lenders to lend with confidence, they must have their own assets, including their land, vested in the Railway, and that presents serious legal and other difficulties which we are going into and trying to solve. Personally, I feel that these difficulties must be surmounted, and it will not be the fault of the Government or the Railway Administration if they are not solved as quickly as might be wished.

Mr. HOBSON: Your Excellency, I should like to deal with the point raised by the hon. Member for Mombasa with regard to paragraph 4 (vii) (a). That paragraph refers to the powers and duties of the High Commission, and it is quite clear, I think, from the terms of that sub-paragraph that, where each of the three Legislative Councils agree to refer these matters to the High Commission, the High Commission should then enact legislation "with the advice and consent of the three Legislative Councils, or". The operative word is

[Mr. Hobson] "or". So that the Central Assembly would not come into the picture at all. Their powers are laid down under (b) and they deal with specified subjects.

Sir GILBERT RENNIE: Your Excellency, in replying to the debate I must, to begin with, say that I cannot express extreme gratification at the reception that the motion has been accorded in this Council. It seems to me that, to a large extent, there has been a good deal of misapprehension about some of the proposals, and the first one that I should like to deal with is that dealing with the matter of racial representation.

It has been stated by more than one speaker in the course of this debate that in the proposals in Paper 191 so far as racial representation is concerned, the principle of equal representation has been departed from. My submission is that that principle is still inherent in the proposals that have been the subject of this debate. If hon. members will recall the earlier proposals so far as racial representation was concerned, it was that each Legislative Council should elect two Europeans and two Indians, and that two Africans would be nominated by the High Commission, or at least, that two members representing African interests would be nominated by the High Commission. Quite apart from that racial representation—and I omit reference to Arabs at this stage—there was a proposal that for the whole Central Assembly four other unofficial members should be nominated by the High Commission; in other words, the racial representation there proposed was 2-2-2, and when we come to the proposals now before Council we are all aware that the racial representation proposed is 1-1-1. In Paper 210, as in Paper 191, there is a suggestion that outside the racial representation there should be the additional membership, and it is to the proposal that there should be one territorial unofficial member elected by the unofficial members of the Legislative Council of the territory concerned voting as a whole—it is to that proposal—that such exception has been taken. I would suggest that criticism of that proposal is to a large extent based on a misapprehension, and that so far as racial representation is concerned, *qua* racial

representation, there has been no departure from the principle of equal representation.

The second point I would make in this connexion has been made already by some hon. members of the Council. It is this. In the course of this debate we have concentrated rather on the Kenya aspect of these proposals. That, no doubt, is somewhat natural. But we must remember that the Kenya aspect of the proposal is only one part of the picture. If we look at the Kenya part of the picture we may not like some of the tones and some of the colours which we see in the combination there, but if we look at the Central Assembly as a whole, if we look at the full picture, we shall see that the combination of tones and colours that we did not altogether like in the Kenya part of the picture are compensated and offset by a different combination of colours in the rest of the picture. I would suggest, as has already been stressed, that when we look at the composition of the Kenya team which goes to the Central Assembly, we should also have regard, and much more regard, to the whole team in the Central Assembly. This Central Assembly, this new organization, if it is going to work at all, must depend on good team work.

The third point I would make about this equal representation is this. Hon. members will realize that there is a difference between the 210 proposals and those in 191 in that in paragraph 7 of 210 there is a very definite reference to territorial membership. In other words, in paragraph 7 there is the proposal that each territory should send a team, and I would submit that the proposal in paragraph 7 (ii) in which exception has been taken is intended to emphasize the fact that the delegation going to the Central Assembly is a territorial delegation, and when in addition to the official member who would be appointed by the officer administering the government and three racial representatives we have a fifth member appointed or nominated or elected by the unofficial members of the Council, I would submit that that territorial aspect of the proposal is strongly emphasized.

