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COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

OFFICIAL REPORT

SECOND SERIES

VOLUME XXXIV

1949

THIRD SESSION

25th to 27th October, 1949

CHRONOLOGICAL INDEX

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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.

Vice-Presidents and Speaker:

HON. W. K. HORNE

Ex Officio Members:

CHIEF SECRETARY AND MEMBER FOR DEVELOPMENT (HON. J. D. RANKINE, C.M.G.).

ATTORNEY GENERAL AND MEMBER FOR LAW AND ORDER (HON. K. K. O'CONNOR, M.C.).

FINANCIAL SECRETARY AND MEMBER FOR FINANCE (HON. V. G. MATTHEWS, O.B.E.).

CHIEF NATIVE COMMISSIONER AND MEMBER FOR AFRICAN AFFAIRS (HON. E. R. ST. A. DAVIES, M.B.E. (1))

MEMBER FOR AGRICULTURE AND NATURAL RESOURCES (MAJOR THE HON. F. W. CAVENDISH-BENTINCK, C.M.G.).

DEPUTY CHIEF SECRETARY AND MEMBER FOR EDUCATION (HON. C. H. TIORNLEY). (2)

MEMBER FOR HEALTH AND LOCAL GOVERNMENT (HON. C. E. MORTIMER, C.B.E.).

Nominated Official Members

HON. A. HOPE-JONES (Member for Commerce and Industry).

DR. THE HON. N. M. MACLENNAN (Director of Medical Services).

HON. R. PATRICK, E.D. (Director of Education).

HON. E. M. HYDE-CLARKE, M.B.E. (Labour Commissioner).

HON. J. B. HOBSON (Solicitor General).

HON. S. GILLET (Director of Agriculture).

BRIG.-GEN. THE HON. SIR G. D. RHODES, C.B., C.B.E., D.S.O. (Special Commissioner and Chief Engineer, Public Works Department).

HON. W. PADLEY, O.B.E. (Acting Deputy Financial Secretary).

HON. C. M. DEVERELL, O.B.E. (Secretary, Development and Reconstruction Authority). (3)

European Elected Members:

HON. M. BLUNDELL, Rift Valley.

HON. S. V. COOKE, Coast.

HON. D. Q. ERSKINE, Nairobi South.

HON. W. B. HAVELOCK, Kiambu.

HON. J. G. H. HOPKINS, O.B.E., Aberdare.

MAJOR THE HON. A. G. KEYSER, D.S.O., Trans Nzoia.

HON. L. R. MACONOCHE-WELWOOD, Uasin Gishu.

HON. LADY SHAW, Ukamba.

HON. E. A. VASEY, C.M.G., Nairobi North.

HON. C. G. USHER, M.C., Mombasa.

HON. T. R. L. PRESTON, Nyanza.

LIST OF MEMBERS OF THE LEGISLATIVE COUNCIL—Contd.

Indian Elected Members:

HON. C. B. MADAN (Central Area)
HON. I. E. NATHOO (Central Area)
HON. A. B. PATEL, C.M.G. (Eastern Area)
DR. THE HON. M. A. RANA, M.B.E. (Eastern Area)
HON. A. PRITAM (Western Area)

Arab Elected Member:

HON. SHARIFF MOHAMED SHATRY

Nominated Unofficial Members:

Representing the Interests of the African Community:

HON. J. J. K. ARAP CHEMAALLAN.
HON. J. JEREMIAH.
HON. E. W. MATIU.
HON. P. INGUTIA. (3)

Representing the Interests of the Arab Community:

HON. SIKRIK SAID SEIF BIN SALIM.

Acting Clerk to Council:

E. W. M. Magor, Esq., M.B.E.

Reporters:

A. H. Edwards, Esq.
Miss Bennett

- (1) Vice MR. P. WYN HARRIS, M.B.E.
- (2) Vice MR. C. H. HARTWELL on return from leave.
- (3) Acting Member during absence from Colony of Mr. B. A. OIHANDA.

ABSENTEES FROM LEGISLATIVE COUNCIL SITTINGS

25th October—

Hon. Member for Commerce and Industry.
Hon. Special Commissioner for Works and Chief Engineer, Public Works Department.

26th October—

Hon. Member for Commerce and Industry.

27th October—

Hon. Member for Commerce and Industry.



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

THIRD SESSION, 1949

Tuesday, 25th October, 1949

Council assembled in the Memorial Hall, Nairobi, on Tuesday, 25th October, 1949.

His Honour the Speaker took the Chair at 10 a.m.

The proceedings were opened with prayer.

The proclamation summoning Council was read by the Acting Clerk.

ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the Hon. E. R. St. A. Davies, M.B.E., Chief Native Commissioner.

MINUTES

The minutes of the meeting of 19th August, 1949, were confirmed.

PAPERS LAID

The following papers were laid on the table:

BY THE CHIEF SECRETARY (Mr. Rankine):
Select Committee report on the Legislation (Application to High Commission) Bill, and papers issued by the East Africa High Commission: Draft Estimates of revenue and expenditure for 1950, Director of Civil Aviation report for 1948, Agricultural and Forestry Organization report for 1948, Research and Scientific Services progress report, Inland Fisheries Research Organization report for 1948, report on administration of East African Railways and Harbours for 1948, report of commission of inquiry into causes of failure of K.A.G. and other vaccines prepared at Kabete, interim report of committee appointed to investigate certain questions in relation to customs tariffs.

BY THE ATTORNEY GENERAL (Mr. O'Connor):

Registrar General's annual report for 1948, Civil Procedure (Revised) Rules, 1948.

BY THE FINANCIAL SECRETARY (Mr. Matthews):

Land Bank annual report for 1948, annual abstract account of Kenya for 1947 with report of Director General of Colonial Audit thereon.

BY THE DEPUTY CHIEF SECRETARY (Mr. Thornley):

Printing and Stationery Department annual report for 1948, report of Technical Institute Committee, select committee report on salary scales of Indian principals and Indian inspector of education.

BY THE MEMBER FOR HEALTH AND LOCAL GOVERNMENT (Mr. Mortimer):
Final report of Road Authority Committee.

NOTICE OF MOTION

MR. MATTHEWS gave notice of the following motion: That this Council approves of the recovery being waived in respect of a sum of £1,772 19s. 6d. advanced under the provisions of the Agricultural Advances Ordinance, 1930.

BILLS

FIRST READINGS

On the motion of Mr. O'Connor, seconded by the Solicitor General, the following Bills were read, a first time: The Customs Tariff (Amendment No. 2) Bill, the Customs Tariff (Amendment No. 3) Bill, the Townships (Amendment) Bill, the Marketing of Native Produce (Amendment) Bill, the Crop Production and Livestock (Amendment) Bill, the Diseases of Animals (Amendment) Bill,

the Resident Labourers (Amendment) Bill, the Companies (Amendment) Bill, and the European Agricultural Settlement (Amendment) Bill, and notice given that they would be taken through all subsequent stages during the session.

STANDING RULES AND ORDERS SUSPENDED

With the permission of the Speaker, Mr. O'Connor moved: That Standing Rules and Orders be suspended to enable the above-named Bills to be taken through all stages forthwith.

MR. RANKINE seconded.

MAJOR KEYSER (Trans Nzoia): Mr. Speaker, we on this side do not like Bills coming forward normally under suspension of Standing Rules and Orders especially in those cases where publication has been delayed. In this instance, as it will expedite the work of the Council and enable us to take them today instead of tomorrow, we support the motion.

MR. O'CONNOR: Mr. Speaker, there is no question in the case of these Bills of publication having been delayed but, as the hon. member has pointed out, it is merely in order that we should not waste today that this motion has been moved.

The question was put and carried.

CUSTOMS TARIFF (AMENDMENT NO. 2) BILL

SECOND READING

ACTING DEPUTY FINANCIAL SECRETARY (Mr. Padley): Mr. Speaker, I beg to move: That the Customs Tariff (Amendment-No. 2) Bill be read a second time.

As a consequence of a resolution adopted by this Council in March this year, by a notice in the High Commission Gazette an inter-territorial committee was appointed with the following terms of reference: (a) To examine the Customs Tariff and to make recommendations, having due regard to the necessity for maintaining the revenue at approximately the present level; (b) to consider what provisions should be made for refunds or remissions of duty in respect of materials used in secondary industries and what safeguards against abuse are necessary; and (c) to make recommendations to the Governments of Tanganyika and Uganda thereon.

The committee, at their first meeting decided that before any recommendations could be made regarding their second term of reference, that is the one relating to refunds of duty on materials used in secondary industries, it would be necessary to wait until any representations from the public had been received and thoroughly examined. Members of the public were therefore invited to submit representations, and a sub-committee was set up to sift the very large mass of evidence which had been received and to hear further evidence. This sub-committee has already held meetings at various places throughout the East African territories, but it will probably be some time before the main committee is in a position to report on this aspect of its deliberations.

With regard to the removal of anomalies, however—that is the first term of reference—the Commissioner of Customs, who acted as technical adviser to the committee, was able to bring to the notice of the committee a number of anomalies which he considered might be examined at once. The committee did this, and concluded that the anomalies on which they were prepared to make recommendations should be removed immediately. They therefore felt it fit and proper to submit an interim report. This report was laid on the table of the Council this morning, and the Bill before the Council is designed to give effect to their recommendations which the East African Governments are prepared to accept.

From what I have said I think it will be clear that, as the final report of the committee has not yet been submitted, the proposals in this Bill are not necessarily exhaustive. As a result of further deliberations the committee may well discover what they feel to be further anomalies. If they do, they will no doubt submit further recommendations on this score, together, of course, with recommendations on their second term of reference, when they present their final report. Any such recommendations received will, of course, be fully examined and considered by the Government.

Hon. members will see from even a glance at the Bill that the committee has already covered a very wide field, and I feel sure that they will associate themselves with me in an expression of thanks

[Mr. Padley] to the committee for what is a very valuable piece of work. I am sure this Council will not wish me to deal, item by item, paragraph by paragraph, with this very considerable list of proposed amendments. I intend here to refer only to two of the more important provisions, important, that is, from the point of view of their effect on the Colony's revenue, and of course on the other hand on their effect on the consumer.

The first of these provisions is that in paragraph (12) of clause 2. This amendment is intended to reduce the duty on secondhand clothing from the present level of 60 per cent *ad valorem* to 22 per cent, thus bringing it into line with other clothing not elsewhere enumerated. It is estimated that acceptance of this proposal would mean a loss of revenue of some £18,000, but it will, of course, have the effect of correspondingly reducing the cost of living to the consumer.

The second important provision is that in paragraph (25) of clause 2. Under item 62 (a) of the existing tariff, commercial vehicles of the kind referred to in the new item 62 (a) attract a duty of 15 per cent *ad valorem*, if their carrying capacity is less than 3,000 lb. The proposed amendment permits their import free of duty. This reduction of duty on the lighter types of commercial, industrial and agricultural vehicles removes a difference in treatment the reasons for the existence of which were, to me at least, not very clear. It will, I have no doubt, be warmly welcomed by hon. members of this Council. It is estimated that the proposed change will mean a loss of revenue of some £10,000.

The other amendments are of a very minor character, and their total effect on the revenue is estimated at only about £2,000. As I said earlier, I do not think hon. members will wish me to comment on the details here. If the proposals are all adopted, the total effect on the revenue will be a reduction of some £30,000.

At the committee stage of the Bill certain amendments will be proposed. The first is in respect of paragraph 15 of clause 2, where it is proposed to add the words "and flax" after the word "cotton" in the new items (d) and (e), and the words "making or" after the word "for" in item (e). So that item (e) would then

read: "Cotton and flax twine for making or repairing fishing lines and fishing nets and netting free". The reasons, I think, do not require any elaboration from me. In paragraph 25 of clause 2, in sub-item (c), there is, I regret, a typographical error, and the word "vehicles" in line 35, page 3, should read "bicycles". An amendment to this effect will be moved at the committee stage.

The third amendment will be a proposal to delete paragraph (30) of clause 2. Under item (73) of the existing tariff freedom from customs duty is granted on telegraphic and telephonic materials imported for the use of a public utility company. The Bill as it stands restricts this freedom from duty to the narrower concept of telegraph and telephone companies only. While this was the original intention of the committee, it might conflict with certain public utility legislation. Government feels that this aspect of the matter needs further consideration and it is proposed to refer this item back to the committee. As the item under reference is more restrictive than the provision of the existing tariff, no kind of hardship will be caused to anyone by its deletion.

The last amendment is with reference to paragraph (56) of clause 2, which is at the top of page 6 of the Bill. The intention of the amendment is to permit warrant officers of the King's African Rifles to import various items of equipment free of duty. The additional words should read: "and of Warrant Officers" and not "including Warrant Officers". The amendment is merely a verbal one.

In view of the proposed amendments, a further amendment will be necessary to provide for the date at which this Bill should come into force. This will have to be the 21st September, 1949, which was the date on which the Order under the Customs and Excise Duties (Provision of Collection) Ordinance came into force.

MR. HOBSON seconded.

The question was put and carried.

CUSTOMS TARIFF (AMENDMENT NO. 3) BILL

SECOND READING

MR. PADLEY: Mr. Speaker, I beg to move: That the Customs Tariff (Amendment No. 3) Bill be read a second time.

[Mr. Padley]

Under the provisions of item 160 (c) (iv) of the schedule to the Customs Tariff Ordinance, 1948, certain organizations are permitted to import goods into this country free of duty. These organizations include those concerned with the welfare of the armed forces. In 1948 two new organizations were set up in this country, the Y.M.C.A. at Mombasa and the Mission to Mediterranean Garrisons at Mackinnon Road. Both of these organizations are controlled by the Council of Voluntary War Workers, Middle East. They are sponsored by Army Welfare, they are used only by British service personnel and their families. They have in fact taken over the functions formerly carried out by Army Welfare, which already enjoys the privilege of importing goods duty free under the present tariff. The objects of this Bill are to enable the two organizations to which I have referred to import goods free of duty. The loss of revenue, if the provisions of this Bill become law, may be regarded as negligible in view of what I have said about the two organizations performing functions formerly carried out by another organization which enjoyed the concession.

Hon. members will have noticed that the Bill provides for the concession to be operated as from the 1st August, 1948. The reason for this is that both these organizations came into being on that date and have already been importing dutiable goods. Consequently, if the intention to allow them to import goods duty free is to be carried out, it is clearly necessary to give the Bill retrospective effect.

MR. MATTHEWS seconded.

The question was put and carried.

TOWNSHIPS (AMENDMENT) BILL

SECOND READING

MEMBER FOR HEALTH AND LOCAL GOVERNMENT (Mr. Mortimer): Mr. Speaker, I beg to move: That the Townships (Amendment) Bill be read a second time.

This small Bill is intended to make provision for dealing more effectively with what has become a menace to the stock industry of this country, that is the activities of certain stock-owners who

occupy the townships of the Colony with their stock without permission or licence or authority, who over-graze these township areas, who move stock illicitly, against the veterinary regulations, and who carry out many other activities which have become, as I have said, a serious menace. It is desired to make rules under the Townships Ordinance giving much wider powers for the control, or the prohibition in certain circumstances, of either stock or particular kinds of stock in townships, or in specified portions of townships.

It was found that the existing law was not wide enough in its rule-making powers. The proposal now is to extend the rule-making powers, to give wider authority to do any of these things, and also in certain circumstances to permit the court to order the confiscation of stock found illegally occupying township land, to have that stock sold and to distribute the proceeds as the court may think fit, either to the owner of the stock after the paying of expenses, or no doubt, in cases where the parties concerned have wilfully and deliberately defied the law over a period, to confiscate the proceeds altogether. That power is needed to put a stop to this illicit grazing in townships which is doing much harm to the Colony's stock industry.

MR. HOBSON seconded.

MR. PRESTON (Nyanza): Mr. Speaker, in rising to support this very essential and long overdue Bill, I should like to say how very glad I am that it has now come into being, because I feel it will allay a situation which has for so many years been a constant menace to the stock industry of Kenya.

The Stockowners Association, now part of the K.N.F.U., have spent years pressing for legislation which would control breeding stock in the townships, because it is common knowledge that those cattle, by virtue of their nomad form of existence, do more to spread disease in the Colony than any other herds. The recent serious outbreak of pleuro-pneumonia which spread from Naivasha right up as far as Muhoroni was directly traced back to a mob of cattle kept in the Naivasha township. Is it fair that a very small minority who by their anti-social attitude and lack of responsibility towards the

[Mr. Preston]

well being of other members of the community should be allowed to menace the existence of Kenya's most valuable industry, the stock industry?

It is quite obvious that the mere application of the laws of trespass are by no means an adequate deterrent to wholesale trespass from the township areas on to the farms and other settled areas, and the trespass with intent to steal grazing is not sufficiently punished by the penalties under the law of trespass. If we examine the figures of cases of trespass on one estate near Gilgil over a period of several months, we shall see that in spite of convictions and fines totalling over Sh. 1,000 during this period, those fines I understand were very cheerfully paid. After the infliction of a fine of Sh. 400 the last time the same people were again trespassing within 24 hours of the sentence. Quite apart from trespass, there is the question of breeding disease also, and I will quote the case of a farm near Gilgil on to which native cattle from the township were brought and taken to a valuable imported bull on this farm. The result was an outbreak of epizootic, leading to the destruction of two very valuable imported bulls. This country cannot afford the appalling losses we suffer annually, which run into thousands of pounds through the illicit movement of stock and uncontrolled grazing. These losses would not occur if the ordinary sense of civic or national responsibility were carried out and the idea of one's duty towards one's neighbours prevailed, but unfortunately in certain circles there does not appear to be the necessary public opinion to insist on this, and therefore until public opinion can be woken to a sense of responsibility it is necessary to replace public opinion by legislation.

There are other reasons which make it desirable for townships to have more control over the livestock in their areas. These are mainly concerned with the public health of the community. The township areas were originally made large enough to provide spaces of open land around the township for the recreation of the citizens of that town, but if these places are to be reduced to dusty deserts by ever increasing township stock then the health of the citizens must suffer. Therefore it is essential that the local

authorities concerned, whose duty it is to safeguard the health and well being of the citizens of the townships generally, should have power to act in the best interests of the community as a whole. It is therefore to be hoped that this Bill will not only receive the fullest support but that, indeed, it will be welcomed by all those who desire to see this colony develop to its fullest extent for the benefit of all citizens therein. (Applause.)

MR. MORTIMER: Mr. Speaker, I have nothing to reply to or to say except to thank the hon. member for his support and to congratulate him upon his very excellent maiden speech! (Applause.)

The question was put and carried.

MARKETING OF NATIVE PRODUCE (AMENDMENT) BILL

SECOND READING

MEMBER FOR AGRICULTURE AND NATURAL RESOURCES (Major Cavendish-Bentley): Mr. Speaker, I beg to move: That the Marketing of Native Produce (Amendment) Bill be read a second time.

If hon. members will turn to page 2 of the printed copy of the Bill, they will see that under the law as it stands today any licence to purchase produce when granted is subject to the payment to the licensing authority of a fee of Sh. 2. That fee is specific and at the moment statutory, but provincial commissioners and the administration generally have for some time past recommended that there should be elasticity in regard to the amount of the fee which can be charged, and it is for that reason that this amendment has been introduced. This Bill lays down that, "subject to the payment to the licensing authority of such fee as may be prescribed in respect of different declared areas of parts thereof". The second amendment which it is desired to introduce is merely to cross reference so to speak this Ordinance with the Ordinance which is now law and to delete the reference to an Ordinance which is now no longer in operation.

MR. HOBSON seconded.

MR. MATHU (African Interests): Mr. Speaker, I am not happy about the amendment contained in paragraph (a) in clause 2 which amends section 4 of the principal Ordinance, because I think

[Mr. Mathu] it gives very wide powers of prescribing these fees to any figure. I personally would be happier if Government found that Sh. 2 was an inadequate sum, would increase it to a known figure and ask us to accept it, but to give a blank cheque just for want of elasticity in this matter is, I think, to give powers that are too great. I would like to ask the hon. mover whether he would consider suggesting a figure and making it statutory as it is at present, a higher figure if necessary than Sh. 2 as that sum has been found to be inadequate, because at the present moment it is not only Sh. 2 that the actual purchaser of produce pays. He pays more. He pays the Sh. 2 as his licence fee to Government to purchase maize or some such crop, and he pays a higher fee to the local native council. Therefore it will be a heavier burden on the traders and purchasers, because this Sh. 2, which it is stated is not adequate, does not take into account the fees collected under the same Ordinance by the local native councils. That is why I feel chary about such wide powers being given to prescribe the fees as suggested in the first part of this amendment.

The other part of the amendment I think is reasonable, that certain areas should pay more than other areas, for I feel that having fixed a minimum in one area we should provide that in another area perhaps in economical difficulties we should fix fees that will be lower. I personally cannot accept the very wide powers given in this amendment, and if the hon. member would consider my suggestion or would postpone this Bill and put it to a select committee, I would be happier, but I will not accept the first amendment as it stands at the moment.

MAJOR CAVENDISH-BENTINCK: Mr. Speaker, the hon. member has raised the fear that extortionate or unreasonable fees may be prescribed. I would, however, point out that under this proposed procedure the local native council would be consulted. A recommendation will come forward from the district commissioner to the provincial commissioner, and the fees finally prescribed by the Governor in Council, so I hardly feel that the dangers he foresees are really very serious. However, I am quite prepared to go into the question of the possibility of

suggesting a maximum. I do not like it very much, I think it is probably a rather clumsy way of doing it, but I am prepared to consider that, and I suggest that the proper place to produce such an amendment would be in the committee stage of the Bill. If hon. members are agreeable, I suggest that we read this Bill a second time, and then I and the hon. member can decide what amendment he wishes to move in the committee stage. I think that will meet the hon. member.

The question was put and carried.

CROP PRODUCTION AND LIVESTOCK (AMENDMENT) BILL "

SECOND READING

MAJOR CAVENDISH-BENTINCK: Mr. Speaker, I beg to move: That the Crop Production and Livestock (Amendment) Bill be read a second time.

The real objective of this amending legislation is in order to apply certain provisions which are now largely exercised under the Marketing of Native Produce Ordinance to the Coast Province. It has been found that it is very necessary indeed to have some powers of licensing and control of trading in that Province, and the Marketing of Native Produce Ordinance is not applicable. That is our objective in introducing this amendment to the principal Ordinance. I feel, however, that it might be wise in view of the wording of the "Memorandum of Objects and Reasons", to give a little more explanation as to the working of this legislation.

The principal Ordinance was enacted in 1926 and it does give very wide powers indeed in regard to a whole host of matters, such as declaring the kind of crop which shall come within the operation of the Ordinance, improving the cultural conditions of the crop, generally improving the quality of agricultural produce, specifying what particular kind of crop can be grown, dealing with the destruction of diseased crops, and with the controlling of transportation, preparation for market, and marketing of agricultural produce for the purpose of sale—I will come to that in a minute—the inspection of a crop or agricultural produce, the disposal of surpluses and the fixing and collecting of fees and charges.

[Major Cavendish-Bentinck]

The powers given under that Ordinance, I would point out, are curtailed to the extent that it is the Governor who may by order apply the whole or any part of this very stringent power to the Colony, or to any part of the Colony, so that you have a safeguard there, and secondly, the rules that are made under the Ordinance are made subject to the approval of the Governor in Council.

I have given that explanation because in the memorandum of objects and reasons it says that "it is considered that the marketing of agricultural produce generally, and not only of native produce, could be similarly encouraged and assisted if powers existed to regulate it by statutory rules". That might cause, quite rightly I think, some fears in the minds of hon. members if a reasonable explanation of what is intended was not given.

This Bill is introduced in order to provide for the regulation, licensing and control of trading in any agricultural produce or crop, and the objective really is to bring that into effect in the Coast Province. Early on in clause 2 of the proposed amending Bill the following is substituted for paragraph (f) of the principal Ordinance: "Assisting and, if necessary, controlling transportation, grading, preparation for market and marketing of any crop or agricultural produce". The wording of the principal Ordinance at present is: "Assisting and, if necessary, controlling transportation, preparation for marketing and marketing of agricultural produce for purposes of sale". So that two alternatives are proposed. First of all we want to introduce power to make rules for grading, and secondly we have cut out, or propose to cut out, subject to the approval of this Council, the words "for purposes of sale". We badly need powers to deal with grading, which we have not entirely got at the moment, and secondly it has been found that it is very difficult indeed to control transportation and marketing of agricultural produce where, whenever you find some obvious misdemeanour, you first of all have to prove that the produce in question is being handled for the purposes of sale. It makes it almost impossible. Therefore we have asked for this amendment to be introduced.

I do not think I have anything further to say at this stage and I beg to move.

Mr. Honson seconded.

The question was put and carried.

DISEASES OF ANIMALS (AMENDMENT) BILL

SECOND READING

MAJOR CAVENDISH-BENTINCK: Mr. Speaker, I beg to move: That the Diseases of Animals (Amendment) Bill be read a second time.

Under the law as it now stands, whenever a person has been convicted of an offence against the Diseases of Animals Ordinance the court convicting such a person may, in addition or in lieu of any other punishment authorize by order that the animal, or any of the animals in respect of which an offence has been committed, should be forfeited. The law provides further that, whenever any animal is forfeited it shall be slaughtered or sold or otherwise dealt with as the court may direct, but the proceeds of the sale shall form part of the general revenue of the Colony. This provision in the law has led to reluctance on the part of magistrates to order the forfeiture of animals in addition to other penalties, where in their opinion the offence is not a very serious one, since all the proceeds of the sale must go into the general revenues of the Colony.

The law as it stands has also led to the peculiar situation where animals have strayed from or into a quarantine area and the Director of Veterinary Services advises that they can only be satisfactorily disposed of by slaughter within the quarantine area, but where the magistrates does not consider the offence sufficiently serious to warrant loss of the animals to the owners.

In this particular matter, as in the case of another Bill which has been introduced this morning, and as in the case of another Bill that may be introduced to-day or tomorrow dealing with resident labourers, we must remember that, if one is going to requisition animals or seize them, very often the so-called owner who is actually grazing these animals may only be part-owner, or the animals may belong to his relations or friends, often many miles away. I think we have to bear that in mind when we deal with these rather drastic powers. We consider it is most essential that magistrates should

[Major Cavendish-Bentinck] have power to use their own discretion as to whether they will requisition or seize the animal for an offence, and whether the owner or owners should lose the animal and the value of it entirely, or whether they will merely lose the animal and receive what it fetches when it is sold or slaughtered.

That is the main objective of the Bill which is before you, but hon. members will have received this morning a notice of amendment which it is suggested should be moved during the committee stage of the Diseases of Animals (Amendment) Bill. I do not know whether I have your permission to refer to a proposal which, although it does not appear in the printed Bill on which I am speaking now, has been circulated to hon. members this morning. It is proposed in the committee stage to move, that clause 2 of the principal Ordinance be re-numbered as clause 3 and that the following new clause be inserted as clause 2:—"There shall be substituted for the words 'The Governor may at any time by proclamation' where they occur in section 4 of the principal Ordinance the words 'The Director of Veterinary Services may by notice in the Gazette'". The object of that is merely this: that at the moment, before a farm or an area can be put into quarantine, the proposal that it should become a quarantine area has to go through devious channels, and finally up to the Governor himself for signature. That means, in my opinion, an intolerable delay, and I think that at this stage of the Colony's progress hon. members will agree that it is rather ridiculous that to put one farm in quarantine, or a small area in quarantine, one has a procedure which entails signature by the Governor himself. It was in order to do away with that anomaly that I am seeking permission to introduce this other amendment at the committee stage.

Mr. HOBSON seconded.

The question was put and carried.

Council adjourned at 11 a.m. and resumed at 11.15 a.m.

SUSPENSION OF STANDING RULES AND ORDERS

Mr. O'CONNOR: Mr. Speaker, with your permission I move: That Standing Rules and Orders be suspended to enable the motions of which notice has

been given this day to be taken without further notice. I would ask leave to defer the first motion, dealing with the select committee report on the Legislation (Application to High Commission) Bill and the third motion which deals with the continuance of certain sections of the Legislative Council (Amendment) Ordinance, 1948.

Mr. HOBSON seconded.

The question was put and carried.

SALARY SCALES OF INDIAN PRINCIPALS

SECRETARY, D.A.R.A. (Mr. Deverell): Mr. Speaker, I beg to move: Be it resolved that the select committee report on the salary scales of Indian principals of Indian secondary schools and the Indian inspector of education be adopted.

Before I speak to the merits of this motion I think I should offer a few words of explanation as to why this motion has been moved, as it were, from the outlying fringes of this Council. (Laughter.) The reason is a simple one. That is, that when this particular select committee was convened I was then temporarily acting as Financial Secretary, and in that exalted and onerous capacity I became *ex officio* chairman of this committee.

Hon. members will recall the occasion of this select committee, that it sprang from recommendations of the Salaries Commission. These were, in brief, that the scale of £560 to £750, that is the scale of Grade I Assian teachers, should apply to the three posts of Indian principals of Indian secondary boys schools and to the post of Indian inspector of schools. When, however, the Standing Finance Committee considered these recommendations and the recommendations of the Salaries Commission in general and these in particular they came to the conclusion that the scale of £560 to £750 was inadequate; having regard to the very large size of the three Indian secondary schools concerned, that is the schools at Nairobi, Mombasa and Kisumu, and the importance of the post of inspector of Indian schools, and recommended instead that, if the present practice of employing Indian principals continued, the salary scale which should be adopted should be £725 by £25 to £800. The Standing Finance Committee

[Mr. Deverell]

did not in reaching this conclusion simply grasp the scale as it were out of the air; in effect they selected the scale as the logical result of applying the three-fifths rule to the scale applicable to senior European education officers.

When, however, the recommendation of the Standing Finance Committee was debated in this Council, I think in January last, certain hon. members (and in particular the hon. member Mr. Patel) protested that the substantially increased scale recommended by the Standing Finance Committee—I say "substantially increased" because the previous scale was £450 by £15 to £600—was still inadequate. As a result of further representations it was agreed to refer the matter to a select committee for further examination.

That, then, is how this motion is before Council to-day.

When the select committee came to direct their minds to this examination it had to ask itself two fundamental questions. The first was: Assuming that the three-fifths rule applied, was the equivalent of the European scale adopted by the Standing Finance Committee as the basis of their calculation reasonable? And the second was: If the answer to the first is "Yes", will the scale be likely to attract suitable officers?

The majority of the select committee, with the hon. member Mr. Madan dissenting, came to the conclusion regarding the first question that it was entirely reasonable to equate the salaries of the Indian principals to that of senior European education officers, and that it was unreasonable to estimate the status of these posts any higher. The answer, then, to the first question was an emphatic "Yes". The committee then turned to the second question which is, of course, the crucial one, and considered whether in fact the scale of £725 by £25 to £800 as compared with the scale recommended of £560 to £750 to the previous scale of £450 to £600 was adequate to secure the services of suitable principals and for the post of Indian inspector of schools. In considering these points the committee had the benefit of the advice of the hon. Director of Education, who assured us that there were officers within the Service suitable to fill these important posts and that he

would prefer those officers to fill them rather than to take a chance on obtaining officers from outside the Service whose academic qualifications on paper might appear better but who would have had no experience of Kenya education and no certain aptitude for administering very large schools. The majority of the committee felt strongly that in view of this advice and in view, too, of the substantial increase in the emoluments recommended by the Standing Finance Committee there was no possible justification for recommending a higher scale.

I realize that this recommendation of the majority of the select committee will disappoint some hon. members, as it has disappointed the hon. member Mr. Madan, who has expressed his views in a minority report, but I should like to add that if, in the event it is proved that the majority are wrong and that the hon. member and those who think like him are right, and that in fact it will not be possible to secure the services of suitable officers because the salaries offered are too low, it will always be open to hon. members to make representations to Government, who share with hon. members opposite the belief that a good and efficient staff is of more importance than any other single factor in education, that the salary scales should be increased.

DEPUTY CHIEF SECRETARY (Mr. Thornley): Mr. Speaker, I beg to second, and reserve my right to speak later in the debate.

Mr. PATEL (Eastern Area): Mr. Speaker, as the hon. mover stated during the course of his speech, I am thoroughly disappointed at the report of the majority of the members of the select committee. In my view, those members have failed to appreciate the need for raising the standard and direction of education in the secondary schools. I am not surprised that the majority of members have done this, particularly when the hon. Director of Education stated that he could find suitable persons among his present staff. If there are suitable persons among his staff who can become principals of these very big Indian secondary schools I do not know why he did not appoint them many years ago.

I personally, and I have mentioned it several times in this Council, have held

[Mr. Patel] the view that it is necessary to recruit highly qualified Indians, particularly those who have had their education in the United Kingdom, to become principals of these Indian secondary schools. Well, as the majority of the committee have decided the proposed scale, I am quite certain that my views in protest will be of no avail, but I should like it put on record for this purpose. If in future at any time it is shown to this Council that the scale applicable to Indian principals of Indian secondary schools is not adequate it may not be said then that we did not raise any protest at the time this motion was moved.

I feel that the Education Department is not up to date in its information about the needs of Indian secondary schools. To give only one instance. The Indian principals to-day who are directing the education in these schools are housed as if they are junior clerks. I pointed this out to the hon. Director of Education some months ago, that immediate steps should be taken to see that these principals are at least given good quarters where they can meet prominent people in their own houses. The principal of the Alidina Visram School is to-day housed in a place where an ordinary clerk would live, and no steps are being taken to rectify this. The attitude of the Education Department and, if I may say so, of Government, is that they do not consider such needs in a proper manner. It is something like this, a young child who may be given trousers by his father, who insists that he should wear the same trousers even when he has grown up because his father did not care to understand that the child would grow. The status of Indian principals has grown, but they must live like junior clerks in the quarters allotted to them.

With this mental attitude towards Indian education I did not expect anything better than what the majority of the committee have recommended, and I should like to register my protest very strongly.

MR. NATHOO (Central Area): Mr. Speaker, I entirely share the disappointment of my hon. friend Mr. Patel when he made his remarks on the majority report. I am sure hon. members will remember that during the last budget session the hon. member Dr. Rana and my-

self stated in open Council that we knew we could not get suitable Indians to fill the posts of principals of these big secondary schools at those scales. I have no hesitation in saying that no Indian who has taken his education in the United Kingdom and obtained the qualifications which will enable him to fulfil the post of principal of a secondary school will come to this country at £800 a year. I think the hon. Director of Education should, before tending his advice to the committee, have addressed a letter to the Governments of India and Pakistan, and I am positive he would have received a reply in the negative. In these circumstances it is a matter of great regret that the present principals—I have nothing to say against personalities, I am not making any aspersions against anybody—but I am quite sure the qualifications which these present principals hold will not make them suitable as principals of the big centres, able to enforce the discipline which is necessary, and to bring these schools to a very high level.

In considering the status of the headmaster of a parallel English school the greatest possible attention is paid to the man's personality, qualifications and experience. I am sorry to say that the same care is absolutely lacking in the case of Indian schools. I feel that the mental attitude of the Government towards Indian education is stepfatherly and stepmotherly, and the only thing I can suggest is that in a few years time we will have to come back to this Council to ask for revised scales. In the meantime the Indian population of Kenya will suffer as it has in the past, but perhaps by that time we may be wiser and more sympathetic towards Indian education.

In the circumstances I should like my protest to be recorded against the views of the majority committee as expressed.

MR. MADAN (Central Area): Mr. Speaker, the hon. members opposite and most hon. members on my right must be saying that I am responsible for starting the trouble because I put in a minority report. I am not sorry I did so. In fact I am glad that I put in the minority report because otherwise I feel I would have failed in my duty. I want to make it clear that in asking for a few more pounds per year I am not asking, and the Indian members are not asking, for a little more money for Indian prin-

[Mr. Madan] cipals. That is not the point at all. We are asking for decent salaries for these posts so that they can be commensurate with the dignity of the work they do and with the responsibility that they have to discharge. When the post is taken away from an Indian and taken over by a European the degree of responsibility automatically increases and the strain of office becomes greater, and I, as a reasonable thinking person, fail to see the logic of it. For the same kind of post and less pupils a salary of £1,300 is given to European principals, while Indian principals are offered only £800 maximum salary. The reason given to us is that it is possible to fill these posts from local material that you have. Of course it is possible to fill these posts from the teachers that you have here, and the reason is obvious. The people you have now can grow grey and get bald on top, but they will never reach £800 a year, and if you offer them £800 a year of course they would jump at it and be only too glad to accept it. That is why you can easily fill the posts from the people you have now.

Therefore, in asking hon. members to approve a higher scale, it is not because we want a few hundred pounds more to be given to Indian teachers, but because we want you to think of the future, to think of the 3,000 Indian children in the schools now who receive only a kind of education. We ask you to think of these people grown up and as citizens of this Colony and not to worry about a few hundred extra pounds. We ask you to put in charge of these boys and girls people who can discharge their jobs properly. If you insist upon paying niggardly salaries for these responsible posts, as my hon. friend the Member for Central Area has pointed out, you will never get decent people, you will never get the people who should be there. You will get people who are drawing less salary and who will be only too glad to fill the posts because they can get a little extra money. This three-fifths scale is offered to principals who are supposed to look after as many as 3,000 children as against, say, the Duke of York School—I stand corrected if I am wrong—but I believe there are not more than 300 pupils there. We therefore ask hon. members to give due consideration to the reasons which are given in my minority report and not to

accept the majority report, because if we are to discharge our responsibilities towards the future citizens of this Colony, whether Europeans, Indians or Africans, then it is absolutely necessary that we must make a departure from salaries such as this, which no decent and honest person can accept.

MR. COOKE (Coast): Mr. Speaker, I should like personally to associate myself with what has been said by hon. Indian members. As a member of the Indian Education Committee which has just completed its report, I was convinced of the urgent need for raising the plane of Indian education in this country, and I must say I admit the wisdom and expediency of the advice of my hon. friend the Director of Education that we should have local appointees. Although I am fully aware of the financial implications and of the financial trials which this country must probably undergo in the near future, I feel so strongly that only the best is good enough in Indian education that I have no hesitation in supporting the hon. Indian members.

MR. HAVELOCK (Kiambu): Mr. Speaker, as a signatory of the majority report of the select committee, I should like to add my views on this advice and would like to oppose the remarks made by my hon. friend the Member for the Coast. I consider that the most important aspect for education of any race in this country is the local aspect. I do not consider that a man with letters behind his name, educated abroad, will be any better as headmaster of a school than a man who has local knowledge and local experience in this country. I feel very strongly on this particular matter, and it is quite obvious to any thinking person that the conditions of all races in this country are very different from the conditions of those same races in their own countries, and a wide knowledge of local conditions and the local difficulties of a tri-racial community is essential for the education of the youth of the country.

It has been made obvious by hon. members on the other side that there are suitable Asian teachers in this country who can accept the responsibilities of these posts. I would say that I am greatly surprised at the derogatory attitude the hon. Member for Eastern Area, Mr. Patel, has applied to the local Asian masters of this country. I am surprised

[Mr. Havelock] that he considers that, after their training here, they have not the capabilities necessary to carry out the work which they are asked to do. I would say also that, if what he says is the case and they cannot accept, or cannot bear the responsibilities asked of them, then to my mind the right procedure would be to appoint a European principal to these schools who has had local knowledge and who would be able to train not only the boys, but also the masters under his charge to take further responsibilities and to be appointed to higher posts later when they are ready. That, I believe, is the procedure which should be followed.

I beg to support the motion.

DR. RANA (Eastern Area): Mr. Speaker, it was not my intention at the beginning to participate in this debate, because, as you, sir, and hon. members are aware, I have said enough on the subject of Indian education and on the whole system of education which is being followed in this country. But a few remarks have been made by the hon. mover of this motion and others on this side to which I should like to reply.

First of all, I am very sorry that the majority report has gone back to the same old system of perpetuating unqualified, irresponsible and incapable principals of these secondary schools. I said it before, and I repeat it now, with all due respect, this is not only an injustice to the Asian community, but to the whole country of East Africa. I for one have always thought that education, it does not matter for what source or race or individual, should never be rejected. If it is the policy of the Government to give Europeans higher salaries, because they are undoubtedly in many cases better technically and professionally qualified, let us have European principals, but do not let us perpetuate the people who have already ruined the future career of our present generation by giving them a little bit more salary. As my hon. friend Mr. Madan has said, they will be only too pleased to have £100 or £200 extra.

The hon. Member for Kiambu said they want the local people: that is the newest theory I have ever heard in my life. If this country had to rely on local people, where would be to-day? It is only the outside people, with all their

knowledge and ability, who have been imported to this country who have been able to develop the country, and to tell us now that these local people should be kept on, God help us! In that case God help all other races! We should get away from this question of Indian, African and Arab children. Whoever is the best, let him have a better salary. All the African schools are being principalised by Europeans, highly qualified people. The Arabs have the same, and yet we wretched people are being told to carry on with the same people which the Government made the mistake of appointing.

Another thing is that the hon. Director of Education has said that there are no people available from outside. I myself have been responsible on two occasions for giving the name of an Indian. In each case the hon. Director said he would consider it, but he knew very well that their qualifications were such that many Europeans in the Education Department have not got them. He is afraid that if these gentlemen came, then the principals who have been employed up to now will be thrown out. I have not seen the report of the committee which was appointed as a result of my motion, but I hear they are suggesting a special education tax. If we are going to pay taxes, then for God's sake let us get the teachers we want and pay them what we like.

In these circumstances I am very sorry to hear that the scale has been raised to £800. The European community, with all due respect to them, their schools are being staffed by highly qualified people from Europe, not by Europeans born here. Why do you want to insist that we should depend upon the local people? What is good for the gander is good for the goose, or something like that. I repeat that European principals should be appointed for all the races, including our community, but to perpetuate the employment of inferior principals and waste hundreds of pounds on buildings. I think would be a great disservice, and I strongly oppose the majority report.

DIRECTOR OF EDUCATION (Mr. Patrick): Mr. Speaker, I should like to repeat the evidence which I gave before this select committee.

I stated that in the department at present there were at least six officers

[Mr. Patrick] who by qualifications, experience, ability and temperament, were fit to hold the four posts which the committee were considering, and I am still of the opinion that these local officers are fit for these posts. I am not starting any question of the three-fifths rule or salary, but I am supporting the local man when he is fitted for the job. Perhaps some information about recruitment from India will help at this stage. Since May of this year we have had 170 applications for teaching posts here, and of those 79 were graduates, and since the revised scales of salary were introduced recruitment from India has become very much easier. It is true that we have not had many applications from people in India who have British qualifications, but we have made representations to Government to improve that position. Locally, we have recruited recently seven graduates and nine trained teachers for the Indian schools, and I do not see any reason why we should pass over our local officers provided they have the capabilities for the office.

I beg to support the motion.

MR. DEVERELL: Mr. Speaker, I think that most of the points that have been made by hon. members opposite were in fact touched upon by me when I moved this motion. The fact is that we differ about the fundamental point, and the only one fundamental point at issue between us: whether these particular posts can in fact be adequately filled by officers trained from the Kenya Service or not? To my mind there is no matter of principle at all involved in this discussion, it is simply a question of fact and of commonsense. Our approach on this side of Council to the question is that we believe we can get officers from our local service who are adequate to fill these posts and we think it would be entirely wrong to look elsewhere while we hold that belief. If we are wrong in that belief, and my hon. friends opposite are right, time will show and it will be open to them to make what representations they care for better conditions of service.

There is one point I would like to say in conclusion. That is, to repudiate the remark made by the hon. member Mr. Nathoo, who said that Government's attitude towards Indian education is

step-fatherly, or perhaps step-motherly. (A MEMBER: Both!) Government fully shares the anxiety of hon. members opposite that the standard of Indian education should be raised, and I assure hon. members that it will do everything that is reasonable to carry that policy into effect.

The question was put and carried.

LOCAL GOVERNMENT (DISTRICT COUNCILS) (AMENDMENT) ORDINANCE, 1946

MR. MORTIMER: Mr. Speaker, I beg to move: Be it resolved, that section 3 of the Local Government (District Councils) (Amendment) Ordinance, 1946, shall remain in force until the 31st December, 1950.

This particular section precludes enemy aliens from having their names registered on district council electoral rolls and from voting at district council elections. During the war, this prohibition was covered by Defence Regulations, but when Defence Regulations ceased to be operative the provision was embodied in an amending Ordinance which is continued from year to year on resolution of this Council, so long as there are enemy aliens. The counterpart dealing with municipalities is covered by election rules which do not require the approval of this Council. There are still in our midst people who are technically enemy aliens, and it is felt to be right and proper that so long as that status remains they should be precluded from exercising their ordinary civic rights. As and when peace treaties are signed, and it is still to be expected that some time peace treaties will be signed, between all the previous belligerent nations, these people will cease to be enemy aliens and will revert to their ordinary status. In the meantime, it is considered desirable to prolong the prohibition.