There is a further point. Certain suggestions have been made as if this proposal to which exception has been taken

[Sir Gilbert Rennie] was an example of the astuteness—or some may term it low cunning—of the European elected members in this Council. But if we have regard not only to the Kenya team, the Kenya territorial delegation, but to the delegations from the other territories as well, we might be justified in thinking that the low cunning has come from some or other part of the community and is, in fact, intended to ensure not that there should be a European majority so far as the territorial team is concerned but a majority of one of the other main races. (Laughter.) A further point I would emphasize in this connexion is this. This suggestion, so far as I am aware, did not emanate from Kenya but from one of the other territories, and therefore the idea that it is a piece of stratagem on the part of the unofficial European elected members here should be removed from people's minds.

I had every sympathy when listening to the hon. member Mr. Patel with the unfortunate members from Uganda, who will find when they get to the Central Assembly that they are not there on their normal 1-1 basis or 2-2 or 3-3 basis but that, as regards one community, there is one member more of that community than of each of the other communities, and I hope the shock of finding themselves in such circumstances will not be too much for them! (Laughter.)

I deal with that point of equal representation at the outset because, I think, it is important that we should disabuse our minds of the suggestion that has been made, that the earlier proposals regarding equal racial representation have been departed from in 210, and I would ask those hon. members who are suspicious of the proposal in paragraph 7 (ii) to weigh the points that I have made against their earlier prejudices against this suggestion, and to keep an open mind on the matter when it comes to voting.

I will now take up, if I may, some of the points made by individual hon. members.

The hon. member for Nairobi South referred to paragraph 7 (ii), and suggested that it might be more appropriate that all members in this Council should elect one unofficial member for the team going to the Central Assembly. Well, on

behalf of my colleagues on this side of Council I thank him and his colleagues for the tribute paid to us. I would make this point clear since some doubt has been cast upon the sincerity of that suggestion. I would make this point clear—it has been made clear by the hon. member for Nairobi North—that if it ever came to such an election I have not the slightest doubt that all my colleagues on this side of Council would vote for the man they considered most suitable for the appointment entirely irrespective of race (hear, hear), and when the suggestion is made that the official members in this Council would vote only for one of their own race, I think it is a suggestion that the record of all of us on this side of Council is sufficient evidence to refute. (Hear, hear.)

As regards the suggestion that paragraph 7 (ii) could be amended in that way, I can only say that the proposal will naturally be referred to the Secretary of State for his consideration. You yourself, sir, made a very similar proposal as regards the composition of the second Central Assembly, but I would suggest that at this stage it is premature to discuss what is going to happen as regards that Central Assembly. As regards the first Assembly, that suggestion will be put to the Secretary of State. There will be many other proposals, no doubt, as regards the second Central Assembly which will be considered at the appropriate time.

The second point made by the hon. Member for Nairobi South was in respect of paragraphs 19 to 21. He said he would like an assurance that if, after further consideration and opportunity for debate, substantial opposition developed to any particular addition suggested to the list of subjects referred to in these paragraphs, no such addition would be made. So far as this Government is concerned, it takes the view that in such an event no addition would, in fact, be made; and it also takes the view that in reporting on any discussion of that sort to the Secretary of State it would naturally express its own opinion that no addition should be made in such circumstances. I have no reason to suppose that the Secretary of State takes a different view, but the short fact is that the Secretary of State cannot at this stage commit Parliament in advance to any long term policy of this sort. That

[Sir Gilbert Rennie] would be unconstitutional procedure, and I think all hon. members will appreciate the position of the Secretary of State in this connexion. But, in view of the view I have expressed, I hope hon. members will be content to leave the matter there.

Turning to the remarks of the hon. member Mr. Patel, I have dealt with that part of his speech which referred to the matter of equal representation. He went on to point out some further "disadvantages" in the new proposals, and compared the new paragraph 9 with the old paragraph 26 so far as representation on such bodies as the Finance Committee on the Budget, and the Standing Finance Committee, and inter-territorial boards was concerned. Well, sir, so far as old paragraph 26 is concerned, it states that "The Finance Committee on the Budget should consist of the whole of the unofficial members under the chairmanship of the Financial Secretary. A small Standing Finance Committee would be required to consider applications for additional provision in the course of the year". The main difference between the old proposal and the new, as I see it, is merely that the exact composition of the new Finance Committee on the budget is to be left to the Central Assembly itself to determine, and I would submit that that gives a flexibility to the arrangement which is altogether desirable.