DR. MACLENNAN seconded.

The question was put and carried.

NATIVE POLL TAX (MUNICIPALITIES) ORDINANCE, 1948

MR. MORTIMER: Mr. Speaker, I beg to move: Be it resolved, that the Native Poll Tax (Municipalities) Ordinance, 1948, shall remain in force until the 31st December, 1950.

[Mr. Mortimer]

This Ordinance was brought in about a year ago as a pilot scheme, and has application to the municipalities of Nairobi and Mombasa. It was recognized that the Africans who paid poll tax in those towns were much more favourably treated than those who paid poll tax in their local native council area; they enjoyed many amenities which are not available to residents in local native council areas and made no adequate contribution to the funds from which those amenities were provided. Furthermore, the municipal authorities of Nairobi and Mombasa were spending considerable sums of money on providing amenities for the Africans in their midst, and it was desired to have at their disposal a source of revenue from which the cost of such services could partially be met.

This Ordinance was passed, therefore, as a pilot scheme to provide that Africans in those two municipalities who paid their poll tax in those municipalities should pay a larger contribution than had hitherto been the case. The additional contribution is distributed between the local authorities, the local native councils and the Native Trust Fund. They now pay Sh. 22 in Nairobi, Sh. 22 in Mombasa if they are not coast residents and Sh. 20 if they are. The pilot scheme, I think, has worked reasonably well for this year, and it is desired to extend its operation for another year, and that, I believe, can be done with no hardship to any African concerned but with an assurance that the amenities which they have enjoyed and still hope to enjoy will be adequately provided.

DR. MACLENNAN seconded.

The question was put and carried.

EVICTON OF TENANTS (CONTROL) ORDINANCE, 1949

MR. MORTIMER: Mr. Speaker, I beg to move: Be it resolved, that the Eviction of Tenants (Control) Ordinance, 1949, shall remain in force until the 31st December, 1950.

This comparatively small Ordinance was enacted to deal with special circumstances which arise in an acute manner only on the Island of Mombasa. There are many small houses in Mombasa

which have been erected on land owned by someone other than the owner of the house. This is a custom under Moslem practice, and works reasonably well so long as land is not in high demand and has not attained any very high value. But in Mombasa the situation has recently become very acute. There are many hundreds of these houses built on someone else's land, and with the increased pressure on land in Mombasa the owners of the land were beginning to take action to evict the owners and occupiers of the houses, much to their detriment, and it was liable to create very severe hardship.

This Ordinance, therefore, was enacted first in 1948 and then re-enacted with certain amendments in July, 1949, and is to remain in force only until the end of this year unless its life is extended by resolution of this Council. It was expected that some permanent remedy would have been found for the rather serious situation that exists in Mombasa by this time. A committee appointed by the Governor under the chairmanship of Sir Howard Elphinstone has been investigating the whole problem and has made a report making certain far-reaching and costly recommendations. That report has not yet received the final consideration of Government, and until it has no definite policy can be formulated.

In the meantime, it is desirable as a social security measure to carry on this Ordinance for a further year, and that will preclude any land owner from evicting the tenants of such houses without the consent of the Rent Control Board of the Coast. That consent can be given only in certain specified circumstances. I think I shall have no difficulty in convincing hon. members of the desirability of extending the operation until permanent remedies can be found and applied.

DR. MACLENNAN seconded.

The question was put and carried.

INCREASED PRODUCTION OF CROPS ORDINANCE, 1942

CONTINUATION OF

MAJOR CAVENDISH-BENTINCK: Mr. Speaker, I beg to move: Be it resolved, that the Increased Production of Crops Ordinance, 1942, shall remain in force until 31st March, 1951.

[Major Cavendish-Bentinck]

As hon. members are aware, it has been our intention to introduce into this Council a Bill dealing with agriculture generally, which would have incorporated a great deal of what is at present contained in the Increased Production of Crops Ordinance. For various reasons that Bill has not yet been introduced, and I submit that it is absolutely essential that we should extend the life of the existing Increased Production of Crops Ordinance for one more year. Powers to do so are contained in section 43 of the Ordinance. We have prolonged it on many previous occasions.

I would point out that the whole of our agricultural set-up is largely dependent on this Ordinance: the creation of the Board of Agriculture, the Production Sub-committees, guaranteed minimum returns, and a whole lot of other provisions are provided for in this Ordinance. I do not think I need stress the matter any further, except to explain that the Ordinance would come to an end on the 31st March, 1950, and we cannot extend it to the calendar year; we have to extend it to the crop year, which brings it to the 31st March, 1951.

MR. HOBSON seconded.

The question was put and carried.

PYRETHRUM (AMENDMENT) ORDINANCE, 1943

CONTINUATION IN FORCE

MAJOR CAVENDISH-BENTINCK: Mr. Speaker, I beg to move: Be it resolved, that the Pyrethrum (Amendment) Ordinance, 1943, shall remain in force until 31st March, 1951.

The Pyrethrum (Amendment) Ordinance ensures that there is a link up between the issue of licences under the Pyrethrum Ordinance and the planting Orders made under the Increased Production of Crops Ordinance. It places the issuing of a licence under the authority of the Chairman of the Board of Agriculture, and ensures that licences are only issued to plant acreages which have been authorized for planting orders under the Increased Production of Crops Ordinance.

It is therefore of importance, if we have extended the life of the Increased Production of Crops Ordinance, that we

should equally extend the life of the Pyrethrum (Amendment) Ordinance.

MR. HOBSON seconded.

The question was put and carried.

SUSPENSION OF STANDING RULES AND ORDERS

MR. O'CONNOR: Mr. Speaker, we have got through the business a little faster than I expected. With your permission, I would move the suspension of Standing Order No. 26 to enable the motion of which the hon. Financial Secretary gave verbal notice this morning, relating to the recovery of an advance under the provisions of the Agricultural Advances Ordinance, to be taken forthwith.

MR. HOBSON seconded.

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

AGRICULTURAL ADVANCES ORDINANCE, 1930

RECOVERY WAIVED

MR. MATTHEWS: Mr. Speaker, I beg to move: That this Council approves of recovery being waived in respect of a sum of £1,772 19s. 6d. advanced under the provisions of the Agricultural Advances Ordinance, 1930.

I may perhaps remind Council that the Agricultural Advances Ordinance, 1930, was an emergency measure which was necessitated by the slump conditions then prevailing. It was considered necessary to make advances to farmers who were on the verge of bankruptcy and whose farms would otherwise become derelict. This Ordinance provided, among other things, for the setting up of a Central Agricultural Advances Board, and it is interesting to note instruction 1 issued by the Governor in Council to that Board. It reads as follows:—"The creation of the Board is an emergency measure designed to meet the more pressing needs of farmers who have exhausted all existing sources of credit and who are faced with economic paralysis, but whom it is desirable in the interests of the Colony to maintain on the land". It is clear therefore that the risk of advancing money where proper security did not exist was fully appreciated, and in the circumstances prevailing was considered to be fully warranted.

[Mr. Matthews]

It is not surprising therefore that certain of those advances have proved in the long run to be irrecoverable. The Land and Agricultural Bank is now the agent of Government in the matter of recovery. Of course it takes every precaution to see that money is recovered, and only recommends waiving of recovery where in fact it is quite satisfied that no recovery can be effected. This is one such case, or at least there are several cases involved in this sum. I may say that this matter has been placed before the Standing Finance Committee which thoroughly examined the matter, and that body has recommended that recovery be waived. It is in these circumstances that I beg to move.

MR. PADLEY seconded.

The question was put and carried.

ADJOURNMENT

MR. RANKINE: That brings us to the end of the business which we intended to take this morning. We could go on now to the committee stage of Bills, but in view of the fact that I believe it is the desire of Council in any case to adjourn at half past twelve, I suggest that we should adjourn now and, with your permission and that of hon. members, I move the adjournment.

MAJOR KEYSER seconded.

The question was put and carried.

Council rose at 12.15 p.m. and adjourned till 9.30 a.m. on Wednesday, 26th October, 1949.

Wednesday, 26th October, 1949

Council reassembled in the Memorial Hall, Nairobi, on Wednesday, 26th October, 1949.

His Honour the Speaker took the chair at 9.30 a.m.

The proceedings were opened with prayer.

MINUTES

The minutes of the meeting of 25th October, 1949, were confirmed.

PAPERS LAID

The following papers were laid on the table:

By MR. RANKINE:

Estimates of the national income of the Colony and Protectorate of Kenya prepared by the East African Statistical Department.

By MR. THORNLEY:

Report on the Kenya, Uganda and Tanganyika savings banks for 1948, select committee report on Indian Education.

ADVOCATES BILL

FIRST READING

On the motion of Mr. O'Connor, seconded by Mr. Hobson, the Advocates Bill was read a first time, and notice given that the subsequent stages would be taken during this session.

EUROPEAN AGRICULTURAL SETTLEMENT (AMENDMENT) BILL

SECOND READING

DIRECTOR OF AGRICULTURE (Mr. Gillett): Mr. Speaker, I beg to move: That the European Agricultural Settlement (Amendment) Bill be read a second time.

It is regretted that we have had to come before this Council with a request for an amendment so soon after this Ordinance has been brought into operation, but I am sure hon. members will appreciate, when they see the amendments which are before us, that certain alterations to the principal Ordinance were of paramount importance.

The first amendment proposed is under section 6 of the principal Ordinance, in which it is requested that the Member may have the powers to resell surplus

[Mr. Gillett]

land bought on behalf of the Settlement Fund, and also to dispose of surplus assets. Those hon. members on the opposite side of this Council who have been closely connected with the European Settlement Board are aware that in the past we have purchased a considerable number of farms when they have come on the market, not always certain at the time of purchase that we are going to find a tenant to take up the property. Furthermore, we have purchased large farms and subdivided them into a number of economic holdings, and in certain cases we have had on our hands one or two subdivisions which have not been taken up by the tenants concerned. It is therefore requested in the amending Bill that the Member may have the power to sell any surplus land which the Board has and put the moneys accruing in the Settlement Fund.

The second point is regarding the sale of surplus assets. On many occasions the Board has bought farms as going concerns, including live and dead stock, and it is very often the case that the Board does not wish to hand over to its tenants, or its tenants may not wish to take over, certain of this live and dead stock. Whilst every step is taken to try and pass them on to some other tenant if he requires them, we have often certain surplus assets which we must have powers to dispose of. The second part of the amending Bill therefore provides, under the new sub-clause (6), that the Member may dispose of these surplus assets. These amendments to section 6 necessitate an amendment to section 5, in order to make provision for the moneys accrued from the sale of farms and assets to be paid into the Settlement Fund.

The next amendment comes under section 7, under the terms of which loans can be given to both assisted owners and tenant farmers, section 7 (1). The only alteration as regards assisted owners is the addition of the last three lines, which read: "and shall be secured by a legal mortgage or charge duly registered or by an agreement to execute a legal mortgage or charge entered into by such assisted owner". This is in fact what has been the practice in the past and is merely put into the Ordinance now in order to have it placed on a proper basis.

Turning to section 7 (2), the change here is very much more important and fundamental. In the past the Board has only been able to obtain security from tenant farmers in the form of an ordinary chattels mortgage. This, as I think is obvious to hon. members, has been quite unsatisfactory because we have in actual fact had to give loans to tenants before they have any chattels to mortgage, and this means that our security has been extremely small, unless we add chattels to the original mortgage, which necessitates re-registration. It is now proposed under this new section to introduce what is known, I think, legally as a statutory lien. That means that the Board has at any time the power to take over as security all the chattels of a tenant, including his growing crops and livestock. This, I am sure hon. members will agree, will give the Board very much greater security than it has had in the past, and is in the opinion of the Board a fundamental necessity that this change be brought about.

While these amendments have been put up, the opportunity has been taken to insert a new section providing that the Limitation Ordinance shall not apply to any suit, application or proceeding which has been made by the Board. I think the reasons for that are quite obvious and need no explanation.

MR. HOBSON seconded.

MR. COOKS: Mr. Speaker, I was somewhat disappointed that the hon. member did not take the opportunity when introducing this amending Bill to tell us something about the progress that settlement is making in the country at the moment.

I wish to make it perfectly clear that I am in full agreement with the principles of this Bill, and I am one of those who feel, and I am sure all the European members on this side of Council feel the same, that if this country is to advance economically, socially and politically we cannot do without the hard core, as somebody called it, of European settlement. But "good words butter no parnips", and I should like to know more about the economics of this scheme. As was said in a leading article in *The Times* the other day, "the grim process of economics cannot be helped by honest exhortations", and I feel more and more

[Mr. Cooke] good farming and good economics are closely allied.

I have here a statement about the progress made in Southern Rhodesia, a country which is not unlike Kenya in its growth, and I find that in Southern Rhodesia something like 500 settlers, new settlers, have been put on the land at a cost of about £1,200,000, whereas in Kenya I think I am correct in saying not more than 250 settlers have been put on the land at precisely the same cost. I know it will be said, and the hon. member has made allusion to it in his speech, that Kenya Government has had to purchase the land upon which settlement has been placed, and possibly Southern Rhodesia did not do so because a lot of the land in Southern Rhodesia was land reclaimed from the tsetse fly. But Southern Rhodesia had to drive good roads through the land and open it up as far as water and other amenities were concerned. The failures in Southern Rhodesia were less than 2 per cent, and I should like to have an assurance that the failures in Kenya have not been very much more than that.

The hon. member spoke of the giving out of land or reselling land which had come into the hands of the Board, and I would like to have a very definite assurance that land sold to settlers or to people coming to this country, whether it is under the settlement scheme or whether even moneyed people who have money to invest—and I know about the willing buyer and willing seller—is good land and not sub-marginal. I think that within reason everyone who comes to this country—and I know all about *caveat emptor* and all that sort of thing—can be assumed to look after himself. Nevertheless, he should be told of the difficulties under which he will labour in this country, and should be assured that the land is fit for cultivation. I know that the hon. Member for Agriculture will probably say that land may be sub-marginal for maize but may not be for cattle or stock, but it seems to me, and I have consistently raised the point in the Standing Finance Committee when the question of purchasing land has come up, it seems to me that a good deal of land which may be marginally fit for cultivation if in one large block of land of which some is cultivable may

become sub-marginal if given out without good land attached.

We want to avoid what happened after the first war, when a great many settlers found they could not carry on because of lack of finance or because the land was not fit to get a living from.

I will end by saying that I was as strongly in favour as anybody of settlement by Europeans in this country on account of the influence they could bring to bear on it for the good of all races as well as themselves, but we cannot face the prospect of failures, especially at a time when economics in this country must take a front place on account of the devaluation of the pound and various other movements in Europe, and we should be careful to see that the money spent is spent wisely and economically.

I should be grateful if the hon. member would deal briefly with the points I have made when he replies.

MR. BLUNDELL (Rift Valley): Mr. Speaker, I welcome this measure, and I do not believe really that there is any profit in comparing settlement schemes here with those in Southern Rhodesia in so far as capital costs are concerned. It would be just as logical to compare the cost of settling say 250 on the land in the United Kingdom as to compare the cost between settlement here and settlement in Southern Rhodesia. (MR. COOKE: Question.) I can understand the hon. member saying "Question", because I feel that in agricultural matters he has not a tremendous amount of wisdom. (MR. COOKE: I am talking of economics.) Nobody can give an assurance on the question of failures at the moment. It would be quite pointless to compare any failure figure here with Southern Rhodesia up to the present, because in a settlement scheme the percentage of failures must be taken on a long-term basis. You may have a man who fails because his wife is not suited to the hardships of farming. Those things are ironed out after the initial stages, but what will be the ultimate basis of whether a scheme is a failure or not is the long-term agricultural policy which the country concerned indulges in, and very little else.

On the question of the quality of the land, here again I think the hon. Member for the Coast speaks really, I think, from a rather vague knowledge of what

[Mr. Blundell] farm before he could put on his dairy herd. Quite obviously, the costs of the Kenya scheme on account of the different form of agriculture must be in excess of that of Rhodesia who, as I say, had a cash crop which brought in a good return.

The second point was in respect of failures. It is quite obviously too early to say yet what failures we are going to have, but I can assure the hon. member that our failures to date are financially nil. We have lost one or two through death, we have lost one or two from the fact that their wives could not make the grade, and we have lost one or two for other reasons, but taking it all round our tenant farmers are doing extremely well and are doing it, I consider, under very difficult circumstances.

He wants an assurance that land will not be sold which carries around its neck a label entitled "Bankruptcy". To say that shows, in my opinion, an utter lack of knowledge of the whole principles of the set-up and the relationship of the farm to the actual quality and capacity of the land itself. I will say one thing. The land which the Board has bought, the money which has been advanced to tenants, all those things have been examined very carefully by experienced farmers, all of whom were successful in their own spheres, and I do not believe that you can get any better sifting machine than that, the executive committee of the European Settlement Board, in this respect. I should like to record that, because I think that when ill-informed questions are asked in this Council it is as well to state quite frankly what one thinks.

MR. GILLET: Mr. Speaker, in regard to what the hon. Member for the Coast has said, the hon. Member for Rift Valley has rather taken the words out of my mouth. He first of all referred to the analogy between the Rhodesian scheme and the Kenya scheme, and I think the hon. Member for Rift Valley has replied to that, and made it quite clear that the two cannot be compared, and I honestly think that. On the one side, in Rhodesia the majority of the land settled on is Crown land, and the other, and I consider fundamental, point is that they had a cash crop to go straight in to, and a very profitable one at the moment, tobacco, so that they could get themselves on their feet within the first year, whereas in Kenya the new tenant farmer has had to struggle along with his cereals while cleaning up his

farm before he could put on his dairy herd. Quite obviously, the costs of the Kenya scheme on account of the different form of agriculture must be in excess of that of Rhodesia who, as I say, had a cash crop which brought in a good return.

The second point was in respect of failures. It is quite obviously too early to say yet what failures we are going to have, but I can assure the hon. member that our failures to date are financially nil. We have lost one or two through death, we have lost one or two from the fact that their wives could not make the grade, and we have lost one or two for other reasons, but taking it all round our tenant farmers are doing extremely well and are doing it, I consider, under very difficult circumstances.

As regards the third point, an assurance that people coming out under the scheme or other moneyed people would be given only good land, the answer, of course, in respect of those moneyed gentlemen is that the Board has nothing to do with them; they are protected by the Land Control Board, with which we are not dealing at the present moment. As regards the tenant farming scheme, I can assure the hon. member that we take the very greatest pains to see that every farm we settle a tenant on has got a sufficient proportion of virgin arable land to make it an economic proposition and, furthermore, in some of the more, may I say, sub-marginal areas we as a Board assist these tenants to get them established as rapidly as possible with their dairy herds.

The question was put and carried.

RESIDENT LABOURERS (AMENDMENT) BILL

SECOND READING

MR. MORTIMER: Mr. Speaker, I beg to move: That the Resident Labourers (Amendment) Bill be read a second time.

The control of resident labour on farms in this Colony is governed by this Ordinance, which has been on the statute book since 1937, and as hon. members are aware the number of stock and the conditions on which resident labour may stay on farms are controlled by orders issued by district councils. It is extremely difficult to obtain full compliance with these orders, particularly in relation to the number of stock that may be kept

(Mr. Mortimer) by any individual resident labourer. I should not be at all surprised to learn, although no very accurate figures are available, that many thousands of stock are illicitly occupying farms which come within the scope of this Ordinance.

The law prescribes the conditions on which stock may be kept, and the district council orders, which have the ultimate sanction of the Governor in Council, prescribe in any individual area the precise numbers that may be kept by any individual resident labourer. When an offence has been committed by the owner of such stock—that is, when he is occupying land with stock above the quota allowed to him—the cattle may be confiscated under the existing law. When someone other than the owner has committed a breach, the cattle may be confiscated, but only if it can be proved that the offence was committed with the cognizance and consent of the owner of the stock. That is something which it is extremely difficult to prove. First of all, it is often very difficult to find the owner, and once having found the owner of the stock, it is extremely difficult to prove that the stock were there with his cognizance and consent; as a result, a magistrate is usually unable to carry out the penalties prescribed by the law.

Another difficulty has come to our knowledge, and that is that magistrates are in fact very reticent about applying this extreme sanction of confiscation of cattle, because the law does not permit of any distribution of the proceeds of the sale of such cattle to the owner or to anyone else, and, because, therefore, the application of the Ordinance in its full rigour would involve an element of injustice, the penalty of confiscation is but rarely applied. What we propose to do now by this short amending Bill is, first of all, to remove the phrase about the cognizance and consent of the owner, and to assume that all cattle found illicitly grazing are there with the cognizance and consent of the owner; and secondly to provide that the magistrate in ordering the confiscation of such cattle may direct that the proceeds of the sale, or any portion thereof, shall be paid to any person appearing to be the owner of such stock.

In cases of flagrant abuses of the law and wilful defiance over periods, the

magistrate may refrain from giving such a direction, in which case the proceeds of the sale will go into the general revenues of the Colony. It must be quite obvious that in offences of this kind the only penalty that can have any effect is confiscation of the cattle. Fines and imprisonment really make very little impression upon the problem. Confiscation must therefore be applied if we are to reach any real solution of the great problem of illicit grazing of cattle by resident labourers. We have removed, or we are removing by this Bill, any injustice or hardship by giving the magistrate power to direct that the whole or some part of the proceeds of the sale of the cattle shall be given to the owner, where he is satisfied that the offence is not very flagrant and where such a disposition of the funds would be just.

MR. HOBSON seconded.

MR. MACONCHIE WELWOOD (Uasin Gishu): Mr. Speaker, I rise to support this amendment, firstly because it is to my mind the first step we have taken to solve what is a Colony-wide problem—that of illicit stock held by resident labourers. I hope that as a result of this Bill the new powers will be used most fully by magistrates. If it is not used fully it will be quite valueless. It has even been suggested that this Bill should have made it mandatory on the magistrate in every case to expropriate and pay the proceeds of the sale of illicit stock to the owner. I for one could not support that because it might in certain cases lead to injustice, but I hope that Government is aware that this amendment will cover a very large number of stock, far more than I think most members of this Council imagine. In my district alone I think the figure of illicitly held stock could well be put at 20,000 to 30,000 head at the present moment, which figure would represent, I should say, at least 20 per cent or 30 per cent of the whole of the resident labourers' stock in the Uasin Gishu. I am told the same is true in the Nairobi area.

One other reason why I welcome this is that, if you are going to abolish stock held by resident labourers, which is the intention in the Uasin Gishu at the present time, in justice to the resident labourers themselves it is only right that the illicit stock should first be removed, and in doing so I hope that Government

(Mr. Maconchie-Welwood) will treat this matter very seriously and will arrange for holding grounds, so that this illicit stock can be kept and proper auction sales arranged, and as far as possible fair prices given. It may seem curious that in this Council I should argue the importance of fair prices for stock which are illegally held. My reason for doing that is that most of this stock is illicitly held to-day, partly because the reserves are quite unable to absorb that stock, and the resident labourer is in the position of either having to commit the crime of concealing the stock, or voluntarily selling it, which is of course what he ought to do but which he is not at the present time educated to do.

In the interests of the resident labourers who have to be returned to the reserves in the course of the next five years in my area, it is vitally important that the illicit stock should be dealt with in order that the reserves will be able to receive the legitimate stock at the ultimate end, because this squatter problem is not one which is entirely the fault of the resident labourer. It has been the fault of Government and it has been the fault of the European in the Colony, who have been quite unable to control the resident labourer. This Bill may, for the first time, give us an opportunity of setting our house in order, and I hope that I may take this opportunity now of saying that in the course of the five-year plan for getting rid of resident labourers' stock in the Uasin Gishu there are probably some 3,000 head of stock per month to be dealt with, and practically none of that stock can be returned to the reserve. I am quite certain the hon. Member for African Affairs, Mr. Chemallan, will agree with me when I say that the very smallest number of that stock should be absorbed into the reserve. Therefore it has got to be purchased, and as far as possible arrangements made in order that fair prices may be given.

I beg to support.

MR. MATHU: Mr. Speaker, it was not my intention to speak on this measure because I thought that, if there was any error at all, it erred on the side of removing hardship and giving justice to the resident labourer, but there are certain statements which have been made by

previous speakers on which I should like to comment.

First of all, the question of the holding of illicit livestock by the resident labourer is not from sheer criminality. The African resident labourer had, before the district councils exercised their orders, adequate areas on which to grow their crops, they had adequate numbers of sheep and goats to keep and graze on the farms, and they had also adequate numbers of cattle, and that prevented the resident labourer from thinking about wages. They laboured for the farmers at very low wages (Sh. 6 per month is not uncommon), their women and children went out to work, and because other things were favourable to them they did not bother about it. But now, when the areas for cultivation are reduced to one acre, one and a half or two acres per head of family, goats completely abolished, sheep reduced to 10 or 15 per head of family, wages not increased, cattle reduced to, I think, in most areas, five, in other places less, you can see how difficult the position of the resident labourer is economically. That is why, in order to get sufficient milk for the family, as the wages do not cover the expenses of the family, we can now talk about illicitly held cattle on the farms. I think that is a point which is worthy of stating in this Council because it is not all a one-sided issue.

Further, the hon. Member for Uasin Gishu who has just sat down referred to the question of returning the squatters to the native land units. In many areas that is a very, very difficult problem. Where is it proposed to return them to? Most of the areas are already overcrowded, eroded and agriculturally unfit to support human life. Further, originally in 1900, or 1901, up to 1905, when most of these farms were alienated, the European settlers themselves invited the Africans to come and work for them. I could give you cases of individual farmers I know of who begged these Africans to go on their farms, and now, when the prosperity of the farmer is beyond dispute, the labourer can have no stock, can have nothing, can go back to where he came from. Now, Sir, have we not heard the argument of the immigrant races of this country, the Europeans in particular, challenging the Colonial Government in England, saying "you invited us here, give us security?"

[Mr. Mathu] Can I not use the same argument in this case—you invited the squatters to come on to your farms, therefore give them security. (Applause.) It is that security that the African resident labourer has not got. The Uasin Gishu District Council, the Trans Nzoia District Council, all the district councils, are determined, and they are now asking the Government to be behind them, to remove the African. Can we really, in all sincerity, think that is humanitarian?

I do not want to go on with this slight irrelevance, but references have been made to this matter in dealing with the amending Bill.

I was surprised at some of the remarks of the hon. Member for Local Government. For the first time he has looked at the problem from one side, but on many occasions in this Council the hon. member has looked at problems from both sides. This time it is from the point of view of the district councils. I feel that if this measure is applied in the way exemplified by the hon. mover and the hon. Member for Uasin Gishu, the position of the African resident labourer in the Highlands is doomed. I do not know whether that is actually going to develop the Highlands at all. I feel that the future of the European Highlands of this country, the future of the farmers, depends upon the African resident labourer, and if you ruin the African resident labourer, ultimately you ruin the security of the European Highlands. If, therefore, we have to solve this problem, for goodness sake let us think of the children. They want milk, they want meat. If they do not get these things malnutrition will be the problem and the Member for Health and Local Government will come and say "look at these Africans, no health, just bones". Of course, no milk, no meat, no eggs, because they cannot get them and they have no money to buy them on the farm.

I would like to appeal to this Council to look at this problem. If it is only to order that cash be paid to these people I am quite happy, but we are going beyond that by administrative practice, and that is where I feel myself afraid that this will not lead to the harmonious relation which we want between employer and employee.

MR. SPEAKER: I would point out to hon. members that the bill of which the second reading has been moved merely amends a sub-section of section 16 of the principal Ordinance. In debating that it is not relevant to raise the principles of the principal Ordinance. The only principle that is at stake in the amending Bill is simply this amendment, and the debate should be confined to that. I would point out that I did not interrupt the hon. Member for Uasin Gishu because I thought that though he was irrelevant other members would recognize that and not take him up but would stick to the principles of the amending Bill.

MR. HOPKINS (Aberdare): Mr. Speaker, I would like to support this Bill and I am very puzzled that the hon. member Mr. Mathu should have taken up the hon. Member for Uasin Gishu. On his own saying it seems to be quite obvious that there must be some restriction of stock that is allowed in the Highlands, otherwise the Highlands will inevitably become as the native reserves. It is quite a common thing in my area—

MR. SPEAKER: I am afraid that the hon. member has taken no notice of what I was saying only one minute ago. If he will explain to me how his remarks are relevant to this amending Bill, I shall be pleased to hear him.

MR. HOPKINS: The amending Bill seems to me to give magistrates more power or flexibility in order that they can enforce the preservation of the rules as to the number of stock that can be kept, and it was on that that I was talking.

MR. SPEAKER: With respect, the amendment only relates to the enforcement of a penalty.

MR. HOPKINS: Well, sir, I accept your ruling, and I have just one other point to make. It is, of course, perfectly correct, as the hon. mover said, that the only real deterrent in a great many cases is confiscation of stock, and if a magistrate has to confiscate stock and deprive a man of the value of it, he very often feels that the sentence is vicious. There is more to it than that. In cases where a magistrate would confiscate stock, he almost invariably imposes a fine with imprisonment in default. If you take away from the unfortunate resident

labourer the value of his stock, he will have nothing with which to pay the fine, and the result is that he loses his stock, the value of it, and has no money to pay the fine, so he has got to go to prison and lose the wages he would otherwise have earned, and the employer loses his services, and so does the country. For that reason I should like to support the Bill very strongly.

MR. HAVELOCK: Mr. Speaker, may I tie my remarks to words appearing in this Bill: "Where any stock is found grazing on any farm or railway land"? The only point I wish to make is that under the present organization of Government I doubt whether any stock will be found grazing on a farm or railway land. I do submit that in this Council we often pass laws which are very admirable within themselves but are so often impracticable because staff is not provided or machinery set up to enforce the laws we pass. I am speaking in this particular instance on behalf of Nairobi District Council, a part of my constituency, and I suggest that if we pass such an amendment we must see that the law is carried out, and the only way is to supply the area with more resident labour inspectors. It is quite ridiculous to speak in this Council and give voice to vain hopes of what the Bill will actually achieve unless we go further in practical measures, and I hope Government will take note of my remarks in this respect.

I beg to support.

MAJOR CAVENDISH-BENTINCK: Mr. Speaker, the last speaker pointed out that in order to implement the section referred to in this amending Bill, more inspectors will be required and further steps should be taken to carry the law into effect. I would like again to stress what has already been said in reference to this amending Bill which, perhaps unfortunately, has given rise to a rather wide debate, that the very fact that we are taking very much more stringent steps to ascertain what the position is and to try and remedy that with fairness to both sides is the reason why we have found the necessity for this amendment.

In the Uasin Gishu area there will be shortly, if they are not already there, no less than four extra inspectors com-

plete with transport and staff, in addition to what is there already. When we have profited by their experience, and it is most important they should be persons who will deal with this very difficult problem with fairness but with sympathy and understanding, when we have these people properly trained we shall increase their numbers, and by degrees deal with other parts of the country in the same way.

I need not stress again that the object of this amendment is to remove what might have been an injustice in the law as it stands to-day. As was pointed out by the hon. mover of the Bill, cattle are often found trespassing whose ownership is very difficult to establish, and if those cattle were confiscated and the money went into general revenue, it would be very unjust on some of the relatives of the man who was committing the offence, or possibly on the owners of the cattle living some miles away. It is in order to deal with this difficult situation fairly that we have introduced this amending Bill.

MR. MORTIMER: Mr. Speaker, the hon. Member for Agriculture has covered all the relevant points that have been made in the course of the debate.

I was accused by the hon. member Mr. Mathu of taking up one side only in introducing this measure. The obvious reason for that is that the Bill before us deals with one side only (laughter), and therefore I should, quite rightly, have been pulled up for irrelevance had I gone into full details of the measures we are proposing for dealing drastically with the whole of the resident labour problem. I share the views that have been expressed by the hon. member to some extent, although he indulged in a little somewhat natural exaggeration, but this is not the time for a full discussion of that subject. It is, of course, certain that where privileges which have grown up in the course of years are being removed, some compensation in real wages will have to be contributed to make up any reasonable loss that has been suffered by the labourer. That is a very much larger problem which will have to be debated in this Council at some future date. I welcome the support given to this measure.

The question was put and carried.

COMPANIES (AMENDMENT) BILL.

SECOND READING

MR. MATTHEWS: Mr. Speaker, I beg to move: That the Companies (Amendment) Bill be read a second time.

This Bill is a simple Bill and, I sincerely hope, non-contentious. The position is that under the principal Ordinance there are provisions that lay down the conditions with which a prospectus for the raising of capital must comply. Recently the Board of Commerce and Industry had occasion to review these conditions, to consider whether or not they needed supplementing. That Board recommended to Government that there should be an addition made to the conditions, providing that a prospectus of this kind should contain a declaration of directors, or prospective directors, accepting responsibility for any statement made in the prospectus. Of course, the idea is to protect potential investors against being misled. Government has accepted this recommendation, and the Bill before Council provides for that acceptance. The measure follows the legislation in the United Kingdom, and I do not think anybody can possibly object to such a simple measure.

MR. HOBSON seconded.

MR. VASEY: Mr. Speaker, I would merely like to place on record the support of organized commerce and industry for this Bill.

The question was put and carried.

STANDING RULES AND ORDERS
SUSPENDED

MR. O'CONNOR moved, with the permission of the Speaker, that Standing Rules and Orders be suspended to enable the following Bills to be taken through all their stages forthwith: The Coffee Industry (Financial Assistance) (Amendment) Bill, the Advocates Bill, the Asiatic Widows and Orphans Pensions (Amendment) Bill, the Pensions (Increase) (Amendment) Bill.

MR. HOBSON seconded.

The question was put and carried.

COFFEE INDUSTRY (FINANCIAL
ASSISTANCE) (AMENDMENT)
BILL

SECOND READING

MAJOR CAVENDISH-BENTINCK: Mr. Speaker, I beg to move: That the Coffee Industry (Financial Assistance) (Amendment) Bill be read a second time.

It will be within the recollection of a great many hon. members that in 1944 it was necessary to provide for some financial assistance to enable planters, due to a series of bad seasons and the danger that quite a number of these valuable coffee estates might go out of production altogether. That Ordinance remained in force for some two years. A considerable amount of money was advanced to coffee planters under that Ordinance, and every penny of it was repaid. It did a great deal of good and helped a great number of very deserving people.

Now, with banner headlines in the Press, "Coffee being sold at £400 a ton", it may seem strange to hon. members that I should be reintroducing a similar Bill at the present moment. I should like therefore to stress what the situation really is and the reason why we are introducing this Bill.

Since 1941 there has only been one generally good coffee crop in the coffee-growing areas of this Colony. With the exception of one year, the Ruiru, Thika and Lower Kiambu areas have had consistently poor crops since 1941. Although the coffee industry as a whole will, of course, obtain a considerable benefit from the very high prices that are ruling, it must be remembered that they are under contract to the Ministry of Food for a very large proportion of the crop. Under the contract with the Ministry of Food, 2,000 tons of coffee can be sold in markets other than the Ministry, and as this year the total crop is not likely to exceed 6,500 tons—if indeed it reaches that figure—you will see that there is not a vast amount available for sale at these very high prices. Again, I would stress that some of the planters in the areas I have mentioned have in fact got no crop at all.

The Bill itself is merely a reintroduction of a measure which has already been passed by this Council in 1944, and it merely provides for certain alterations

[Major Cavendish-Bentinck] in reintroducing that Ordinance. The alterations are, mainly, that we naturally have to alter the date for the period during which applications for assistance may be made, and it provides for increasing the maximum sum per acre which may be advanced from £7 to £15. That, of course, is because costs of producing coffee to-day are very much greater than they were when the original Ordinance was introduced. It also makes provision for increasing from 14 to 30 cents per lb. the maximum amount by which a person to whom an advance has been made can be required to repay the sum advanced. Lastly, it is not possible to estimate whether, if this Bill becomes law, additional expenditure of public moneys will result. All I can say is that there is a committee which deals with recommendations for assistance when applications are received. The Land Bank is used as the agent, and on the last occasion when we dealt with the Ordinance, as I have already stated, the Government lost no money whatever. I have no reason to suppose that it will lose any money whatever on this occasion.

MR. HOBSON seconded.

MR. HAVELOCK: Mr. Speaker, I merely wish to welcome this Bill on behalf of my constituency which, as every hon. member knows, has a great interest in coffee, and to say that I agree with every word the hon. Member for Agriculture has said as regards the present situation. It is really tragic at the moment to go through the coffee plantations in the lower areas and see the trees standing almost bare, often not only bare of beans but also bare of leaves. I believe that the coffee planters have a very, very difficult time ahead of them in the next year or so. I would also like to point out that there are some people who have mentioned to me a criticism of this Bill, as, going to and fro during their trips over the week-end, they have seen some plantations with quite a lot of beans on the trees. I should like to point out that the great majority of those beans have absolutely nothing inside them. The situation is extremely serious. In my own case, I had a very good crop, of say 50 or 60 tons, but now I do not suppose I will get more than five. I should like to underline what the hon. Member said

in this connexion, and to welcome the Bill heartily on behalf of the coffee planters of Kiambu.

LADY SHAW: Mr. Speaker, may I associate myself with the remarks made by the hon. Member for Kiambu, as also representing a coffee district. I feel, I cannot let this go without saying how very welcome it must be to all the coffee planters in the lower areas. I beg to support.

The question was put and carried.

ASIATIC WIDOWS AND ORPHANS
PENSIONS (AMENDMENT)
BILL

SECOND READING

MR. MATTHEWS: Mr. Speaker, I beg to move: That the Asiatic Widows and Orphans Pensions (Amendment) Bill be read a second time.

The amendments proposed in this Bill are of a purely formal nature. They arise, partly because in 1948 the principal Ordinance was amended to allow for the case of a contributor having more than one wife. It is also necessary to amend part of the provisions because the Fund itself was closed to new entrants in 1942. The three amending clauses in this Bill are designed to make the position clear.

Clause 2 of the Bill amends the definition of "beneficiary" to cover the case of more than one widow. Clause 3 deletes from the original provision of section 16 of the original Ordinance all the reference to information now no longer necessary. For instance, the original Ordinance requires that a contributor must notify the Treasury in writing of his date of birth within three months of his becoming a contributor. As there will be no new entrants now, that of course has become unnecessary. Finally, clause 4 again makes provision in the case of a contributor having more than one wife and, when he dies, having more than one widow. As I said, these amendments are purely formal and do not need any very full explanation. In these circumstances I will not take the time of Council longer, and beg to move.

MR. HOBSON seconded.

The question was put and carried.

PENSIONS (INCREASE) (AMENDMENT) BILL

SECOND READING

MR. MATTHEWS: Mr. Speaker, I beg to move: That the Pensions (Increase) (Amendment) Bill be read a second time.

The substance of this Bill has been before this Council on more than one previous occasion, and I do not intend to weary Council by going over again all the arguments and statements that have been made about this matter. (MR. COOKE: We shall not be wearied!) (THE SPEAKER: Order!) I must ignore that interruption and proceed to summarize the position.

As will be remembered, a Bill for this purpose was introduced into this Council at the beginning of the year, but in deference to the wish of Council it was withdrawn, and a select committee was appointed with this term of reference. I quote: "to consider how the provisions of the Bill could be increased and to make recommendations". This report of the committee was debated in this Council at the last sitting and was considered paragraph by paragraph in committee. In spite of the fact, however, that the report was accepted paragraph by paragraph by the committee of the whole Council, except one small amendment right at the end, the motion that the report be adopted by Council was lost by a narrow majority in the Council itself. On that occasion, Government members refrained from voting.

Not unnaturally, this left the matter somewhat in the air, and hon. members felt some apprehension for the pensioners who were waiting for this relief. In reply to a question by the hon. Member for Trans Nzoia, the hon. Chief Secretary stated that, having heard the views of Council, Government would introduce a Bill at this session. It is in consequence of that undertaking that this Bill is now before Council. As I have said, the report which was debated in this Council and considered paragraph by paragraph in committee was accepted, except for one small amendment. The Bill now before Council is the original Bill amended to the extent recommended by the select committee. I think, therefore, that I can justly claim that the Bill represents the views of the majority of this Council. (MR. COOKE: Question.)

I shall, of course, deal with the Bill clause by clause, but, briefly, its object is to increase very much the range of relief. It raises the ceiling up to which relief can be given, it increases the amount of income which can be disregarded for the purpose of calculating the ceiling, and there are other similar provisions. The opportunity has been taken to rectify a number of anomalies which exist in the principal Ordinance. Those anomalies are of a very complicated kind, and I shall have to ask the indulgence of Council when I attempt to explain them. With those remarks, I now turn to the Bill itself.

Clause 1. It will be seen that clause 1 provides that the Bill shall come into force from the 28th January, 1945. This, of course, was the date on which the original principal Ordinance came into force.

Clause 2 raises the ceiling to £645 a year in the case of European pensioners and to £387 in the case of Asian pensioners; these compare with the existing ceilings of £452 and £197-10 respectively.

Clause 3 is the clause dealing with one of the anomalies to which I have referred. As matters now stand, a widow with one child is eligible for an increase at married rates, even though the child is over 16, provided that that child is receiving full-time educational instruction or training for any trade or profession. If, however, the mother dies, and the child is over 16 and less than 21, even though it is receiving full-time education and instruction, as the law now stands the child is not eligible for an increase. The amendment is designed to provide that in such cases the child shall be eligible for an increase at single rates.

Clause 4 is lengthy. It sets out class by class the increases in pensions to be granted at the various stages. This clause also seeks to rectify an anomaly existing in the principal Ordinance. The position under the existing Ordinance is this. If a widow is in receipt of a pension and she has one dependant, the increase is at married rates. If, however, she dies and leaves, shall we say, more than one child, technically speaking these children are regarded as one pensioner without dependants. In these circumstances they are entitled to an increase only at single rates. This may be all

(MR. MATTHEWS) very well in theory, but in fact caused hardship, and the present amendment is to secure that those children will receive an increase at married rates.

Clause 5 seeks to reduce the age at which a pensioner receiving a pension in respect of his own service becomes eligible, from 55 to 50. That, of course, increases the range in the manner I have stated.

Clause 6 is to provide for the case of pensioners on the revised rates of salary recently introduced. It sets out to eliminate any increase in the case of pensioners drawing pensions on the revised rates, but there is a proviso which covers the case of those pensioners who retire between the 1st January, 1946, and 3rd September, 1948, the date on which the salaries revision came into force. It is thought reasonable that where, in the case of such a pensioner, the revised pension is less than the old pension plus the increase to which he would become eligible, he should have the option of having the old pension plus the increase. The proviso takes care of that.

Clause 7 is of a comparatively minor nature. It increases the amount of what you might call private income that a dependant may receive without losing his status of dependant. Clause 8 increases the amount of other income which may be discounted in relation to the ceiling. Clause 9, apart from extending the life of the Ordinance to 31st December, 1950, is merely formal. Clause 10 is necessary because the method of calculating the increase of a pension is not only by percentage but also by the addition at certain stages of specific amounts. This clause provides for that change. Clause 11 is again formal. It repeals the 1948 Ordinance, because the provisions of that Ordinance are incorporated in this Bill.

I am sorry that I have had to take up the time of the Council on this rather complicated measure, but I think I may now leave the matter to the Council.

MR. HANSON seconded.

MR. COOKE: Mr. Speaker, I know that I shall raise the ire of the gentlemen on the other side of Council when I say that I am rather surprised at the casual way they have treated this very important Bill. The gentlemen on the

other side of Council, flushed as they are with the bloom of youth, may one day be hobbling through the streets of Nairobi with long grey beards and bent backs as many poor pensioners of this country at the moment are doing! Therefore I think they should show a little more sympathy with this Bill.

The hon. mover thought he might be boring this Council if he went into details, but I would remind the hon. gentleman that the last time the Bill was discussed was ten months ago, and the Council has had one or two additions since that date, and therefore I think the Council was entitled to be told in more detail exactly what the bill meant, and not only the Council but the country in general.

I expect the hon. mover has been confused by the fact that the select committee report was discussed in August, but the select committee report was only following on the amending Bill which came up, I think, in January or February last. When I spoke here in August, on the select committee report, I made three points. I made the point about the means test which I said was shabby and should be taken out of the bill. I made the point about the ceiling, which I said should be in the region of £600 and should be applicable to that amount to all pensioners irrespective of their condition and their pension, and I asked that the rate of pension should be increased. I am aware of the difficulty of the situation which England is now undergoing and through which this country may go, and therefore I think it is the duty of the pensioners to set an example to the rest of the country in this matter. Therefore I am not going to request the last and most important of these points, that is the raising of the rate of pension, because I think it would be unwise and unfair to do so at the present moment. But I would make this point clear, that later on, when we can see our way more clearly, it may be necessary to bring in a motion covering this question of pensions.