He also referred to paragraph 27 (2) in the new proposals as regards the composition of the proposed East African Transport Advisory Council, and drew a parallel between the composition suggested there and what happens at the present time in the membership of the Railway Advisory Council. That point has already been debated, and if in the election or appointment of members to those bodies we work on the principle of selecting the best man I do not know whether that is not the best method of procedure. Now and again in appointments to a committee it is necessary to ensure that all communities are adequately represented; now and again it is desirable to see that the best men irrespective of race are appointed. Under the proposals in 210 the actual composition of the Council is left open.

The hon. member Mr. Patel also lodged a protest, which received support

from some of his colleagues, against laying up the new proposals for the Kenya Legislative Council with the proposals in 210. That may or may not be a matter suitable for protest, but the short fact is that Your Excellency made your own position very clear some time ago by a statement in this Council, when you said that there will be no increase in the number of members representing African interests during the life of the present Council. The fact that the composition of the Kenya Legislative Council for the reasons explained in your despatch will be altered when the proposals mentioned in 210 come into force, supplies the reason why the proposed changes in the composition of the Kenya Legislative Council are tied up with the proposals in 210.

Turning to the speech of the hon. member Mr. Mithu, he, if I may say so, was under the impression that the principle of equal representation had been departed from, and he appeared to my mind to be unduly suspicious of the new proposals. I would remind him and his colleague that the people who are principally concerned with the framing of the proposals in 210 are, and have long shown themselves to be, very close friends of the African, and I would suggest to him that he should keep that point prominently in mind in his considerations of these proposals. I suggest that it is hardly likely that those responsible for the preparation of this Paper, in view of their well known solicitude for African interests, that those people would be any party to putting forward proposals that were not in the best interests of the African community. (Hear, hear.)

He asked for an assurance that the new Kenya Legislative Council would not be responsible government. I think the answer to that is contained in paragraph 9 of 191, where the maintenance of the final responsibility of His Majesty's Government to Parliament in respect of the administration of the three East African territories is clearly set out. He finished his speech by suggesting that a Royal Commission should be appointed to deal with the economic, financial and constitutional affairs of East Africa at the present time. We may have a few supermen in this world, although the effects of their efforts are

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not too obvious at the present time, but I would suggest that to ask a Royal Commission to tackle it is a task of this sort would be asking to put it mildly, far too much, and in the meanwhile the wheels of the Governors Conference machinery would be creaking along, creaking along, and we should find sooner or later that, while the Royal Commission was preparing or publishing its 29th interim report, the machinery had broken down. (Laughter.)

The hon. member Mr. Mathu made a suggestion for the amendment of paragraph 7 (ii) as regards the appointment of that unofficial member of which we have heard so much. To show that there is a great deal of difference of opinion on the subject, the hon. member Mr. Cocker promptly rose to his feet and said he did not support that suggestion and produced another. That shows the difficulty of trying to amend these proposals to meet everyone's point of view.

The hon. member Mr. Dhanwant Singh uttered an eloquent plea for co-operation between communities, and I naturally support that plea. I shall have more to say on the subject of co-operation before I finish, but, so far as I have seen in the course of this debate, co-operation is the watch-word, but it must always be co-operation from the other man.

So far as the speech of the hon. Member for Mombasa is concerned, several points that he made have already been taken up by my hon. colleagues on this side of Council. There is one point with reference to his remarks on paragraph 7 (i) to which I would refer, in which he stated that he assumed that the official member of the territorial delegation would not be subject to the whip of the Administrator. That, I think, is a correct assumption. So far as the official members of the team were concerned, they naturally would have to vote as an official team. (His Excellency: The High Commission?) Yes, sir.