With regard to the means test, I am going to ask Government to cut that out altogether. It is recognized all over the world, and especially in America (from which we draw a good many of our economic dogmas to-day), that a means test is unnecessary and leads to a feeling

[Mr. Cooke]

of pauperization and a feeling of accepting charity. This fear of pauperization is very deep indeed in the minds of the British people. It emanates probably from the early 19th century, when the position in the agrarian areas was so difficult that wages had to be subsidized. From whatever it arose, however, it is a very deep feeling, and people resent very much indeed the fact that they have to disclose their incomes. I am not going to remind Council again that there are other Ordinances in this country in which the means test is not insisted upon where public moneys are involved, and I would remind hon. gentlemen on the other side also as I did before, that when the increased salaries took place last year we did not say to the wealthy members of Government—and quite a few have considerable private means—that there would be a means test before they could draw the increase on their salary. Therefore I appeal to the hon. gentlemen on the other side to give this request their consideration.

The other point is the question of the ceiling. We feel that every pensioner should be entitled to some increase, however slight. Therefore my suggestion is that everyone should be pushed up to £600, which is 2½ per cent increase for bachelors and 4 per cent for married people, and no one above £600 should be entitled to draw the increase over that first £600. It would bring some relief, and pensions should be increased all round to whatever sum the pension may raise.

There has been a great deal of talk about hardship, but I do not accept this criterion that hardship should be the yardstick by which increases should be judged. For one reason, we think it is equitable that there should be increased pensions and we do not think hardship should enter into it at all.

THE SPEAKER: Is the hon. member proposing to go on for some time yet?

MR. COOKE: About ten more minutes.

THE SPEAKER: It is now 11 o'clock, we had better let the debate stand over; the Bill will be in the order paper to-morrow.

MR. RANKINE: If we finish with the motions this morning, I suggest that we continue with the Bills.

THE SPEAKER: All right.

The debate was adjourned.

Council adjourned at 11.05 a.m. and resumed at 11.15 a.m.

LEGISLATION (APPLICATION TO HIGH COMMISSION) BILL

SELECT COMMITTEE REPORT

MR. RANKINE: Mr. Speaker, I beg to move: That the select committee report on the Legislation (Application to High Commission) Bill be adopted.

Although the select committee recommends that this Bill should be passed unamended, I understand that there are still some fears in the minds of hon. members regarding its implications, and therefore I think it necessary to give a little further explanation regarding the Bill than would otherwise have been necessary.

As hon. members will recollect, this Bill was given a second reading some time ago. In view of apprehensions which became apparent during the second reading, it was referred to a select committee. As hon. members will recollect the Bill is a very short and simple one and it provides that where in legislation the expression "the Government" or "public purposes" occurs, the Governor in Council may extend the provisions of that legislation to the East Africa High Commission and its purposes.

The select committee has been into the matter very carefully and it is of the opinion that hon. members need have no further apprehensions, and it recommends, as I have said, that the Bill should be enacted without amendment. There are one or two points that I should like to add to that recommendation by way of explanation.

The first is this, that the Bill is an enabling one and does not of itself confer any powers upon the High Commission whatever. Before any action can be taken the Governor in Council must make an order, and of course the Governor in Council can limit the effect of that order. Most of the apprehensions regarding this Bill arose, I believe, from a belief that this Bill would enable the High Commission to have powers compulsorily to acquire land. Well, as the select committee has pointed out in paragraph 66, as the law now stands the power vested in the Government of

[Mr. Rankine]

Kenya compulsorily to acquire land is contained in an applied Indian Act. This is not an Ordinance within the terms of the Interpretation and General Clauses Ordinance, and the provisions of the measure would not therefore apply to it. In other words, under this Bill the High Commission could not in any case be given powers compulsorily to acquire land.

Secondly, during the debate on the second reading I gave an undertaking on behalf of the Government that, if it was necessary to acquire land for the High Commission, the Government of Kenya itself would acquire the land and place it at the disposal of the High Commission. The select committee recommends that, in order to allay such fears as have been expressed, that undertaking already given should be repeated. Government is glad to do that and I give an undertaking that, if it is desired compulsorily to acquire land for the purposes of the East Africa High Commission, the Governor in Council would limit the extent of any order made under this Bill, if it were enacted, to the reference to public purposes in the Ordinance, and that the Government of Kenya itself would acquire the land and then place it at the disposal of the High Commission.

I hope that with the repetition of that undertaking the fears, if any, of the Council will be dissipated and that it will now see its way to passing the Bill.

MR. HONSON seconded.

MAJOR KEYSER: Mr. Speaker, I think that I expressed our fears when the Bill came up for the second reading at the last session of this Council. I think that the report of the select committee and the speech of the hon. Chief Secretary explain the whole situation, but they do not dispel the fears that he has mentioned, because the whole of these fears are in regard to the Indian Land Acquisition Act in the definition of the expression "public purposes", and until "public purposes" is given a closer definition than it has now, these fears must and will remain in the minds of all land-owners in the Colony.

I think that we should support the Bill as it is to-day, but at the same time I am of the opinion that Government should give an assurance that very early in the future an Ordinance will be introduced

into this Council, a Land Acquisition Ordinance, which will have a definite definition of "public purposes". No land-owners of this Colony are going to feel safe as long as the definition of "public purposes" is any purpose which the Government may call a public purpose, which is the situation as it is to-day.

So I must insist that the fears of land-owners have not been dispelled by the explanation given here, but I am prepared to support the Bill as it is.

MR. HAVELOCK: Mr. Speaker, may I ask that the hon. mover in his reply should make one matter clear. I am afraid I am not very clear on the details of this matter. It states in the report of the select committee that the whole thing is based on the Indian Acquisition Act of 1898, or some such year. How does that tie up with the powers of the Government compulsorily to acquire land under the Crown Lands Ordinance? Is there any connexion, or can this Bill in any way affect the provisions of the Crown Lands Ordinance, whereby the Government can re-enter for public purposes? I should like that point cleared up.

MR. COOKE: On a point of order, is this relevant to the actual report?

MR. HAVELOCK: It may have nothing to do with it, but I should like to have my fears cleared up.

THE SPEAKER: The words "public purposes" are quite broad in this Bill. It is not merely an amending Bill, it is an empowering Bill; it is rather wide, and I think the hon. Member for Klambo is quite in order.

MR. HAVELOCK: Thank you, sir. I had completed what I wanted to say. I should be grateful if my fears could be cleared up by some hon. member on the other side.

MR. HONSON: Mr. Speaker, I think that my hon. friends on the other side of Council are rather losing sight of the real purpose of this Bill, and that a great deal of heavy weather is being made about land acquisition, when this Bill is not especially concerned with land acquisition. The purpose of the Bill is to enable the High Commission to act under any Ordinance which at present exists in this Colony where powers are given to the Government and where these powers may be exercised for a public purpose.

[Mr. Hobson]

With regard to the points raised by my hon. friend the Member for Kiambu, I have not before me at the moment a copy of the Crown Lands Ordinance, but the only effect it could have is if the words "the Government" and "for a public purpose" are used in the Crown Lands Ordinance. If those words are there, then the Governor in Council could make an order by which for the words "the Government" should be read the words "the High Commission", and for the words "public purposes" should be read "the public purposes of the High Commission". That is as far as it can go. I would like to point that out and to ask hon. members not to lose sight of the purpose of this Bill. It is only an enabling measure and in each particular case the Governor in Council would have to make an order before it could be used at all. That is all I wish to say.

MAJOR KEYSER: May I, on a point of explanation, in view of what the last hon. member has said, say that we quite understand the thing, but there are, of course, implications in this Bill and we were dealing with one particular implication of the Bill. We fully understood the thing. He thinks that we possibly did not understand; we did, but there are implications in it and it was a particular implication that we were dealing with.

MR. RANKINE: Mr. Speaker, my hon. friend the Solicitor General has already replied to the points raised regarding the implications of the words "public purposes" in so far as it refers to the Crown Lands Ordinance. The hon. Member for Trans Nzola, if I understood him rightly, asked for an assurance that the Government would introduce a Bill to deal with the question of the compulsory acquisition of land at an early date and in it would define "public purposes". I am sorry that at such short notice I cannot possibly give him such an undertaking, and I do not really think that he can expect me to do so.

MAJOR KEYSER: On a point of order, this is not very short notice. This matter has been brought up on numerous occasions here, and in actual fact there was a draft Bill and a select committee of this Council sitting on that particular subject, which reported; so it is not very short notice. (A MEMBER: Two years. Two years, sir.

MR. RANKINE: No, his notice was two minutes ago, sir! As I have said, without time to go into the question of what has happened to that Bill, I am unable to give the assurance.

The question was put and carried.

LEGISLATIVE COUNCIL (AMENDMENT) ORDINANCE, 1948

MOTION TO CONTINUE

MR. O'CONNOR: Mr. Speaker, I beg to move: That it be resolved, that sections 2, 3 and 5 of the Legislative Council (Amendment) Ordinance, 1948, shall remain in force until the 31st December, 1950.

The Legislative Council Ordinance, 1935, was temporarily amended in 1948, and some temporary and rather complicated provisions were then added to an Ordinance which I at any rate find already sufficiently complex. So far as I can understand what those amendments effected, it was this. They provided that the word "Indian" was to include anyone who before, 15th August, 1947, would have been entitled to be a registered voter for the Central, Eastern or Western electoral areas. Secondly, that instead of two Indian members each being elected by Indian voters of the Central and Eastern areas, one Moslem and one other Indian were to be elected. Thirdly, each Indian voter was to be entitled to vote for only one candidate in the electoral area in which he was entitled to vote.

By section 8 of the Ordinance, sections 2, 3 and 5 which effected these amendments were to remain in force until 31st December, 1949, provided that the Governor with the approval of Legislative Council signified by resolution might by proclamation declare that such sections should "remain in force for a further period not exceeding two years from such date, or, in like manner, declare that such sections shall cease to have effect from such date as may be specified in such proclamation".

As you, sir, very well know, a committee has been formed to go into this subject and to decide what is to be done about Indian representation in those areas. I am informed that the report of that committee is expected shortly. When the committee has reported, the report will have to be considered, and some time must elapse before a policy can be framed and the necessary legislative

[Mr. O'CONNOR] amendments put forward. This motion is merely to extend the operation of sections 2, 3 and 5 of the 1948 Ordinance until sufficient time can elapse to enable the report to be considered and the necessary steps to be taken.

The motion is to extend the operations of the sections for one year, but as hon. members will have realized from the proviso which I have just read, that time can be shortened at any time by the Governor in Council supported by a resolution of this Council, should it be possible to effect the necessary amendments to the law before the date mentioned in my motion.

MR. HOISON seconded.

MR. PATEL: Mr. Speaker, I should like to place on record some explanation of this motion.

As hon. members are aware, owing to very unfortunate circumstances which arose due to the partition in India and for other reasons, on the eve of the general election last year this amending Ordinance was passed to meet the situation which arose then. The intention then was that a long range policy would be discussed later on and decided on, and, pending that decision this Ordinance would remain in force. This is one of the very few questions on which the Indian elected members hold different views. Three of the five members—namely, myself, the hon. members Mr. Madan and Mr. Pritam—hold different views on this question from my hon. friends Dr. Rana and Mr. Nathoo.

When this amending Ordinance was passed, as hon. Members are aware, three of the five elected members did not remain in the Council to show their disapproval of the introduction of this new principle of religion in the political representation in this country. Their view was well known to all the members who were members of the Council at the time.

Later on, when the new Council was formed, in order to continue their disapproval of this principle, the three members have remained absent from the first day of a new session every time.

I do not propose to speak at great length on this motion. I wish merely to point out that the Speaker's committee which was appointed has been busy finding a long range policy, and I hope

that this amending Ordinance will be replaced by a new enactment as early as possible. I appreciate the need for extending this Ordinance pending the enactment of a law which will cover a long range policy, and I also appreciate the need for moving this motion to achieve that purpose. At the same time, I would like to say that as far as the three members are concerned, we would like to see the long-range policy come into force as early as possible.

DR. RANA: Mr. Speaker, it was not my intention to speak, as my colleague's explanation was adequate, and as the hon. Member has narrated the whole of the history of this matter I do not want to go all over it again. But, while supporting the motion, I should like to tell the hon. mover that when the hon. member Mr. Patel said this was the one question on which we differed, I am afraid it is not the only one. It is a major one, but there are a great many others; for instance, immigration, of which we never agree.

MR. PATEL: On a point of explanation, I said one of the very few questions, not the only one.

DR. RANA: I accept that and will not say anything more.

Regarding the committee report, I am fortunately not a member of the committee, but from what I have heard of what the committee is to report, when Government takes up a long range policy I hope the hon. mover will not hurry that legislation without consulting both parties otherwise, although partition has taken place our relations, I am sorry to say, are not as I would like them to be. I should like it to go on record that whatever is done Government will not bring in legislation without taking us into their confidence so that something can be done to make the solution workable. With these words I support the motion.

MR. O'CONNOR: Mr. Speaker, I think the only thing which I wish to say with regard to the speeches of the hon. members opposite, one of whom asked for expedition and the other asked for delay, is to say that it would, I think, be premature at this stage for Government to indicate what its policy will be until the report is in its hands. But hon. members opposite can rest assured that the matter will receive the most careful and anxious attention.

The question was put and carried.

PENSIONS (INCREASE)
(AMENDMENT) BILL

SECOND READING: RESUMED

The debate was resumed.

Mr. COOKE: When we adjourned I was trying to deal with the matter of hardship, and I was protesting that the drafters of this Bill had accepted the sole criterion of hardship which had been laid down by the Select Committee in their report.

As I said before, we claim that this is a matter of equity, but taking up for a moment the argument of hardship I would point out the illogicality of the whole matter. A pensioner on £644 a year receives an increase of his pension to bring him to £645 a year, and I should like to ask Council by what stretch of imagination they can believe that a man on a pension of £644 a year has this hardship mitigated by the increase of £1 a year? I know the reply will be that they had to scale down to vanishing point this increase of pensions, but I would remark that I am surprised that the hon. Members for Nairobi South and Rift Valley should condone a practice by which public funds are dissipated in order to remove an anomaly. I cannot think that is good policy from the financial point of view.

Apart altogether from everything else, I submit that it is a hardship if a pensioner who retires at a certain date is expected to carry on when the pound has depreciated by nearly 50 per cent. I think it is a hardship for a pensioner to find himself on a pension which is adequate only to maintain him at a standard of living far below that to which he has been accustomed, and to accept a pension far below the standard of living which he had every reason to expect that he would be able to preserve when he did retire. I think that is very real hardship indeed. Therefore I cannot see why people on the scale of, say, £700 a year should be treated so scurvily.

Take a man, we will say, on £600 a year pension. His pension has been cut down to practically £300 a year because the value of the pound has fallen to about Sh. 10, and it is quite impossible for a man, taking the hardship argument, to maintain himself on anything like the standard that he could reasonably expect that he should have been able to maintain when he retired.

I quoted America, and if anyone would read the *Atlantic Monthly* for August he will find a very good article on pensions and the pensions policy in the U.S.A. The manager of the Kodak Works, for instance, one of the biggest companies in the U.S.A., writes as follows: "The management of the Kodak Company does not think it fair, or indeed good business, to release a long-service employee if he knows he will have to make too severe a reduction in his living standards."

We have asked people on £600 a year to take a reduction of £300 a year and to lower completely their living standards. The Director of the Kodak Company goes on to say: "An adequate pension has a stimulating effect on morale—the morale of the hon. gentlemen who are serving on the other side of the Council as well as the morale of everybody else—for both older and younger workers look forward to retirement with less worry about their economic security". So it has been accepted, by the leading economic nation of the world, at any rate at the present moment by the U.S.A., that it is not only equity but good business to see that pensioners are adequately looked after.

I am making this plea. I do not know whether hon. members on the other side will accept it or not, but in any case it is our intention to fight the matter clause by clause in committee and try to get some alleviation for the pensioners. We are not forcing now the question of an increased rate, because we believe this is not the time to do so, but if and when the time does come we shall bring a motion before this Council. That is all I have to say.

MR. BLUNDELL: Mr. Speaker, I seem doomed this morning to cross swords with the hon. Member for the Coast. When the hon. Financial Secretary was moving this Bill he stated that he felt it was in accordance with the wishes of the majority of the Council. The hon. Member for the Coast I think shouted "question". Of course, being an Irishman, he would naturally consider a minority a majority! I should like to assure the hon. member opposite that I believe the majority of the Council is behind the Bill before us. I would just like to refer to one or two things, but only shortly because we did deal with this in August.

[Mr. Blundell.]

On the question of hardship, I think the essence of the matter really is this. Nobody wishes to see a man who has given his life to the service of the Colony and to the service of the Crown reduced to great penury in his old age, but at the same time, in equity to the rest of the community, I do feel that we cannot admit that pensions must be insulated against all shocks, economic shocks, which may take place during the life of the recipient. After all, in the ordinary world, as opposed to what I think an attempt has been made to make a privileged world, a widow who invested her savings in such a business as the railways would expect a return of four per cent on her capital, whereas with nationalization and the issue of Dr. Dalton's specials at the rate of 2½ per cent she not only to-day has had a substantial reduction in her income, but also a substantial reduction in her capital. You have to bear that in mind. (Mr. COOKE: Then you should give no increase at all.) You have to take the argument from the point of view of the whole of the community and not from a specialized class.

I do ask hon. members opposite to press on boldly for this amendment. America has been quoted quite a bit in this debate, and I have only one thing to say. It rather appears to me as if we are tending to become, in a very small instance, like the American Congress, very much subject to the opinions of small pressure groups. I therefore support the Bill and ask hon. members opposite to push boldly forward with it.

MR. HOPKINS: Mr. Speaker, while I support the hon. member in his desire to get on with this Bill so that relief can become effective as soon as possible, I feel I must make some remarks to show that I think the Bill is inequitable and inadequate. In the debate on the Salaries Commission it was admitted by everybody that a civil servant's salary should be based on the length of his service, on his efficiency, and on the responsibility of his job, not on whether he had private means or whether his wife was able to go out to work and make money, or, conversely, if she was particularly prolific. It had to depend on these factors, and I think these same factors should be observed in giving relief under this Bill.

There is not the slightest doubt to my mind that people with large pensions and people with small pensions are both suffering from the reduction in the purchasing power of money, and it seems to me that neither the Government, nor a select committee, nor anybody else, can lay down a set of rules whereby it can be decided with equity or justice that this particular section of pensioners was suffering hardship which entitled them to relief, while another group of pensioners was not. Nor do I think anybody could really accurately gauge what was hardship to one individual pensioner as compared to another.

I am afraid I cannot appreciate regulations which award an increase to a man because he has not by his service been able to earn a large pension, but withhold it from those who have been Government's most responsible officials. Also, it seems to me that to impose a means test immediately a man goes out to do a job of work to try and increase his pension is merely putting a premium on idleness, and to put a limit to the amount which the pensioner can earn seems to me an endeavour to debar from pulling their weight in the community those very people one would wish to pull their weight as long as possible.

A means test seems to be undesirable even if it applies to unearned income, but it seems to me to be quite outrageous that as soon as a pensioner or his wife goes out to work the Government should cash in on it by reducing the amount he is paid as pension. The shopkeeper's wife can go on working, the wife of any hon. member can go on working, without any penalty, the wife of a pensioner who retired after the 1st January, 1946, can go out to work without penalty. The only penalty is that Government gets its rake-off in income tax, and that seems to be quite fair and applies to pensioners also.

Pensioners can be divided into several groups. There are the future pensioners, which I suggest are the biggest group, which includes hon. members opposite. They are in quite a good position because their pensions are assured on an enhanced scale because of the salaries revision. There are those who retired after the 1st January, 1946, whose pensions are also on the enhanced scale because of the retrospective regulations to

[Mr. Hopkins] which we agreed. There are the pensioners who retired before the 1st January, 1946, whose pensions do not reach £645, they also get some benefit, unless they are eliminated by the means test, and I do not imagine very many are going to be eliminated by that unless the inquisition is very close. Then there are also, strange to say, the people whose pensions were above £645 but who elected to commute some part of their pension, got a couple of thousand pounds, spent the money and are now brought within the scope of this Bill. They, too, are getting something—

MR. MATTHEWS: On a point of order, this is in the original Ordinance and does not form part of this amendment.

MR. HOPKINS: Very well, sir, I have said what I wanted to on that! (Laughter.) That leaves a very small section of pensioners who get nothing at all from this Bill and nothing at all from the salaries revision; there are 43 of these people whose pensions are over £645 per annum. Now, in the aggregate those men's pensions are actually nearer £645 than they are to £1,000 a year, but supposing they were £1,000, under this Bill, four per cent of that would be £40 per pensioner per annum, which would amount to running the country into the huge liability of £1,620 (or should be £1,730?), or something like that. It is also, I should point out, a vanishing liability. These pensioners are all fairly old and will not in the nature of things go on living for very many more years, and a great many of them, to my certain knowledge, are poor men. They are finding it very difficult to make ends meet, and whatever is given to them—even only £40 a year—is going to be of great benefit. Even though I am not pressing for that, I do press for what the hon. Member for the Coast has suggested: that all pensioners should get an increase up to the ceiling which has been decided upon, and also that the means test should be abolished.

A few months ago Government pressed very eloquently the case of certain teachers. I think they were Makerere teachers who did not come under the salaries revision as of right, and this Council—I think quite rightly—agreed that these people should be brought under the new terms. That cost Council

something like £9,000, if I remember correctly. It seems to me quite fantastic that this same Government should now be mobilizing all its forces to prevent some 42 pensioners from getting £1,200.

MR. ERSKINE: Mr. Speaker, when I was called upon to serve on this select committee to examine the Pensions (Increase) (Amendment) Bill, one of the first documents that I was handed included a letter from, I suppose, what my hon. friend the Member for Rift Valley would describe as "a pressure group" in England, one of the colonial pensioners associations. These people held a meeting in England and passed a resolution which stressed that they were keenly aware of the very serious hardships being endured by many of their former colleagues, and so forth. It was on that basis of "very serious hardship" that this committee started its work.

There are degrees of hardship, but it seems a little unfair to me that when we answered the plea to examine the hardships of the various individuals in certain categories, we should have a phrase like the "means test" flung at us, because when you come to think of it, if somebody comes to a committee and says "I am suffering very grave hardship" surely one is entitled to say to him "We will do our best to relieve your hardship, but what does it amount to?" If on inquiry we find that this particular person is married, shall we say, to a wife who has been lucky enough to win an Irish sweepstake, then I think we can safely say that he does not suffer from that hardship. (Laughter.)

So when it comes to a question of senior pensioners, here again we on the committee did not regard it as our duty to go into the question of maintaining those senior pensioners on the higher rates of pension in the state to which they were accustomed. It is, of course, no doubt a hardship that an ex-governor of Bonga Bonga is unable to maintain his subscription to his club in London, but that was not the type of hardship we considered it our duty to examine.

There is one other question. That is, where should these increases cease? If we resolved to realize the hardship of these pensioners on small pensions, there must obviously be a system of tapering, and for geometrical reasons if for nothing else tapering must end somewhere in

[Mr. Erskine] a point. It would have been a far greater anomaly had we tried to invent a different kind of tapering which ended, shall we say, with £20 a year increase instead of £1. There you would have got further anomalies. Somebody on £650 a year would get nothing, and somebody with £649 a year would get £20 a year extra, which would immediately put him in an advantageous position to the man slightly senior to him when he retired.

I do feel that we are dealing with a very delicately balanced structure in dealing with these pensions. It is something which is for the time being only. We are dealing only with those pensioners who are still alive and who retired from Government service prior to the 1st January, 1946. You will all recall that during the long and tedious debates on salaries revision, we were told on many occasions that it did not mean that all pensioners would immediately be put on to a new scale, but subsequently for reasons of very serious hardship it was decided that some relief should be given those who could show some very serious hardship.

We on the committee interviewed a large number of persons. We did find abundant evidence of very serious hardship, and I do feel that this Bill presented to us to-day does go as far as it is possible, as is reasonable, to relieve those persons who are suffering from very real hardship.

In conclusion, may I just say a few words in regard to the depreciation in the value of the £? It would be impossible for any Government, for any firm, for anybody, to follow their pensioners to the grave with adjustments every year in accordance with the depreciated value of money. When money depreciates in value, it means simply this, that everybody has to reduce their standard of living, everybody, and it is a very regrettable thing. But it is quite obviously impossible for one particular group of persons, pensioners, to be insulated from this unfortunate economic fact. Therefore, I signed with very great pleasure this select committee report, and feel that my colleagues and myself did as good a job as it was possible under the circumstances, and I support the Bill.

MR. VASEY: Mr. Speaker, I listened with interest to the assurance of the hon. Member for Rift Valley to the hon. Financial Secretary; that his opinion represented that of the majority of the Council. That may be shown as being correct when a vote is taken; but that does not say that the majority opinion is of necessity right, and that was the assumption from which the hon. Member for Rift Valley spoke.

Many times in this Council, and in particular over this Bill, a number of us have been in a minority. We have been voted down at the time, but I think the fundamental justice of our claim that a public servant who has given his time, his life, brains and energy to the forwarding of Government, the development of this Colony, is entitled to consideration. Such has been the justice of that claim that we have seen time and again measures brought forward to alleviate, and we have seen struggles of this kind take place.

I have only one other matter to refer to in the speech of the hon. Member for Rift Valley. The hon. Member for Nairobi South spoke about "pressure groups". I represent a community in which, I suppose, this pressure group of pensioners may be taken to exist. I have been approached by those pensioners with the request that I should come forward and try and justify their claim to get some benefit on their behalf. They represent exactly three people in a total voting capacity of something like 1,200, and I must pay great attention to the claims of a "pressure group" of that kind. Those of us who, perhaps to the annoyance and testing of the patience of our colleagues, have struggled on with this case, have done so because we believe that we are fighting a claim that is justice, and it is for no other reason.

I will only deal with one point in amplification of the speeches of the hon. Members for the Coast and Aberdare, that is on the question of the ceiling. We are agreed that there should be a ceiling. If you look at the ceiling placed in the Bill, we do feel that in equity and justice any increase that is given on the first £600 should apply throughout the entire scale. A pension in our opinion has been granted in recognition partly as a contribution so that the man concerned could safeguard his future and

[Mr. Vasey] partly as a recognition of the service he has given the country, and we believe that on whatever ground you argue the first £600 of that pension has been just as equitably earned by the recipient of £1,200 as by the recipient of £600, and on that ground we base our claim that there should be a reconsideration of this matter, and the whole of the first £600 in any pension brought into the scheme.

It is useless for us to vote against this measure, because if we do and if we succeeded in securing its rejection it would merely delay what benefit these "kindly and sympathetic people" to whom the hon. Member for Nairobi South referred had granted them. We know that we cannot introduce under our Standing Rules and Orders a direct amendment in committee increasing the level or trying to attain our object, because we would be ruled out of order on the ground that we have not the right to initiate expenditure. Nevertheless, all of us will proceed to struggle along these lines in the hope of convincing both the hon. gentlemen opposite and hon. members on this side that our struggle is for the rights of a very few people whom we believe are being dealt with hardly.

We shall therefore have to allow this Bill to go through whatever our feelings. That will not alter the determination I trust of the few on this side who will continue to struggle by means of motion and question for an adjustment of a position which we feel is wrong.

MR. MATTHEWS: Mr. Speaker, the points which have been made by those not supporting the Bill have to some extent been cancelled by those who have spoken in support of the Bill.

I should first like to associate myself very strongly with those who say that we must get on with this Bill, because the longer we delay it the longer the pensioners in need of relief have to wait. I therefore appeal to Council to go through with this measure as quickly as possible.

The arguments have come down to the question of the means test and the ceiling. Government's view has been that we must in this case set out to relieve hardship. Immediately you accept that position, it is inevitable that you must draw a line and say that above that

line people have enough means not to be regarded as suffering hardship and that below it the opposite is true. Immediately you have that principle, it is quite clear that when you have to decide whether a person is above or below that line it is necessary to have some declaration from them as to their income, so that the one demands the other.

Obviously, if you accept the principle that you have to relieve hardship, the spending of even £1 more on a case where hardship does not exist is quite unjustifiable, and I as the Member for Finance would not tolerate any such suggestion. It may be as the hon. Member for Aberdare said, that if we did this we should get an increase of a net total expenditure of only up to £1,600. But I would remind the hon. member that if we dealt with every case on such a basis, before long we should be in very grave difficulties.

The question of a tapering rate was dealt with by the hon. Member for Nairobi South, and I have nothing to add to it. I might say with reference to the remarks made by the hon. Member for the Coast, about the lowest person at £644 getting only £1, if the suggestion of an increased pension to those on £600 was made available to everybody right to the top a person on £1,000 a year would get £24. If that pensioner is suffering from a sense of grievance I wonder whether an extra amount of £24 a year would remove that sense of grievance. I am inclined to think not.

There is just one other point to which I should like to refer. The hon. Member for the Coast suggested that we on this side of Council should think of what effect the legislation might have upon us in due course; if not immediately, certainly later on. It is a very interesting and very nice thought. Whether we shall accept it or not is another matter, but if we did I promise this Council that they would see some very delectable pieces of legislation in due course!

The question was put and carried.

ADVOCATES BILL

SECOND READING

MR. O'CONNOR: Mr. Speaker, I beg to move; That the Advocates Bill be read a second time.

[Mr. O'Connor]

The law on this subject is at present contained in Rules of Court made under the Kenya Colony Order in Council, 1921, and under the Legal Practitioners Ordinance which came into force in September, 1906, and was amended by an amending Ordinance in 1929. The object of this Bill is to bring the legislation on this subject slightly more up to date.

I hope hon. members will not think that this topic has been broached with undue precipitancy or without due and proper attention. I see from my file that the first suggestion for amended legislation was made just over 14 years ago! Sir Walter (then Mr.) Harragin, who was then Attorney General, with his accustomed shrewdness, appointed a committee entirely composed of members of the Law Society to examine that proposal, and when they reported, about three years later, Sir Walter had been translated to another sphere. The then acting Attorney General said he would give the matter his attention as soon as time permitted. Apparently time did not permit for another two years or so, and by then we were at war and there were other and more pressing preoccupations to be considered. In 1945 the Law Society appointed a committee to go into the matter, and that committee reported in September, 1948, and sent forward a Bill, upon which this Bill is based, and another Bill for the incorporation of the Law Society. That was the position which I found. A Bill for the incorporation of the Law Society was passed at the last sitting of the Council, and this Bill is now before hon. members.

Both these Bills have been gone through very carefully with representatives of the legal profession, and I think that the Bill now before you does represent their considered opinion. This Bill should put the affairs of the profession upon a satisfactory footing. The Bill is divided into a preliminary portion and eight parts. It is largely a re-enactment of existing law, but there are a number of amendments, taken either from the Solicitors Acts in England or from the legislation of other colonial territories, which have been incorporated.

In the first place, the name of the existing Ordinance, the Legal Practitioners Ordinance, has been changed and

it is proposed that this should be known as the Advocates Ordinance. The gentlemen concerned cannot be called barristers or solicitors, as they are called in England, because here the professions are fused, and it is necessary to find some comprehensive name which will cover both branches of the profession. "Legal practitioners" is in my humble opinion a dreadful name and I much prefer the name which has been selected, namely "advocates".

Part I sets up an Advocates Committee. That is a committee under the chairmanship of the Attorney General. The Solicitor General is a member *ex-officio*, and three unofficial members, being practising advocates nominated by the Law Society of Kenya, complete the membership of the committee. That is an important committee because it is mainly responsible for the discipline of the profession. As I shall explain presently, applications for disciplinary proceedings come first to that committee, and it has an important new function also, which is to prescribe rules of etiquette and practice for the profession.

Part II deals with the roll of advocates and with provisions for the admission and enrolment of advocates. Under clause 7, any of the persons there enumerated may, after completing a period of 12 months residence in the Colony, be admitted. The persons concerned are:—(i) Members of the Bar of England, Scotland, Northern Ireland or the Republic of Ireland; (ii) persons who have been admitted and are qualified to practise as advocates before the Supreme Court or High Court of any Dominion, Commonwealth, or self-governing Colony in the British Empire, or before one of the High Courts in India or Pakistan; (iii) Solicitors, Attorneys or Law Agents of a Superior Court in a British Possession to which the Colonial Solicitors Act, 1900, is applied by Order in Council and who by virtue of the said Act and of any Order in Council thereunder may be admitted as Solicitors of the Supreme Court in England, Northern Ireland or the Republic of Ireland, and Scotland.

There is a proviso that a person may, notwithstanding he has not resided in the Colony for at least twelve months, be admitted as an advocate if the Chief Justice, on the recommendation of the

[Mr. O'Connor]

Law Society of Kenya, thinks fit". There has been some difference of opinion as to the desirability of inserting that proviso and making the matter discretionary, but it is the request of the Law Society that the proviso should be inserted and that there should be some elasticity in this matter.

"In considering the persons who should be qualified to be admitted to the local Bar, it is necessary to consider the nature of the training which those qualifications entail.

We have, first of all, members of the Bar of England, and we have members of certain Dominion and Colonial Bars, and then we have solicitors, and it is necessary to consider what each of those persons is likely to have learned before he comes here to practise in this Colony. Solicitors in England will have gone through a period of five years of articles, and they will have been at work in a solicitor's office and will have been in touch with the public and will know certain aspects of the practical application of their profession which it is very necessary for a person who is going to be in touch with the public to know. For instance, they will know something about advising the lay client, and such important matters as the keeping of trust accounts and clients' accounts. Barristers, on the other hand, who have the exclusive right of audience in the higher courts in England, will no doubt, if they have in addition to passing their law examinations spent a period of reading in chambers or in practice, have acquired a knowledge of advocacy, and may have acquired skill in the other special matters which barristers usually take in England, such as the higher branches of conveyancing and commercial drafting, but they will not as a rule have been in touch with the public. They will have been insulated from the public by the intervention of the solicitor, and they will not know certain things which it is necessary for a man who is going to be in touch with the public to know. That is the reason why this period of residence of twelve months is put in as a necessary condition of their admission to the local Bar.

I personally would much prefer to have seen inserted a provision that, in addition to residing in the Colony, they

must attend the office or the chambers of a practitioner here and really learn the local conditions and the things that it is necessary for them to know, because practice in one area or territory differs from practice in another territory. I made that suggestion, but it was not endorsed by the Law Society, and instead we have this provision requiring twelve months residence only, and it is, therefore, left to the individual concerned as to how he occupies that twelve months. There is nothing compulsory about it. But we have got one, as I consider, useful innovation, and that is that by clause 7 (2) of the Bill an applicant may be required to appear before the Council of the law Society for the purpose of an interview, and "such Council shall, after making or causing to be made such inquiries into the character, qualification and experience of the applicant as it shall deem necessary, forward to the Chief Justice a confidential report regarding the suitability or otherwise of such applicant for admission as an advocate". No doubt the Council, when forwarding that report, will take into consideration the manner in which the twelve months residence has been spent by the applicant in question.

I cannot stress too emphatically the necessity for a thorough and searching scrutiny of applicants for admission to the Bar. A strong, capable and upright Bar is a buttress to the Bench, and possibly the best security that we can have that wrongs which would not otherwise be heard of are brought up and righted. On the other side of the picture, a corrupt or venal or incompetent Bar can do an immense amount of mischief and can even result in a considerable obstruction of, and even a denial of, justice. It is very necessary to see that professional standards are maintained, and in saying so I feel that I shall have behind me the solid opinion of all hon. members of the profession in this place.

Part III deals with discipline and with the removal and restoration of advocates to the roll. An application to strike off a name from the roll has to be made to the Advocates Committee, which I have already mentioned, in accordance with the rules to be made under the Ordinance. The committee, after hearing the advocate concerned, on a prima facie case being made out, reports to the court, which has power to admonish or

[Mr. O'Connor]

suspend the advocate from practice for a specific period or to order that his name be struck off the roll.

Part IV deals with practising certificates. This is familiar law, and I do not think it requires any particular notice from me except to say that an adjudication in bankruptcy of an advocate will operate immediately to suspend his practising certificate.

Part V deals with privileges, restrictions and offences in connexion with the practice of advocates. Again I think that this calls for no special remark, as it follows almost exactly the law which has been in force in England and in other territories for a great number of years, and most of it is well tried.

Part VI deals with the keeping of accounts by advocates, the banking of clients' money and the keeping of clients' accounts. A breach of this part of the Ordinance may involve, in addition to suspension, very considerable punishment—a fine not exceeding Sh. 10,000 and refusal to issue a practising certificate until the fine has been paid.

Part VII deals with the very important subject of the remuneration of advocates and provides that a Remuneration Committee may be set up consisting of five advocates to be nominated by the Law Society. The Chief Justice, on the recommendation of that committee may make orders regulating the remuneration, and those orders are subject to the approval of the Governor in Council. In general, these provisions follow the provisions relating to solicitors in England. As I have already mentioned, we have here a profession where both branches are fused, so that we cannot follow the practice of barristers in England where a fee is marked on the brief of a barrister.

As is probably known to hon. members, a barrister's fee is considered to be an honorarium and he cannot sue for it if he is not paid. That goes back into the mists of antiquity. Legend has it that it arises from conditions where barristers followed the judges round on their circuits and entered into learned disputations on the common law. They used to sit on the front bench in court, and anybody who wished to retain their services did not commit the solecism of offering

a fee but would come behind and drop guineas into a pouch which conveniently happened to hang on the back of the barrister's gown. The barrister was quite oblivious, of course, of what was happening, but when by the number of chinks heard he thought he had been sufficiently insulted he rose to his feet and entered into the forensic fray. (Laughter.) He took the precaution, however, of pulling a string in the front of the gown which closed the neck of the bag (laughter), whether out of tenderness to the client's pocket or as a precautionary measure in case the angry man might attempt to recover some of the fee if he lost the case, I have been unable to discover!

In contrast to that intense delicacy of feeling with which a barrister approached the subject of remuneration, a solicitor's attitude has always been, shall I say, more realistic. A solicitor has always been entitled to put in a bill for his services and to sue for the amount if he did not get paid. That is the system which has been imported into this Bill. It has been the system which has been in force in this territory for many years, and I think the system is in force in all territories where the professions are fused. There are elaborate provisions which I need not go through, regulating the costs which may be charged, and providing for their settlement by the Registrar of the court.

Part VIII deals with various miscellaneous matters with which I do not think I need take up the time of the Council.

I should like before I sit down to quote, if I may, one passage from a standard work on the law relating to solicitors. It is very short. The learned author says: "It cannot be too strictly emphasized that the legal profession secured its privileges originally and is permitted to retain them because it is for the protection and advantage of the public that they be exercised only by those who, by training and tradition, and, if necessary, by discipline, can be relied upon and trusted". The legal profession has a tradition. The practice of appointing attorneys to represent litigants in court goes back to the dim mists of antiquity, it was certainly in force before the Statute of Merton, and the Inns of Court were flourishing insti-

[Mr. O'Connor]

(tutors in the 12th century. We have a tradition), and this Bill will secure by its provisions regarding qualifications that the learned gentlemen who practice the profession here shall have the training and, if necessary, as the learned author says, that they shall be under discipline. I feel sure that we can rely upon them to maintain the great and honourable tradition of their profession.

I have almost finished what I have to say. I believe this to be a good Bill, and I think that the profession owes a debt of gratitude to the gentlemen who have laboured to bring it to its present state. I would particularly like to mention the names of Mr. Humphrey Slade and Mr. Barret, who have been in this almost from the start (hear, hear), the name of Mr. Scruby, the energetic secretary of the Law Society, and last but by no means least the name of the late Mr. Edward Figgis. This Bill should, I think, command the support of the profession and should command the support of hon. members in this Council and of the public. It has fallen to my lot now to have a hand in drafting, or to be instrumental in introducing legislation to regulate the profession of advocates in the three territories. I think I can say that I know a little about the subject now, and I do commend this Bill to you. I think it will be found that it does do what it intends to do. It is not perfect; there are some respects in which I would like to see it different, but I commend it to the careful consideration of this hon. Council.

MR. HOBSON seconded.

THE SPEAKER: It is now nearly 12.45 p.m. and I think further debate should stand over until tomorrow.

The debate was adjourned.

ADJOURNMENT

Council rose at 12.45 p.m. and adjourned till 9.30 a.m. on Thursday, 27th October, 1949.

Thursday, 27th October, 1949

Council reassembled in the Memorial Hall, Nairobi, on Thursday, 27th October, 1949.

His Honour the Speaker took the chair at 9.30 a.m.

The proceedings were opened with prayer.

MINUTES

The minutes of the meeting of 26th October, 1949, were confirmed.

PAPERS LAID

The following paper was laid on the table:—

By MR. VASEY:

Report of select committee appointed to review the working of the hospital services scheme.

NOTICE OF MOTION

MR. MATHU gave the following notice of motion:—

That in the opinion of this Council Government should review its policy in regard to peaceful inter-penetration in the native land units to ensure reasonable distribution of population

INCOME TAX (RELIEF) (AMENDMENT) BILL

FIRST READING

MR. O'CONNOR moved: That Standing Rules and Orders be suspended to enable the Income Tax (Amendment) (Relief) Bill to be taken through all its stages at this session.

MR. HOBSON seconded.

The question was put and carried.

On the motion of MR. O'CONNOR, seconded by MR. HOBSON, the Bill was read a first time.

ADVOCATES BILL

SECOND READING: RESUMED

The debate was resumed.

MR. PATEL: Mr. Speaker, a measure of this nature was long overdue, and I take this opportunity of congratulating those who worked to bring this Bill into existence, particularly the hon. mover who has taken the steps to introduce it into this Council. (Hear, hear.) It was very necessary to raise and maintain the standard of the legal profession in the

[Mr. Patel]

interest of the Colony as a whole. The other day, in conversation with a person who has travelled extensively within the countries of the British Empire and has had experience of the legal profession in various parts, while comparing the legal profession in the various countries he made some reference to the East African legal profession which, in my opinion, was not complimentary. It is therefore very essential that steps should be taken to maintain the high standard of the profession in this country, which I am certain this Bill will achieve.

MR. BLUNDELL: Mr. Speaker, I rise to ask the hon. Attorney General whether, in his reply, he would dispel a doubt raised in some quarters under clauses 28, 30, and 32, as to the position of such institutions as banks and boards of trustees over matters such as the re-sealing of probate from overseas, carrying out the duties of executors, and arrangements to deal with equitable mortgages.

MR. O'CONNOR: Mr. Speaker, if I may deal first with the points raised by the hon. Member for Rift Valley. Clause 28 (1) of the Bill reads: "No unqualified person shall act as an advocate, or as such sue out any summons or other process, or commence, carry on or defend any action, suit or other proceeding in the name of any other person or in his own name, in any court of civil or criminal jurisdiction, or act as an advocate in any cause, civil or criminal".

That, as I interpret and understand it, and as it has been interpreted in other countries, and in England, is to the effect that an unqualified person has not to act as an advocate in doing any of these things. I see no reason why an executor appointed as such should not act on his own behalf.

The next clause referred to was 30 (1): "Any person, not being an advocate, who, unless he proves that the act was not done for, or in expectation of, any fee, gain or reward, either directly or indirectly draws or prepares any instrument . . . shall be liable on conviction to punishment. There I would emphasize the words "unless he proves that the act was not done for, or in expectation of, any fee, gain or reward". It is an actual act which has to be done for a fee, gain or reward, and the fact that an executor

whether an institution or not, may be entitled to charge fees for acting as an executor would not, in my opinion, bring him within the ambit of that clause.

The next clause was 32, which reads: "Any person, not being an advocate, who unless he proves that the act was not done for or in expectation of any fee, gain or reward, either directly or indirectly, or as an agent of any person other than a person qualified as above-mentioned takes instructions for or draws or prepares any papers on which to found or oppose any grant of probate or of letters of administration shall, without prejudice to any liability or disability to which he may be subject under any other Ordinance or any other Ordinance or any other Ordinance, be liable on conviction" to a punishment. There again that refers to an act done for or in expectation of any fee, gain or reward, and in my opinion again an executor would not come within the ambit of that clause merely because he expected to charge a fee for his services as executor.

I think that covers the question of executors, and also the question of re-sealing of probates. I was asked about equitable mortgages, and I am not quite clear exactly what that question entails. I do not know whether the hon. member would elucidate it a little bit, and I will try to answer it?