He referred to paragraph 20 (iii) and the fact that the earlier proposals in respect of the imposition of customs and tariff rates had been departed from. That is a matter, as we very quickly saw, which is open to argument, and I suggest that we should leave it to the Central Assembly, if it so wishes, to argue the

point further. There is a great deal to be said for having uniformity as regards customs rates and tariffs, as was pointed out yesterday also by my hon. friend the Commissioner for Inland Revenue as regards standard rates of income tax. The present arrangements, however, have been proposed after taking into consideration the various points of view that were expressed, and I would suggest that it is desirable to leave the matter where it is for the time being.

So far as his suggestion that the coastal ports and harbours be divorced from Railway control is concerned, I would also suggest that this is a suitable subject for debate in the Central Assembly. The last sentence of paragraph 27 (6) states: "Before a scheme to this end" (that is to say an amalgamation scheme) "was applied, it would require the approval of each of the three territorial Legislative Councils, of the High Commission, and of the Secretary of State." It is obvious from that that there will be plenty of opportunity for debate and for thrashing out the exact set-up of the amalgamation.

I would congratulate the hon. member Mr. Ohanga on his maiden speech, although, as I have indicated, I do not agree with some of the points of view expressed. I hope that after hearing my submission that equal racial representation has not been departed from, he will agree to change his attitude towards this motion.

The hon. Member for Ukamba has set me a very difficult task. He has raised a number of questions about civil aviation which, quite frankly, I find it difficult to answer. I am not one of those people who, when speaking either on the record, or off, wish to speak on a subject about which they know very little! In this particular case I am not familiar with all the details of the set-up and, if I may be permitted to follow somewhat closely a note which I have made, I hope that I shall be able to cover his points. He made the point that the Air Authority should not be the High Commission, and that the Director of Civil Aviation, who is presumably under the Administrator, would more appropriately come under some other official member, and perhaps that there might even be a member who would deal with civil aviation. The position is that under the proposals in this

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the Directorate of Civil Aviation, as we know, will be a common service which would come under the executive jurisdiction of the High Commission. If members will turn to paragraph 17 they will see the East African Directorate of Civil Aviation included in the scheduled services. It is also proposed that civil aviation should be one of the subjects upon which the Central Assembly would be empowered to legislate during the initial period of four years. Item (ii) of paragraph 20 covers that point.

The position as regards civil aviation, so far as the proposals in 210 are concerned, is a little complicated by the fact that the East African Air Transport Authority was established with jurisdiction over Kenya, Uganda, Tanganyika and Zanzibar by an Order in Council made on the 30th October, 1945, before the proposals in 191 were submitted for general discussion, and that Order confers upon the Air Transport Authority certain functions in relation to the East African Airways Corporation, and also empowers the Authority to make provision, by regulations, for the control of aircraft plying for hire. I am informed that in the administration of the licensing regulations which were recently brought into effect the desirability of the action required being taken at a lower level than that of the Air Transport Authority itself was generally recognized, and that proposals to this end are under consideration.

At the present time the East African Directorate of Civil Aviation is one of the common services that come under the umbrella of the Governors Conference. The hon. Member for Ukamba inferred that, as that subject was not allocated to any of the other members, it would come under the Administrator himself. A point that may have escaped his notice is that at the end of paragraph 12 there is the statement: "The High Commission would have discretion to vary the allocation of responsibility as between the principal executive officers from time to time as the High Commission might decide". It might be regarded as a natural development, after the new organization has been at work for a time, for this particular subject to be placed under the purview of one of the other Members of the High Commission secretariat, and

one natural development of that kind would be to transfer it to the Member for Transport, so that all forms of transport come under the same member. I trust that that explanation has covered, however inadequately, the main points that the hon. Member for Ukamba has raised.

I have still a few points to cover in reply to the speeches of hon. members and, if it would be convenient to Council, I suggest we might adjourn at this stage.

Council adjourned at 11.25 a.m., and resumed at 11.55 a.m.

SIR GILBERT RENNIE: Your Excellency, I think I have covered most of the points raised by hon. members in the course of this debate. In conclusion, I would repeat the plea that I made yesterday, that we should concentrate rather on the urgent need for the new framework than on the parts we do not like. During this debate, as I have mentioned earlier, we have heard eloquent pleas for racial co-operation, but I would suggest that if this new organization is going to start off on the right foot we must have more than lip service in the co-operation of which we have heard so much. We must have both hearts and minds, and willingness, behind it. The proposed Central Assembly will give the three territories in East Africa an opportunity of showing that races and territories in East Africa can combine.

So far as the Kenya team that will form part of the Central Assembly is concerned, I hope it will go to the Central Assembly thoroughly imbued with the team spirit, and that that same spirit will pervade all the activities of the Central Assembly.

There has been a good deal of discussion during the course of this debate on various points which I may say are outside, in some cases, the actual words of Paper 210. All that hon. members are being asked to vote on is the proposals contained in 210, and I trust that the remarks I have made will deal adequately with some of the doubts that were raised in the minds of some hon. members on the other side of Council and will ensure that they approach their members on the other side of Council with open minds. I would appeal once more to all hon. members to concentrate

(Sir Gilbert Rennie) rather on the urgent need and the wording of the proposals in 210 than on any principles or interpretations that have been discussed during this debate.

**HIS EXCELLENCY:** Before I put the question I should like to make some observations in explanation of certain points.

What is before Council is a motion approving the passing of this document, Paper 210. I understand that there were some observations made by the hon. mover in winding up the debate which have given the impression that questions of principle which have been debated and discussed up and down the country are being reopened or altered or changed, and that has caused them some anxiety. I think, therefore, that I should say in the first place that the hon. member is being invited to compromise with his own principles whatsoever or to agree to any principle other than such principle as he cares to read into the text of this document. In other words, what we are asking the support of this Council for is this Paper as it stands.

Let there should be any misunderstanding, because it is of the greatest importance that we should all be clear what Government is asking members to support, I think it proper before I put the question to read an extract from a document which is in the possession of every hon. member for Council, which sets out quite clearly what were the Secretary of State's intentions in drafting this document and putting it before the various East African countries. These are the words: "For this purpose—that is to say, for the purpose of obtaining if possible an agreed basis of representation in the Central Assembly—I suggest that the aim should be a composition of the Assembly based on territorial or East African rather than on communal representation. It is clearly necessary that one member drawn from each of the major communities in each of the three territories should be appointed—that member will, of course, in Kenya be elected in the case of those communities that have elected representation—to the Central Assembly in order to make that Assembly a representative body. There should also be an Arab member. In addition, it is also suggested that in each separate territory the whole of the unofficial members of the Legislative

Council, voting as a body, should elect one representative. Each territory would thus be represented on the Assembly by five members, namely, one official and three unofficial members appointed by the Governor—elected of course in the case of Kenya—and one unofficial member elected by the unofficial members of the Legislative Council; and it is to be hoped that these five members would regard matters debated in the Assembly from the point of view not of sectional interests but of the interests as a whole of the territory from which they are drawn, and of East Africa".

Those are the terms within which the proposals were drafted, and I think I should say that, if there is a principle involved in this matter, it is the principle that each delegation is a territorial delegation from the Council which sends it. That is the only principle I read into it. At any rate, if there are any misunderstandings or doubts, that is the situation, and what hon. members will be asked to agree to in a moment is that the scheme propounded in this Paper as textually set out in it should be given a trial run.

**SIR A. VINCENT:** Would you allow me, sir, on behalf of my colleagues, to make a short statement?

**HIS EXCELLENCY:** I am not sure that that would be in order.

**SIR A. VINCENT:** I think that, under the circumstances, if Council and you will allow me to do so, it would make absolutely certain that there will be no misunderstanding.

**HIS EXCELLENCY:** Would the hon. member sit down a moment?

I must make it quite clear that I cannot allow the debate to start again. The hon. Member for Nairobi South wishes to make a statement—may I ask if any other hon. member wishes to have the same privilege?

**MR. COOKE:** From my point of view it is rather difficult, as I may not associate myself with what the hon. member says—I do not know what he is going to say.