MR. BLUNDELL: Mr. Speaker, what I had in mind was that much agricultural business is carried on in the form of an equitable mortgage, which is now drawn up by the bank, signed by the client, and no advocate is used in the matter. I wanted to receive an assurance that it would not be necessary for anybody wanting to have an equitable mortgage through the bank to use the services of an advocate under this Bill; in other words, that the normal procedure now in existence could be carried on.

MR. O'CONNOR: Mr. Speaker, again I think that the principle I have pointed out would apply and that it would not be a question of obtaining a fee or reward for the actual act of drawing the instrument. If it were, then of course it would come within the clause, but I understand that is not the practice.

Except for those points I do not think there was anything raised in the debate to which I need reply, and I would only

83. Income Tax—

[Mr. O'Connor] express my appreciation to the hon. member Mr. Patel for his support of the Bill.

The question was put and carried.

INCOME TAX (RELIEF)
(AMENDMENT) BILL

SECOND READING

MR. MATTHEWS: Mr. Speaker, I beg to move: That the Income Tax (Amendment) Bill be read a second time.

The position is that the Income Tax (Amendment) Ordinance, 1948, provided, among other things, for extra relief for old people on earned income. When that Ordinance was being debated as a Bill on the second reading, the hon. Member for Kiambu raised the question as to whether or not something could be done for old people in respect of unearned income. The point was allowed to drop on the undertaking that Government would appoint an *ad hoc* committee to consider the matter. In due course the committee was appointed. It was composed of Mr. Andrews as representing the Member for Finance, the hon. Member for Kiambu, the Commissioner for Income Tax and the hon. Member for Ukamba. That committee made certain recommendations, and the Bill before the Council represents the implementation in legislation of the unanimous recommendations of that committee.

It will be seen from the Bill that clause 1 is the title; clause 2 provides that the relief shall take effect from the 1st day of January, 1950; and clause 3 states that certain extra amounts of relief can be given in the case of married persons and in the case of single persons. The age at which the extra relief can be claimed is 60 in the case of women and 65 in the case of men. I repeat that this Bill does give effect to the unanimous recommendations of the committee, and in these circumstances I beg to move that it be read a second time.

MR. HOBSON seconded.

MR. HAVELOCK: Mr. Speaker, I wish to support this Bill in principle, and indeed welcome it and thank Government for implementing my suggestion and request which I made when we were debating the last amending Ordinance in September, 1948.

Although the committee which the hon. Financial Secretary has referred to

did recommend that the ages should be 65 for men and 60 for women at which they should get relief, and although I myself was a member of that committee and signed the report, I wonder whether it would not be better, in the cause of simplification, to alter those ages to tie up with the 1948 amending Ordinance. The ages under the 1948 amending Ordinance are 60 for men and 55 for women. Under that Ordinance these old people get relief on earned income, under the present Bill they should get relief on unearned income, and I suggest it would be very complicated in the Income Tax Department if the ages at which relief was given on earned income and unearned income were different, and I should like to ask the hon. member whether he would accept, or whether he would move as I am not allowed to, an amendment to the effect that the ages in this Bill should be changed to those in the 1948 amending Ordinance.

I should like to mention one thing. One of the main reasons why I asked that unearned income should receive relief during the 1948 debate was because I understand that pensions are looked upon by the Commissioner of Income Tax as unearned income. Whether there is any particular significance in that I should say hon. members on the other side of Council know better than I do (laughter), but, as we have been debating this particular subject in this Council lately, I would point out that this Bill would help the lower-paid pensioners to quite a considerable degree if it is passed.

Another small point I should like to bring to the notice of the hon. member is that the amending Ordinance of 1948 gave relief on the 1947 income—I think I am correct in saying that—or the assessment on the 1947 income. The Bill before us now is to give relief on the assessment commencing on the 1st January, 1950, and I would ask, as I did bring up this matter a long time ago—a year ago, in fact—that consideration might be given to the relief under this Bill being provided from the 1st January, 1949, assessment. I beg to support.

MR. MATTHEWS: Mr. Speaker, on the question of age the intention, as I understand it, is to give relief in cases where the old people have reached such an age that they are compelled to rely upon their unearned income; in fact they are no longer in a position to earn income.

[Mr. Matthews]

When the 1948 legislation was introduced the ages fixed for relief on earned incomes were 55 in the case of women and 60 in the case of men. Now, if Council accepted these ages it must, of course, accept the corollary that a woman at the age of 55 and a man at the age of 60 can work, and in those circumstances I do not see how we can accept the argument that both sets of ages should be the same in this case and in that. We are prepared to accept that five years later the sand may be running out and that reliance upon unearned income solely must come into play. Therein lies the reason for the difference in the ages.

I would also remind the hon. Member for Kiambu of his remark in this Council at the time of the 1948 Bill, when he said—referring, of course, to persons who are relying upon unearned income: "They cannot grow the odd vegetable in the garden, and so on, and I would ask Government to consider a £350 tax-free income for the older people, and I would set mind in that particular instance seeing the age raised to 60 for women and 65 for men so that they can live reasonably comfortably in the evening of their days". In those circumstances and having agreed to the reason . . .

MR. HAVELOCK: On a point of explanation, I should like to explain that in that particular instance quoted by the hon. Member I meant to convey the fact that, if relief were given to old people on earned income as well as unearned income, both should be the same age level. That is what I meant in the words quoted by the hon. Member.

MR. MATTHEWS: I have only the written word here and I have not taken it from its context. It is as I have read. In any case, in view of the explanation why the difference has been made and having regard to the fact that this was a unanimous recommendation of that committee, I am afraid I cannot accept the suggestion that Government should move an amendment to alter the age limits.

With regard to the question of the date of enforcement, the last paragraph of the report of the committee reads as follows: "It was agreed that before action was taken in Kenya the Commissioner of Income Tax should consult the other

East African territories as to whether they were prepared to adopt similar legislation". Of course, in a matter which affects the three territories we always do consult them. This recommendation fixes a practice which has been going on for a very long time. As recommended, the other East African territories were consulted and they have agreed that they will introduce legislation, subject, however, to the consideration that no retrospective effect will be given, that the legislation will come into force on 1st January, 1950, and not before such date.

In these circumstances I do not think we can go any further than we have gone.

The question was put and carried.

BILLS

IN COMMITTEE

MR. O'CONNOR moved: That Council do resolve into committee of the whole Council to consider clause by clause the following Bills: The Customs Tariff (Amendment No. 2) Bill, the Customs Tariff (Amendment No. 3) Bill, the Townships (Amendment) Bill, the Marketing of Native Produce (Amendment) Bill, the Crop Production and Livestock (Amendment) Bill, the Diseases of Animals (Amendment) Bill, the European Agricultural Settlement (Amendment) Bill, the Resident Labourers (Amendment) Bill, the Companies (Amendment) Bill, the Coffee Industry (Financial Assistance) (Amendment) Bill, the Asiatic Widows' and Orphans' Pensions (Amendment) Bill, the Pensions (Increase) (Amendment) Bill, the Advocates Bill, and the Income Tax (Amendment) (Relief) Bill.

MR. HOBSON seconded.

The question was put and carried.
Council in committee.

Customs Tariff (Amendment No. 2)
Clause 1:

MR. O'CONNOR moved: That the clause be amended by adding at the end thereof the words "and shall be deemed to have come into operation on the 21st day of September, 1949".

The question of the amendment was put and carried.

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

87. Customs Tariff—

Clause 2.

MR. ERSKINE: Mr. Speaker, in clause 2 it is intended, with regard to item (d), "Imported Grain and Flour, *ad valorem*, 22 per cent", to ask Government to consider amending that to read "20 per cent *ad valorem*".

MR. MATTHEWS: On a point of order, can that be regarded as an amendment which is being moved?

THE CHAIRMAN: It is a suggestion that the Government should move the amendment. I take it you want to substitute 20 per cent for 22 per cent?

MR. ERSKINE: That is so. Can I explain my reasons?

MR. VASEY: On a point of order, before that is done may we have the position clarified?

THE CHAIRMAN: If the hon. member wants to move, he must move, and whether he is in order in moving or not is a matter which will be taken up.

MR. MATTHEWS: I would say that an amendment of that nature moved from the other side is out of order, since, if accepted, it will involve a reduction in revenue. Such action can only be initiated from this side.

THE CHAIRMAN: You have not obtained the Governor's consent?

MR. ERSKINE: That is so, sir, that is why my amendment was only to suggest that Government might consider themselves rectifying what is culpably an error and probably due to some misunderstanding on the part of the committee which dealt with this matter. Evidently they have been misled or misdirected into thinking that the basic revenue duty of this country is 22 per cent, whereas in fact it is 20 per cent, the other 2 per cent being a wartime surcharge, and the intention here of inserting a new item which before had not figured in the customs schedule, imported grain and flour, was obviously to assess it for duty at the normal revenue duty. I am only suggesting to Government that they might at this stage recognize that the normal basic revenue duty of this country is 20 per cent and not 22 per cent.

THE CHAIRMAN: Then I think we must have the motion that you are moving in

an abstract form as an abstract motion, namely that it be a recommendation to Government in those terms.

MR. ERSKINE: That is right, sir.

MR. VASEY: I should like a ruling from you as to whether it is in order in the committee stage of a Bill to move abstract motions of that kind, because it does seem to me that, if we adopt that procedure, we may well find ourselves involved in debates on principle in practically every committee stage. I would say, for instance, that there are a number of us who are doubtful whether we could accept the statement that 20 per cent is the basic revenue indirect taxation level of this country, because surely it must be variable according to the circumstances of the time. But whatever the arguments or merits or demerits of the proposition put forward, I should like your ruling on that because I can see us being involved in long discussions at almost every committee stage.

THE CHAIRMAN: I am prepared to hear any hon. member on the point of order.

MR. PATEL: Mr. Chairman, I think that in the committee stage when considering a Bill there should be a definite amendment to the details of the Bill which should be discussed as an amendment and carried, not merely a recommendation. Apart from that, to say that 20 per cent is the basic duty is not correct, because we incorporated the surcharge some time back and made it 22 per cent.

MR. MATTHEWS: Mr. Chairman, I would suggest that, if a motion of this kind is accepted, or allowed to be put, we shall be in a position of allowing hon. members to move suggestions rather than amendments. I agree with the hon. Member for Nairobi North that if we allow that kind of procedure we shall find ourselves completely overwhelmed with detail and debates which will never end.

MR. HAVELOCK: I hope it will be possible for members on this side to refer at least to some items. If you are going to rule that we are not allowed to move amendments or to speak on amendments which are moved it looks as if we cannot speak at all in the committee stage of any of these Bills. I should like to ask that we be allowed to refer to items even if we are not allowed to move amendments.

89. Customs Tariff—

MR. VASEY: I am perfectly certain that you, sir, have never suggested that we should not be entitled to speak against my clause at this stage.

THE CHAIRMAN: On consideration, I think it would be wise if we adopted the practice of not attempting to move motions which are not definite amendments to the Bill when we are in commitments to the Bill when we are in commitments. I think, therefore, that the proposed amendment of the hon. Member for Nairobi South should not be moved. It is always possible to speak against a clause, to discuss a clause, and to even negative a clause remaining part of the Bill; you can always vote against it. No one is attempting—at least I am not attempting—to reduce the debate in any way. The whole question here is whether when we go into committees of the whole Council on a Bill we should be confined to moving amendments to the actual Bill, subject, of course, to Standing Rule and Order No. 32.

MR. ERSKINE: Mr. Chairman, I do most cheerfully and willingly accept your ruling in this matter. It merely leaves it to me now to protest, with a certain amount of vigour, against this insertion of 22 per cent for a new duty for an article which has not before appeared in the Schedule. I would say that this Bill comes before us purporting to remove certain anomalies, and it seems to me a matter of some shame that at this stage we should pass what in effect is an item which will perpetuate an anomaly which should have been removed very much earlier in the post-war history of this Colony's fiscal system.

MR. O'CONNOR moved: That the clause be amended by inserting in paragraph (d) of item 15 after the word "cotton" the words "and flax".

The question of the amendment was put and carried.

MR. O'CONNOR moved: That the clause be amended by inserting for paragraph (e) of item 15 the following: (e) Cotton and flax twine for making or repairing fishing lines and fishing nets and netting. Free."

The question of the amendment was put and carried.

MR. O'CONNOR moved: That the clause be amended by substituting the word "bicycles" for "vehicles" in item 25 (c).

The question of the amendment was put and carried.

MR. O'CONNOR moved: That the clause be amended by deleting item 30 and renumbering items 31 to 61 as 30 to 60 respectively.

The question of the amendment was put and carried.

MR. O'CONNOR moved: That the clause be amended by substituting for the word "including" the words "and of" in item 56.

The question of the amendment was put and carried.

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

MR. HAVELOCK: Mr. Chairman, I wish to bring to the notice of Government certain facts about item 163 on page 6. Before I speak on this I should like to declare my interest, in that I am a director of a printing company. School stationery is imported under this clause free, and that means that exercise books and any simple stationery which is used in schools can be imported from overseas manufacturers without paying duty. On the other hand, the local firms who can quite easily produce an article similar to that which may be imported have to pay duty on the paper out of which the exercise books and other simple stationery is made. I should like that fact brought to the notice of Government. It is really a great disadvantage to local industry, and I hope that the committee, which may still be sitting, will consider that among other items with regard to drawbacks and so on.

MR. MATTHEWS: I can only say that that is a matter for the committee which is sitting to recommend if it thinks fit.

MR. VASEY: I think the idea of my hon. friend the Member for Kiambu was the suggestion that Government should draw the attention of the committee to the anomaly which he thinks exists.

MR. HAVELOCK: That is true. I in my position can hardly draw the attention of an interterritorial committee to a matter of this sort.

MR. MATTHEWS: I am not quite clear why that position should exist. This committee is in a position to call for evidence. There is nothing to stop anybody or any organization from making representations to it.

Mr. VASEY: Mr. Chairman, I think the point is this, if I may intervene on behalf of the hon. Member for Kiambu on this point, I think the hon. member's point is underlined by the fact that Government has accepted this recommendation of the interterritorial committee and that, having accepted this recommendation with regard to this point, he feels they should consider the justice of the case he has just put forward. Obviously if it was backed and supported by the Government of the territory in question it would be far more cogent than that of one individual representative.

Mr. MATTHEWS: Naturally when any recommendation of this nature, should it ever made by the committee, comes before the Government, the Government will consider it.

Marketing of Native Produce (Amendment) Bill

Clause 2.

MAJOR CAVENDISH-BENTINCK: Mr. Chairman, when this Bill went through its second reading it was contingent on my giving an undertaking to the hon. member representing African Interests, Mr. Mathu, that at the committee stage I would, if I considered it advisable, put in an amendment. The point was that the hon. member wished to have a limit to the fees that could be prescribed under this clause. He, I think, suggested four shillings. I should like to explain, as I did at the second reading, that these fees are first of all suggested by the local native council concerned, through the district commissioner and through the provincial commissioner, and therefore there is a double check on them.

But there is another point which I wish to make, and that is that, although the two shillings that is referred to in the principal Ordinance which this clause seeks to amend is not included in the Ordinance to provide for the transfer of certain rates to local native councils, a Bill which was passed on 1st January, 1943, it has nevertheless been for the last four years an administrative practice that all these fees should be paid to the local native council concerned, including the two shillings.

In order to make that position perfectly clear, I should like to suggest the

following amendment which I think will meet the hon. member's point and could be accepted by Government. That is to add after the word "and" in sub-clause (1) of clause 2 (a) of the amending Bill the words "and the proceeds of such fees shall be paid into the revenue of the local native council concerned; and". That gives complete elasticity. It also provides, which is what I think the hon. member wished to provide for, that fees should go to local native councils; and I think, until the passing of the Native Authority Ordinance, it would meet the position to the satisfaction of everybody.

Mr. MATHU: I should like to accept that amendment and to thank Government for introducing it because I think it meets the point of view anyway of the African hon. members on this side of Council and we accept it.

The question of the amendment was put and carried.

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

Diseases of Animals (Amendment) Bill

MAJOR CAVENDISH-BENTINCK: Mr. Chairman, when this Bill was introduced in its second reading a paper was passed round to all hon. members intimating that at the committee stage clause 2 would be numbered as 3 and a new clause inserted as clause 2. I explained at the time why that suggestion was made and I think that the reasons given showed that it was a suggestion that could hardly be argued on either side. Nevertheless, I understand certain hon. members opposite feel that one should not introduce at the last minute a new clause that does not appear in the printed Bill. I must say I agree with them, but I should like to give them this assurance, that had there been any question of this clause raising a contentious matter Government would not have circulated the Council with the proposal which it did. But that being the case, as a matter of principle I should like to withdraw the proposed amendment.

Resident Labourers (Amendment) Bill Clause 2.

Mr. HOPKINS: Mr. Chairman, as the Forest Department is one of the largest employers of squatters I should like to move that the word "forest" be inserted

between the words "farm" and "or" in line 2 of paragraph (1) (a).

Mr. JEREMIAH: I should like to oppose the proposed amendment. There are local native council forests in the native land units and, if you mention forests without any definition of what kind of forest it means, it may create hardship.

Mr. MORTIMER: I recognize and value the suggestion of the hon. member, but I do not think we can accept it without considering its implications in relation to the whole of the definitions in the Ordinance which we find before us at present. I will undertake that the matter will be reviewed and if it is thought desirable at a later stage to bring a further amendment we will do so.

Mr. HOPKINS: I am quite satisfied with the assurance given.

The Chairman: Then the amendment is dropped.

The amendment was, with leave, withdrawn.

Advocates Bill

Clause 7.

Mr. O'CONNOR moved: That the clause be amended by inserting after the word "Court" in sub-clause (1) (ii) the words "or High Court".

The question of the amendment was put and carried.

Clause 39.

Mr. O'CONNOR: A suggestion for the amendment of this clause has just reached me which I think I should put before the Committee. It has been suggested to me that it is impossible in practice to prove the remuneration moving from an advocate, and it is therefore suggested that sub-clause (2) should be amended as follows: by inserting after the word "who" in sub-clause (2) the words "in consideration of any payment or other advantage to himself", by deleting the words "in consideration of any remuneration moving from such advocate," and by substituting for the word "remuneration" in the last line the words "payment or other advantage".

I move accordingly.

The question of the amendment was put and carried.

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

Income Tax (Amendment) (Relief) Bill

Mr. HAVELOCK: Mr. Chairman, it is a great disappointment to me that Government have not accepted the amendment regarding the alteration of the date of clause 2 of this Bill. I personally am very jealous of the responsibilities and powers of this Council and I am extremely disappointed that the two other territories, for reasons of their own, have been able to prevent us from securing what I believe is fair treatment for the old people of this country. I wish to register my strong protest at the fact that we are unable, because of the other territories' opinions, to change the date from January, 1950, to at least January, 1949, which in itself was almost a year after Government had said that they would consider the amendment which is now before us.

Mr. O'CONNOR moved: That the Customs Tariff (Amendment No. 2) Bill, the Marketing of Native Produce (Amendment) Bill, and the Advocates Bill be reported back to Council with amendments and the remaining Bills without amendment.

Council resumed, Mr. O'Connor reported accordingly, and the report was adopted.

BILLS

THIRD READINGS

On motion made by Mr. O'CONNOR, seconded by Mr. RANKINE, and question put, the following Bills were read the third time and passed: The Customs Tariff (Amendment No. 2) Bill, the Customs Tariff (Amendment No. 3) Bill, the Townships (Amendment) Bill, the Marketing of Native Produce (Amendment) Bill, the Crop Production and Livestock (Amendment) Bill, the Diseases of Animals (Amendment) Bill, the European Agricultural Settlement (Amendment) Bill, the Resident Labourers (Amendment) Bill, the Coffeepanies (Amendment) Bill, the Industry (Financial Assistance) (Amendment) Bill, the Asiatic Widows' and Orphans' Pension (Amendment) Bill.

Mr. O'CONNOR moved: That the Pensions (Increase) (Amendment) Bill be read the third time and passed.

Mr. RANKINE seconded.

MR. VASEY: Mr. Speaker, I rise, if I may say so, from a sense of humour to prevent the continual and automatic up and down from the other side!

On this particular Bill, those of us who fought it on the second reading are placed in a position where we can neither move its recommittal nor rejection because we cannot delay the benefits the people for whom we have struggled will receive under this Bill. I think it is correct to say, however, that I for one—and I am sure that I speak for two or three others on this side—feel that we cannot allow the third reading to be taken without registering deep regret that Government is unable to meet us on what we think are the very minor suggestions put forward. I do hope that the fact that Council has accepted this Bill will not prevent Government keeping a watchful eye on the position in the hope that the arguments we have put forward will lead them to amend the measure to a further extent in a future sitting.

The question was put and carried.

On motion made by MR. O'CONNOR, seconded by MR. RANKINE, and question put and carried, the Advocates Bill, the Income Tax (Relief) (Amendment) Bill and the Legislation (Application to High Commission) Bill were each read the third time and passed.

LEGISLATIVE COUNCIL ACCOMMODATION SELECT COMMITTEE REPORT

MR. RANKINE: Mr. Speaker, I beg to move: That the interim report of the select committee appointed to consider whether the new Legislative Council Chamber should be built in the near future be adopted.

It was our view that until such time as we knew a little more about the loan programme and about the amount of funds that were likely to be available for development, particularly for buildings when so many buildings are required, it would be premature to take this motion at the present time. But I understand that hon. members on the other side wish to debate it, and as I agree that a new Council Chamber is peculiarly a matter for this Council itself, an expression of views on the subject would be a good thing.

The select committee which was appointed to consider this matter went into it very carefully and came to the conclusion that a proper Council Chamber with offices, committee room, a restaurant, etc., on the site which was recommended by the town planning report for the new Secretariat on the Hill at the end of Kingsway was desirable as a long-term objective. But an appropriate parliamentary building on that site, which is a very important one in the development of Nairobi, obviously must be done properly. The building should be dignified and capable of providing the premises required. Such a building would be a large and costly one, and the committee came to the conclusion that at the present time, when there are so many other competing and pressing demands for buildings—particularly for housing, hospitals and schools—a young colony like this would not be able to find the funds required for a considerable period, possibly 20 or 25 years.

In the meantime the committee also came to the conclusion that this chamber is inadequate; the acoustics are bad, the accommodation is not of the best, the accommodation for the gallery and the Press are inadequate and, above all, committee rooms, rooms in which members can work during a session so that they can attend the chamber here when business is being conducted in which they are interested and then absent themselves and get on with other business but be available at short call if required for debates or divisions, are completely lacking. The committee came to the conclusion that in these premises and with the facilities which are available the development of proper parliamentary institutions in accordance with British tradition was being stunted. Therefore they were driven to the conclusion that some better premises and facilities should be provided in the interval until a full parliamentary building can be built on the Hill.