**HIS EXCELLENCY:** That is the difficulty, and we shall be starting the debate again if we are not careful.

**MR. COOKE:** I am not opposing the hon. member making a statement, but I would not like to say that I shall associate myself with it until I know what he has to say.

**HIS EXCELLENCY:** I understand that the hon. member wishes to make a statement of fact and sit down without further discussion, and if Council has no objection I had better permit him to do so.

**SIR A. VINCENT:** Your Excellency, I should like to make it quite clear that, on the part of myself and my colleagues (perhaps unfortunately in them I cannot include the hon. Member for the Coast as he is not a member of our organization) in voting on this motion we do not accept any principle of equal representation between races.

**HIS EXCELLENCY:** The question is the motion moved by the hon. Chief Secretary.

The question was put and carried by 30 votes to 8:—**AYES**—Messrs. Blunt, Bouwer, Boyd, Major Cavendish-Bentinck, Messrs. Cooke, Dalton, Edye, Wyn Harris, Hobson, Hope-Jones, Hyde-Clarke, Johnston, Major Joyce, Major Keyser, Mbarak Ali Hinawy, Dr. MacLennan, Messrs. Mortimer, Mundy, Nicol, Patrick, Sir Gilbert Rennie, Messrs. Robbins, Stacey, Thornley, Trench, Troughton, Vasey, Sir Alfred Vincent, Mrs. Watkins, Mr. Willbourn—30. **NOES**—Messrs. Cocker, Mathu, Ohanga, Patel, Pritam, Dr. Rana, Messrs. Sherif Abdulla Salim, Dhanwant Singh—8.

#### MOTION POSTPONED

On the motion standing in the name of **MR. COOKE** being called from the Chair:

That this Council views with the greatest concern the continued deterioration of the land and water assets of the Colony despite repeated indications on the part of Government of its awareness of the position, and calls for the prompt disclosure of Government's detailed plans as foreshadowed in Sessional Paper No. 8 now some 18 months old.

**HIS EXCELLENCY:** I understand from the hon. member that he proposes to allow this motion to stand over to a future session of Council?

**MR. COOKE:** Yes, sir.

#### ADJOURNMENT

Council adjourned *sine die*.

#### Written Answers to Questions 1947

##### No. 1—MOTOR CAR CONTROL

**MR. EDYE (Nyanza):**

(a) Is Government aware that the removal in Tanganyika of the control over the sale of second-hand motor cars registered up to 1943 has resulted, apart from a rise in price for a short period immediately following the termination of control, in a general lowering of the prices level below that which would have pertained had the regulations remained in force? (b) In view of the foregoing, has Government considered whether the retention of the control in Kenya may equally be causing the maintenance of an inflated price for old cars registered on or before 31st December, 1939? (c) If the answer is in the affirmative, will Government remove such control?

##### Reply:

(a) The Government has consulted the Government of Tanganyika Territory on the point raised in this part of the question. The facts are not accurately known, but the general consensus of opinion in Tanganyika Territory is that present price levels are slightly lower than they would have been under the former system.

(b) Yes, sir, but the conclusion has been reached that removal of the Control in Kenya would result in a serious inflation of prices.

(c) A complete reorganization of the Control is being effected as from the end of March under which full responsibility will be assumed by the Commissioner of Inland Revenue. It is proposed to allow some experience of the working of this reorganization before considering the matter further.

##### No. 7—REFRIGERATOR DISTRIBUTION

**MR. PRITAM:**

(a) Will Government please state the total number of electrical refrigerators that were imported into the Colony in the last 12 months and how they were distributed?



(b) Is it a fact that doctors who use these refrigerators for storing drugs are given priority and, if so, will Government please state why an Indian doctor practising at Nakuru whose application was well recommended by the Senior Medical Officer well high a year ago has not as yet been granted a purchase permit despite the fact that there has been importation of refrigerators since his application?

Reply:

(a) 37 electric refrigerators have been imported since February, 1946. The majority of these were allocated to doctors and hospitals and the remainder to persons who were certified to require refrigerators on medical grounds.

(b) The answer to the first part of this part of the question is in the affirmative. As regards the second part, the doctor in whom the hon. member refers applied for a large refrigerator with a capacity of 7 cubic feet for the storage of penicillin. The Controller was advised that a refrigerator of this size was not necessary for the purpose; he had at the time a large number of applications of high priority where such a refrigerator was essential and accordingly it was not possible to allocate one when a consignment was received in September, 1946. The applicant was offered and refused a paraffin-burning refrigerator.

His name is on the waiting list for an electric refrigerator and he should receive one from the next shipment.

#### No. 12—SHORTAGE OF TYPISTS

MR. COCKIE:

Is the Government aware that the commerce of this country is handicapped due to a shortage of shorthand typists, bookkeepers, qualified salesmen, and shop assistants? If the answer is in the affirmative what steps are contemplated to improve the position?

Reply:

Government is aware that there is a shortage of shorthand typists, but is not aware of any serious shortage of bookkeepers, qualified salesmen or shop assistants.

With regard to the second part of the question, it is not one of the usual functions of a Government to recruit staff for the commercial community. Employment bureaux have, however, been set up in this country and are performing useful work in putting employers and prospective employees in touch with one another. No obstacles are placed in the way of the immigration of suitably qualified persons to fill positions which cannot be filled locally. If the hon. member has in mind any other measure which Government could properly take for easing the position, and if he will be good enough to communicate these to Government, it will gladly consider his suggestions.

#### No. 17—TAKAUNGU CAUSEWAY

MR. COOKE:

Will Government please state the position with regard to restoration of the causeway of Takaungu: (a) The estimated cost of a new causeway, (b) the estimated cost of the construction and annual upkeep of the suggested new diversion, (c) the cost to date of the construction and upkeep of the old diversion, (d) the estimated cost of the restoration of the old road through Takaungu exclusive of the estimated cost of the causeway? Also the estimated cost of its annual upkeep compared with (b) and (c)?

Reply:

(a) The estimated cost of a new causeway is £30,000. The Government is, however, advised that, from an engineering standpoint, a causeway is not recommended and that a bridge with viaduct approaches would be the only satisfactory proposition at this point. Owing to very bad foundations it is estimated that this would cost approximately £50,000.

(b) Construction (including bridging the creek) £25,000—exclusive of compensation for land and disturbance. Annual upkeep £150.

(c) Approximately £9,000.

(d) Restoration £500. Annual upkeep £130 as compared with £150 for (b) and £250 for (c).

#### No. 18—COAST FERRIES

MR. COOKE:

Is Government aware of the great inconvenience and delay to Govern-

ment and public transport at Mtwapa and Kilifi ferries while pontoons are undergoing periodic repair? If so, will it provide a spare (third) pontoon at each of these ferries?

Reply:

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

Funds have already been provided for additional pontoons at the two ferries in question and they will be made available as soon as is practicable.

#### No. 19—CONTROLS

MAJOR JOYE:

Will Government please table a list of all Controls which have been established from September, 1939, to 31st December, 1946, indicating which of these Controls has been removed and when, and the approximate annual cost of those that remain?

Reply:

The following Controls have been established since September, 1939:—

Control	Estimated Cost Per Annum to Government (1947 Estimator)	Date of Removal
<b>1. PRODUCTION CONTROLS.</b>		
(a) Agricultural machinery	£980	
(b) Stockfeed and fertilizer controls	Nil	
(c) Cattle and sheep dipping materials and arsenite of soda	..	Government Notice 731 of 31st August, 1946.
(d) Jute products and second-hand bags	£300	
<b>2. COMMODITY CONTROLS.</b>		
(a) Produce	Nil	Government Notice 272 of 13th March, 1946.
(b) Fresh vegetables	..	
(c) Maize	Nil	
(d) Cotton	Nil	
(e) Sisal	Nil	
(f) Dairy produce	Nil	
(g) Figs	..	Removed and replaced by the Pig Industry Board w.e.f. 1st January, 1947.
(A) Live stock	..	Removed and replaced by the Meat Marketing Board w.e.f. 1st January, 1947.
(i) Tea	£50	
(j) Coffee	Nil	
(k) Hand cottons (Marketing and export)	Nil	
(l) Copra and coco-nut oil	£20	1st April, 1947.
(m) Wool	..	
(n) Hides and skins and leather	£312	1st March, 1946.
(o) Beer	..	
(p) Timber	Nil	Government Notice 156/46 of 9th February, 1946.
(q) Cut Stone	..	1st January, 1946.
(r) Hubber	..	Government Notice 947/45 of the 5th November, 1945.
(s) Makuti strips	..	