They first of all investigated the possibility of building a chamber with some accommodation for committee rooms and members' offices and a restaurant as was suggested to us by His Excellency the Governor, in a pavilion type of building in a garden setting. Unfortunately that idea was ruled out by town planning considerations. The

(Mr. Rankine) committee also considered the feasibility of combining a Council Chamber in the new proposed Secretariat building. That was ruled out because that building is being planned in the simplest form of construction, what I believe is known as a cellular construction, which would preclude the incorporation in it of a large chamber. Not only that, but Government is of the opinion that the parliamentary building and offices should be separated physically, if possible, from the ordinary Government offices, as is the case at Whitehall, although, naturally, it is to the advantage of everyone if those offices can be in close proximity to the parliamentary building.

The committee was therefore forced back to the idea of putting up some building to include a Legislative Council Chamber and a restaurant in the town as close as possible to the main Government offices, which would serve the interval between now and the time when we can build a parliamentary building on the Hill and which, when no longer needed for that purpose, could be adapted as Government offices. For that reason in the committee's interim report it recommends that some such building should be constructed. The committee recognized only too well that this solution was not satisfactory from all points of view. The idea of two buildings has, of course, certain drawbacks, but we could not think of any other better solution.

I ought here to inform Council that since the committee made that recommendation, there have been certain developments. I understand that the Municipality of Nairobi, in recognition of its coming elevation to city status—on which I feel sure all hon. members would like to take this opportunity of congratulating the Mayor and municipality (applause)—intend to build a City Hall, and I have been in communication with the Mayor on this subject. I made the suggestion to him that it might be possible for us to collaborate for the City Hall to be designed in such a way that it could serve as a Chamber for the Legislative Council, and that we might be able to come to an arrangement whereby we could rent offices in the building when the Council is sitting to serve as committee rooms and offices.

Needless to say, I found the Mayor, as usual, most co-operative, and he suggested that he might put the suggestion to his committee and we could see whether the building could be designed so that it could serve for the purpose as well as others and could come to an arrangement whereby we leased the hall when required, and offices as well. I venture to suggest that that is probably the best solution to our problem meanwhile.

Before I conclude I think I ought to give the Council some information in connexion with paragraph 8 of the select committee's report, in which it was recommended that for the very short-term solution we might consider what improvements could be made in this building. It was suggested in particular that in the space outside, on that side of the building (facing the courtyard), we might be able to construct light temporary materials a building which would provide us at least with committee rooms and offices. My hon. friend the Special Commissioner for Works has been into that suggestion, and unfortunately we find that the plot is already over-built and that that suggestion is not feasible. Another suggestion that was made was that we might be able to add another floor to this building, and so get additional accommodation in that manner. I am afraid that that solution, too, has not proved practicable. We have also been into the question of trying to rent additional offices in the Memorial Hall to serve as committee rooms and offices, and I am afraid that there, too, we have been unsuccessful.

So that the position is in short that for the short-term solution, pending the building of a hall, we will have to fall back, I suggest, on the suggestion that has been made that we should come to an arrangement with the Municipality whereby the new City Hall might be designed so that, *inter alia*, it would serve as a council chamber for this Council, and that we should rent offices as committee rooms and offices for members.

MR. O'CONNOR seconded.

MAJOR KEYSER: Mr. Speaker, I think there is one point on which we are all agreed over this question of a Council Chamber, and that is the unsuitability of this hall for the Council to meet in.

[Major Keyser]

The suggestion that we should use the new City Hall when it is built is quite a new one on me, and I think to other members who served on this committee, but it does appear to provide a short-term solution until such time as the finances of the Colony have improved to the extent that we could build a proper hall up on the Hill. I should like to suggest that this Council instructs the select committee to inquire into the possibility of using the City Hall and also to investigate the accommodation that would be required. I cannot see that we can really do much more to-day than that, because it is such a very simple solution to the problem temporarily, and the committee of course did not have that particular aspect to consider.

MR. COOKE: Mr. Speaker, I have no doubts at all about this matter. I think Government has been dilatory. I personally am in the fullest agreement with His Excellency's suggestion made to us about 18 months ago, and I am personally not prepared to accept what might sound as excuses that the Municipality will not agree to it on account of town planning arrangements. I feel that this country is governed by the Government of this country, and there should be means to bring pressure to bear on the Municipality to get the site which has been unanimously agreed by the elected members.

It may be an interim arrangement to go into this new Town Hall, whatever my hon. friend called it, but we will only go in there as tenants. I feel it is rather derogatory to the dignity of this Council that we should have to go in such a manner. The efficiency of this country depends a lot on the efficiency of the centre, and I think that we cannot do our work efficiently in this Council when there are no committee rooms available, nor any place where we can leave our papers, nor a proper library which we can use as our own. It is quite wrong that there is no restaurant where all races can meet. If there is any argument in favour of a dignified house of parliament in a country of one race, as of course there are many, there seems to me to be overwhelming arguments in favour of it in a multi-racial country such as this. Although we may be compelled by superior forces to accept the

suggestion of my hon. friend, I would personally register this objection. I hope that every possible means will be taken to overcome the objection of the Municipality, based as it is on town planning.

If I may quote Mr. Churchill, speaking the other day in support of a dignified and new House of Parliament in England, he said "We begin by shaping our buildings and they end by shaping us". I think for that reason, if for that reason alone, the sooner we can have a dignified House of Parliament in this country the better it will be and the more dignity it will add to the whole proceedings of this country. That, sir, is my objection to the proposal of the hon. gentleman.

MR. NATHOO: There is one aspect on the very short-term plans which the hon. mover has touched upon and I think that, in view of the fact that so many buildings are going up with offices in and around Nairobi, some effort should be made to ask one of the tenants in this building, even as a public favour, to shift into those offices and allow us to get a few more committee rooms and offices where members can meet and do their work. (Applause.)

MR. VASEY: Mr. Speaker, I only rise on one particular point, and that is to correct an impression I think my hon. friend the Member for the Coast has and which I think he may have conveyed to members of Council. That is, it was not the town planning people of the Municipal Council alone that turned this proposal down on town planning grounds. I think the hon. Special Commissioner for Works will support me when I say it was a panel of town planning experts and architects covering groups far beyond the Municipal Council, including the Town Planning Adviser to the Government of the Colony, and that every one of those people was unanimous in the fact that it should not be placed in the position which we had originally asked for. I would not like it to be thought that it was the Municipal Council Town Planning Adviser alone who stood in the way of this particular proposal.

MR. RANKINE: Mr. Speaker, I know that it is not the wish of the Council to take a final decision on this matter to-day. We have heard many expressions of view which will be valuable to the

[Mr. Rankine] select committee in making their final proposals, and therefore, with your permission, sir, I should like to move the adjournment of this debate now.

MR. VASEY seconded.

The question was put and carried, and the debate adjourned accordingly.

KISUMU MUNICIPAL BOARD CONTRIBUTION IN LIEU OF RATES

MR. PADLEY: Mr. Speaker, I beg to move: That whereas the Governor in Council has approved of a resolution of the Municipal Board of Kisumu to levy a rate of 2½ per centum on the unimproved site values in the municipal area for the year 1949, and whereas it is provided by sub-section (2) of section 87 of the Municipalities Ordinance, 1928, that the maximum amount which may be paid from the general revenue of the Colony as an annual contribution in lieu of rates in respect of Crown land shall not exceed 2 per centum of the total unimproved value of such land, this Council approves the payment to the Municipal Board of Kisumu of the difference between the amount statutorily payable and the amount which would be payable in respect of a rate of 2½ per centum.

The position is that the Kisumu Municipal Board has recently revised the salaries of its staff, and additional revenues have to be found to meet the increased expenditure. The resolution itself is, I think, self-explanatory, and all I need say is that it is estimated that the additional charge to the Colony's revenue if this resolution is accepted will be about £380 per annum. I beg to move.

MR. MATTHEWS seconded.

MR. VASEY: Mr. Speaker, I only rise on one point, and that is that the justice of this type of resolution, wherein the Government as a ratepayer shall pay the same rates as other ratepayers, is something which has been admitted by Government over a long period of time. I wonder, therefore, if the time has not come when Government should consider some alteration in the method of procedure, either by increasing the percentage allowed in the original Ordinance, or by making the matter one which could be referred to Standing Finance Committee for executive action. I do feel

that these motions are a rather cumbersome method of procedure and quite unnecessary in view of the development of local government authorities.

MR. MORTIMER: Mr. Speaker, I welcome the suggestion of the hon. Member for Nairobi North, and I think that the time has come when such a revision of the law is indicated. The 2 per centum limitation was fixed some 20 years ago when the circumstances of the Colony and of the municipalities within it were entirely different from what they are to-day, and it might well be that the situation should now be reviewed. I think this Kisumu resolution completes the whole field of municipal authorities, where in every case we have had to come to this Council for special resolutions. I will undertake that the matter shall be examined, and that when the Municipalities Ordinance is being amended for other reasons this matter will be brought under review.

MR. MATTHEWS: Mr. Speaker, the position as I see it now is this: The additional contribution cannot be paid without an approving resolution of this Council. In other words, the ultimate sanction for this vests in this Council. If, however, there is to be a change in the law it seems to me, and if it is the majority view of the Council that the law should be amended to vest the power in the Government, Government itself would have no objection to such a change.

MR. VASEY: Or, Mr. Speaker, the alteration in the percentage level I take it?

MR. MORTIMER: Yes.

The question was put and carried.

VALEDICTORY

DR. N. M. MACLENNAN

MR. RANKINE: Mr. Speaker, that is the end of our business for this meeting. Before we adjourn I should be grateful for your permission to say a few words in valediction.

This is the last occasion on which we shall have with us in this Council one of our senior members. As hon. members may be aware, in a few days' time my hon. friend the Director of Medical Services, Dr. MacLennan, will be leaving the Colony on leave pending retirement, and I feel therefore that this

[Mr. Rankine] Council would like to take the opportunity of wishing him good luck. (Applause.)

He has had a long service, and in particular has been Director of Medical Services at a difficult time in the history of the Colony. He has had to provide expanding services when funds and staff and other facilities have not always increased correspondingly, and, as I have said, I think we would all like this opportunity of wishing him and Mrs. MacLennan good luck in their retirement and many happy years free from the cares of office. (Applause.)

MAJOR KEYSER: Mr. Speaker, on behalf of my colleagues, I should like to add our wishes also to Dr and Mrs. MacLennan for a very happy and long life, and our appreciation of the work that he has done for the Colony in the past. (Applause.)

DR. RANA: Mr. Speaker, on behalf of myself and my colleagues on this side, I would like to say that the news that he was leaving us so suddenly is very sad news. As a medical man I must say he has been extremely nice whenever I have had to discuss with him medical affairs in Mombasa and at the coast, and I am really sorry that so suddenly he is going to leave us, although he does not look so old as he apparently is. (Laughter.) I wish him and Mrs. MacLennan the best of luck and health wherever they may be. (Applause.)

MR. SHATRY (Arab Area): Mr. Speaker, I should like also to associate myself in wishing Dr. and Mrs. MacLennan the best of luck in his retirement and a long life.

MR. MATIU: Mr. Speaker, on behalf of my colleagues and myself I wish to associate myself with the remarks that have already been made in wishing Dr. and Mrs. MacLennan and his family a very happy and prosperous life in their retirement.

DIRECTOR OF MEDICAL SERVICES (Dr. MacLennan): Mr. Speaker, I find some difficulty in expressing sufficiently well my deep appreciation of the very gracious remarks which have been spoken by the various hon. members. I feel it a great honour and privilege to have served on this Council for a few years and to have added something to

its deliberations, though perhaps in a rather minor degree. I have been Director of Medical Services in several colonies now for about 12 years and have had experience of the Legislative Councils in those colonies, but I can safely say that never in my experience have I had such an appreciation and kind, sympathetic consideration of any proposals or problems I may have had to put forward than I have had from the elected members of this Council. (Applause.) I think the same remarks might apply equally well in the old Standing Finance Committee, where the real battles had to be fought.

I need hardly say that now that the question of severing my connexion with Council has come I feel the break very much and genuinely regret parting with all hon. members whose friendship I value very much.

On these occasions I think brevity is perhaps a virtue, and I shall content myself with thanking you, Sir, and all hon. members of Council and wishing this Council all success in its future deliberations on the future prosperity of this great Colony of Kenya. (Applause.)

ADJOURNMENT

THE SPEAKER: I think that concludes the business. As you all know, Council will be prorogued in a day or two and the new session will start. I think you may congratulate yourselves on having accomplished during the year a considerable body of work. I am also grateful to hon. members for their kindness and courtesy to myself personally.

Council rose at 11.55 a.m. and adjourned *sine die*.

WRITTEN ANSWERS TO QUESTIONS

NO. 52—CRUELTY TO ANIMALS LEGISLATION

MR. USHER (Mombasa):

Will Government state (a) whether it accepts in whole or in part the recommendations contained in the report of the 1947 Select Committee on the prevention of cruelty to animals; (b) what action has been taken on the report; (c) whether it will undertake to introduce, early next year, legislation based on the report?

Reply:

(a) The Government accepts the proposal of the Select Committee of the Prevention of Cruelty to Animals in part.

(b) The report has been examined by a Committee consisting of the Member for Agriculture, the Member for Health and Local Government and the Member for African Affairs, and, as a result of this examination, a memorandum embodying certain of the Committee's recommendations has been drawn up and submitted to the Attorney General as a basis for the drafting of an Ordinance.

(c) In view of the great pressure of other legislation, it is not likely that the Bill can be introduced into Legislative Council early next year, but every effort will be made to expedite publication.

NO. 53—LEROGHI PLATEAU

MR. CHEMALLAN (African Interests):

Is Government aware that there is a feeling of insecurity among the Samburu in regard to the Leroghi Plateau? If the answer is in the affirmative, will Government please state if there is any intention on the part of Government to deprive the Samburu of that land?

Reply:

The Government is not aware that there is any feeling of insecurity among the Samburu with regard to the Leroghi Plateau. The Government has no intention of altering the status of this area or of departing from the accepted recommendations of the Carter Land Commission in regard to it.

NO. 55—CONTROL OF HOTELS ORDINANCE, 1948

MR. HAVELOCK:

Will Government consider amending the Control of Hotels Ordinance, 1948, so that all hotels may be exempted from the provisions of the Ordinance, except those situated in urban and peri-urban areas where the demand for hotel accommodation may still exceed the supply, and thus save county hotelkeepers from unnecessary irritation and expense?

Reply:

No amending legislation is required as section 17 of the Control of Hotels Ordinance, 1948, gives power to the Governor in Council to exempt any hotel from all or any of the provisions

of the Ordinance. Powers of exemption are also contained in the Defence (Control of Hotels) Regulations, 1943, under which hotel tariffs and charges are controlled.

While Government does not feel that it is in the interests of the general public to exempt hotels from the operation of the Ordinance as a general rule, it is proposed to suspend the control of hotel tariffs and charges under the Defence Regulations with effect from the 1st May, 1950, for an experimental period.

NO. 56—THIKA-SAGANA ROAD

MR. HOPKINS:

1. Is Government aware of the grave dissatisfaction which prevails among users of all races with the state of the Thika-Sagana section of the Nyeri Road?

2. Does Government realize moreover, that the progressive deterioration of this road has resulted in so serious a reduction in the number of tourists and visitors to the popular holiday resorts of the Nyeri-Nanyuki district that hotels throughout the area remain virtually empty and business generally is suffering seriously?

3. Will Government please state—

(a) what priority, as compared with other Class I Roads, has been given to the construction of a bituminized road between Thika and Sagana on a new and more suitable alignment;

(b) when, if ever, will such construction be started and how long is it likely to take to complete;

(c) what immediate steps will be taken to restore the present road and maintain it in a reasonable condition if no steps are being taken in the immediate future to raise this road to a standard compatible with its importance and with the ever-increasing number of heavy fast moving vehicles which it is called upon to carry?

Reply:

1. The Government is aware that the state of the Thika-Sagana road is not satisfactory, and that this is a cause of much dissatisfaction among all users of the road.

[Mr. Rankine] Council would like to take the opportunity of wishing him good luck. (Applause.)

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Reply:

1. The Government is aware that the state of the Thika-Sagana road is not satisfactory, and that this is a cause of much dissatisfaction among all users of the road.

2. The answer is in the negative.

3. (a) and (b) Whilst the Thika-Sagana road is one of the roads which the Government hopes to reconstruct, initially to a gravel, and ultimately to a bitumin standard, when funds are available, no immediate priority has been given to it. When it is known what funds can be made available for the next instalment of the Road Reconstruction Programme, the Central Roads and Traffic Board will be asked to advise upon the priorities for the roads to be included in this instalment. In the meantime, during 1950, the survey of the route will be completed and estimate of the cost prepared. Also full traffic statistics will be collected. This road passes through a difficult stretch of country, and it is essential that proper plans should be made, and soils tested, before construction is commenced.

3. (c) With the creation of a Road Branch of the Public Works Department, and on the arrival of plant and staff, it is the intention to improve the maintenance of all roads in the Colony, and it is expected that the Thika-Sagana road will be maintained in a more satisfactory condition than at present, pending the rebuilding of the road on its new alignment. While the effect of better maintenance cannot always be seen immediately, it is expected that considerable improvement to this road will be apparent during 1950.

NO. 57—INEFFICIENT OFFICERS

MR. BLUNDELL:

Arising out of the undertaking given by Government during the debate on the Salaries Commission Report that the services of inefficient officers would not be retained on the new basis, will Government state severally how many officers in the Scales A, B and C, have left the service of Government under paragraph 260 of the report up to the present time?

Reply:

The numbers are as follows:—

Scale A	1
Scale B	18
Scale C	26

It will be understood that these figures do not, of course, include a number of officers in the non-clerical grades, who have left the Service under the terms of

paragraph 260 of the Salaries Commission Report.

NO. 58—PUBLIC SERVICE COMMISSION

MR. BLUNDELL:

Arising out of the report of the Commission on the Civil Services of Kenya, Tanganyika, Uganda and Zanzibar, 1947-1948, will Government state what steps have been taken towards the establishment of a Public Service Commission as recommended in paragraph 288 of the report.

Reply:

In accordance with the terms of a resolution passed by this Council during the series of debates on the report of the East African Salaries Commission, a sub-committee of Executive Council was appointed to examine the recommendation that a Public Service Commission should be set up.

The report of the sub-committee has been considered and accepted by Executive Council subject to prior consultation with the Civil Service Associations. Government is still in consultation with the Associations concerning these proposals, but it is expected that an announcement regarding them will be made at a very early date.

NO. 60—NAIROBI MUNICIPAL BY-LAWS

MR. MATHU:

1. Is Government aware of great dissatisfaction prevailing among Nairobi African taxi drivers with the by-laws contained in the 1948 General By-laws of Nairobi Municipal Council concerning taxi drivers?

2. If the answer is in the affirmative, will Government please represent to the Nairobi Municipal Council the necessity of making appropriate amendments to those by-laws to which the drivers in question object and which were the cause of the recent strike?

Reply:

1. Government is aware that some dissatisfaction has existed among Nairobi African taxi drivers, but understands that steps are now being taken by the drivers to bring their views to the attention of the Municipal Council through constitutional channels.

2. The Municipal Council announced before the strike began that they would give careful consideration to any views constitutionally brought forward. Government is confident that they will do so and does not think it necessary to make representations to the Council.

NO. 61—PUBLIC MEETINGS

MR. MATHU:

As there are some feelings among Africans in Nairobi that the Police Ordinance is being administered discriminatorily against them, will Government please state the number of licences issued separately to Africans and non-Africans under the Police Ordinance to hold public meetings in Nairobi between January and September, 1949.

Reply:

The number of permits to hold public meetings in Nairobi issued between 1st January, 1949, and 30th September, 1949, was as follows:—

European	5
Asian	3
African	56

2. So far from there being discrimination against Africans, the number of permits issued for African public meetings is seven times as many as those issued to all other races put together.

NO. 62—PERI-URBAN DEVELOPMENT

MR. HAVELOCK:

(a) Is Government aware that unrestricted and unsightly peri-urban development is extending rapidly in the African land units in the vicinity of Nairobi?

(b) Does Government consider it desirable to control such development as is done in the European areas?

(c) If the answer to (b) is in the affirmative will Government set up a controlling body to include representatives of interested parties such as the Nairobi Municipal Council and the Nairobi District Council?

Reply:

The answer to parts (a) and (b) of the hon. member's question is in the affirmative, and Local Native Councils have passed resolutions controlling the building of shops along roadsides on the lines suggested in the reply given by the hon.

Member for African Affairs to the question No. 39 asked by the hon. Member for the Coast in July, 1948. The Government is now considering what further legislation is necessary fully to control such development as the hon. member has in mind, within the vicinity of the larger towns, as it has been held that the Public Health (Division of Lands) Ordinance does not apply to the Native Land Units.

It is proposed to introduce such legislation at an early date, and consideration will be given to the need for the interests of all local authorities concerned to be represented on any Boards which may be established to effect the desired control.

NO. 54—INCREASE OF RENT (RESTRICTION) ORDINANCE, 1949

MR. HAVELOCK:

Will Government recommend that the Governor in Council exercises his powers under sub-section (e) of section (2) of clause 1 of the Increase of Rent (Restriction) Ordinance, 1949, to exempt from the provisions of the Ordinance all premises except those situated where the demand for accommodation may still exceed the supply such as in townships and municipalities?

Reply:

The answer is in the affirmative, but such action would be taken only when it has been clearly established that the supply of accommodation does substantially exceed the demand in any particular area in the various types of buildings controlled. When the necessary investigations are completed, the appropriate recommendations will be submitted to the Governor in Council.

NO. 59—SHIPPING PRIORITY FOR CARS

MR. BLUNDELL:

Will Government state whether any control of shipping space is exercised by Government and whether such control enables Government officials to secure earlier shipping of their private cars from the United Kingdom than the unofficial members of the public.

Reply:

The answer to the first part of the question is in the negative and therefore the second part of the question does not arise.

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SECOND SERIES

VOLUME XXXIV

25th to 27th October, 1950

EXPLANATION OF ABBREVIATIONS

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IC. = In Committee; SC. = Referred to Select Committee; SCR.=Select Committee Report; Re.C.=Re-committed to Council; Wdn. = Withdrawn.

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