Control	Estimated Cost Per Annum to Government (1947 Estimates)	Date of Removal
<b>3. RATIONING CONTROLS.</b>		
(a) Distribution of essential commodities (Central Distribution Board)	£45,000	
(b) Eggs and poultry (Nyanza)	Minor clerical expenses only.	
(c) Eggs (Central)	Minor clerical expenses only.	
(d) Control of meat regulations	Nil	
<b>4. DISTRIBUTION OF IMPORTED GOODS.</b>		
(a) Metals and cement	£2,024	Government Notice 991/42 of 23rd November, 1942.
(b) Asphalt	..	
(c) Electrical equipment	Nil	
(d) Motor vehicles	£2,600	Government Notice 457 of 20th November, 1942.
(e) Paper	..	
(f) Petroleum products— (1) Petrol (2) Lubricants	..	31st October, 1946. Government Notice 276 of 18th March, 1947.
(g) Tyres	W.e.f. 1st April, 1947. This Control is being run by the Import-Controller and involves minor clerical expenses only.	Substantially modified by Government Notice 272 of 18th March, 1947.
(h) Typewriters	..	Government Notice 975 of 20th November, 1945.
(i) Matches	..	31st August, 1946.
(j) Motor car batteries	..	1st November, 1946.
(k) Wireless sets	..	September, 1945.
(l) Miles	..	Government Notice 1,070/45 of 15th December, 1945.
(m) Perambulators and baby carriages	..	Government Notice 986/44 of 20th November, 1944.
(n) Power paraffin	..	Government Notice 457/46 of 18th January, 1946.
(o) Refrigerators	..	Run by Import-Controller (see Item 10).
<b>5. CIVIL SALVAGE.</b>		
<b>6. REST CONTROL BOARD.</b>		
	£2,500	
<b>7. CONTROL OF HOTELS AUTHORITY.</b>		
	£490	
<b>8. BUILDING CONTROL COMMITTEE.</b>		
	£1,171	
<b>9. PRICE CONTROL.</b>		
	£31,437	
<b>10. IMPORTS CONTROL.</b>		
	£16,283	
<b>11. EXPORT CONTROL.</b>		
	£690	

No. 22—COTTON PIECE GOODS  
Dr. RON (Eastern Area):

Will Government please state: (1) How many import licences of total yardage of cotton piece goods were issued on India for the years 1944, 1945 and 1946, for Kenya and Uganda; (2) What was the actual yardage imported into these territories during the said period; (3) What was the actual export quotas allocated to these territories by the Government of India for the said period?

Reply:

The information required is as follows:—

Year	Total yardage of licences issued for importation of cotton piece goods from India	Actual Imports from India	Quotas allocated by Government of India
1944	42,311,878 yards	33,402,994 yards	36,420,000 yards
1945	34,642,600	29,383,181	25,690,000
1946	25,725,048	29,264,385	24,857,000

No. 23—AFRICANS AT GILGI DETAINEE'S CAMP

SIR A. VINCENT:

Will Government give details of the number of Africans employed in the detainees' camp at Gilgi and state the nature of the work done by them?

Reply:

No African is permanently employed in the detainees' camp at Gilgi. Two African sweepers, however, enter the camp each morning for the purpose of emptying the night-soil buckets and sweeping the latrines, and each afternoon for the purpose of sweeping the latrines. These sweepers are supervised by a European sergeant or corporal and are allowed no contact whatever with the detainees.

The African personnel of the King's African Rifles and other Africans who are employed outside the inner perimeter have, of course, no contact whatever with the detainees.

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